

April 2, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Trinell Bowman
Associate Superintendent Special Education
Prince George’s County Public School
John Carroll Center
1400 Nalley Terrace
Landover, Maryland 20785

RE: [REDACTED]
Reference: #24- 143

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report of the final results of the investigation.

ALLEGATION:

On February 6, 2024, MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Prince George’s County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the allegation that the PGCPS has not followed proper procedures when identifying and evaluating the student to determine if the student is a student with a disability requiring special education and related services, since October 13, 2023, in accordance with 34 CFR §§300.301-.311 and COMAR 13A.05.01.06.

BACKGROUND:

The student is ten years old and requires a 504¹ Plan. She attends [REDACTED].

FINDINGS OF FACTS:

1. On October 13, 2023, the complainant emailed the PGCPS staff, requesting that the PGCPS “initiate the evaluation and consideration for a 504 Plan for a student with a disability, with

¹ “Section 504” refers to Section 504 of the Rehabilitation Act of 1973, requiring schools to provide a free appropriate public education (FAPE) to each eligible student, including the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the student as adequately as the needs of a student without a disability are met. (34 CFR § 104.33).

suspicion of Attention Deficit Disorder/Attention Deficit Hyper Disorder as the disability in question.” The email further reflects that the complainant was “open to having PGCPs conduct their own assessment and/or evaluation to determine eligibility or if there is a deeper concern [the complainant] would be open to discussing and analyzing data if the team feels like further evaluation is necessary under IDEA.”

2. On January 12, 2024, the complainant emailed the PGCPs staff, reflecting the request that the PGCPs evaluate “under IDEA, as originally proposed in October, while the 504 Plan is in place.”
3. On February 1, 2024, the school team found the student eligible for a 504 Plan. The focus of the 504 plan is to address the student’s inattention needs.
4. The IEP team met on February 6, 2024, to determine if the student was eligible for special education services. The Prior Written Notice (PWN) generated after this meeting reflects that the IEP team completed and reviewed the Child Find Referral form, the Parent Questionnaire, current data (attendance, grades, IReady, MCAP, and Math Benchmark data), diagnosis letter from the student’s physician, and teacher input. The IEP team determined that no additional information was required to determine that the student was not eligible for special education services.

CONCLUSIONS:

On October 13, 2023, the complainant requested support through either a 504 plan or an IEP. While she was not clear on whether a 504 plan or an IEP was more appropriate, her email served to place the PGCPs on notice that her daughter may be a child with a disability in need of special education and/or related services. The complainant’s request triggered the protections of the IDEA, including evaluation timelines. When a request for special education services is made, the public agency must conduct a full and individual initial evaluation within 60 days of receiving parental consent for the evaluation or within 90 days of the public agency receiving a written referral (34 CFR §300.301). While the PGCPs was not wrong to refer the student to the 504 team for evaluation, the PGCPs was still subject to the evaluation timelines under IDEA. The PGCPs could have conducted the 504 evaluation in a timely fashion, such that information from that evaluation could have been used to make a determination about the student’s eligibility under IDEA within prescribed timelines. However, no action was taken to address evaluation and eligibility of the student between October 2023 and February 2024.

Based upon the Findings of Fact #1 through #4, MSDE finds that the PGCPs has not followed proper procedures, specifically timeline obligations, when identifying and evaluating the student to determine if the student is a student with a disability requiring special education and related services, since October 13, 2023, in accordance with 34 CFR §§300.301-.311 and COMAR 13A.05.01.06. Therefore, this office finds a violation occurred with concern to the allegation.

Notwithstanding the violation, based on Finding of Fact #4, MSDE finds that the PGCPs has determined the student was not eligible for special education services under IDEA. Therefore, no further student-specific corrective action is warranted.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.² This office will follow up with the public agency to ensure that it completes the required actions consistent with MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks technical assistance, they should contact Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.³ Ms. Barmat can be reached at (410) 767-7770 or by email at sarah.denney@maryland.gov.

School Specific

MSDE requires the PGCPS to provide documentation by June 14, 2024, of the steps taken to ensure that the violations regarding the lack of following proper procedures, specifically timeline obligations, when identifying and evaluating students to determine if they have disabilities requiring special education and related services do not recur at [REDACTED]. Those steps must include staff development.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

The parties maintain the right to request mediation or to file a due process complaint if they disagree with the identification, evaluation, placement, or provision of a Free Appropriate Public Education (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA. MSDE

² The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/sd

c: Millard House II, Chief Executive Officer, PGCP
Keith Marston, Compliance Instructional Supervisor, PGCP
Lois Jones Smith, Compliance Liaison, PGCP
Darnell Henderson, General Counsel, PGCP
William Fields, Associate General Counsel, PGCP
██████████, Principal, ██████████, PGCP
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Sarah Denney, Complaint Investigator, Dispute Resolution, MSDE