

May 9, 2024

Jessica Williams
Education Due Process Solutions, LLC
711 Bain Drive #205
Hyattsville, Maryland 20785

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

RE: [REDACTED]
Reference: #24-167

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services (DEI/SES), 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.

ALLEGATIONS:

On March 13, 2024, MSDE received a complaint from Ms. Jessica Williams, hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Prince George's County Public School (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The PGCPS did not follow proper procedures when the Individualized Education Program (IEP) team determined the placement in which the student would receive special education instruction since November 6, 2023, in accordance with 34 CFR §§300.114 and.116.
2. The PGCPS has not ensured that the student has been provided with speech and language services as required by the IEP since November 6, 2023, in accordance with 34 CFR §§300.101 and .323.
3. The PGCPS has not ensured that the student's progress towards achievement of the annual IEP goals were measured in the manner required by the IEP since November 6, 2023, in accordance with 34 CFR §§300.320.
4. The PGCPS has not ensured that the student's IEP was reviewed and revised to address the lack of expected progress toward achieving the IEP goals since November 6, 2023, in accordance with 34 CFR §300.324.

May 9, 2024

Page 2

5. The PGCPS did not implement the decision made by the IEP team on November 6, 2023, and November 17, 2023, to add a vocabulary goal to speech and language services, in accordance with 34 CFR §300.101.
6. The PGCPS has not followed proper procedures when responding to a request to amend the student's education record since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.618 - .621.
7. The PGCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the November 6, 2023, and November 17, 2023, IEP team meeting at least five (5) business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
8. The PGCPS did not provide the parent with a copy of the IEP document within five (5) business days after the IEP team meeting on November 6, 2023, and November 17, 2023, in accordance with COMAR 13A.05.01.07.

BACKGROUND:

The student is 16 years old and is identified as a student with an Intellectual Disability (ID) under the IDEA. He attends ██████████ and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: PROPER PROCEDURES WHEN DETERMINING PLACEMENT

FINDINGS OF FACTS:

1. While there is documentation that the IEP team convened on November 6, 2023, there is no documentation that the IEP team determined placement at the meeting.
2. The Prior Written Notice (PWN) generated after the November 17, 2023, IEP team meeting does not reflect that the IEP team discussed placement.
3. The student's IEP developed at the student's annual review on November 17, 2023, reflects information from the November 9, 2022, IEP team meeting when determining the Least Restrictive Environment (LRE).

DISCUSSIONS AND CONCLUSIONS:

In determining the educational placement of a student with a disability, the public agency must ensure that the placement decision is made by the IEP Team. The placement decision must be made in conformity with the least restrictive environment (LRE) provisions, determined at least annually, based on the student's IEP, and as close as possible to the student's home (34 CFR § 300.116 and COMAR 13A.05.01.10(c)(1)).

In this case the complainant alleges that the IEP team failed to determine the student's LRE at the IEP team meeting. There is no documentation to support that the IEP team determined placement at the November 17, 2023, IEP team meeting.

Based on the Finding of Fact #1, MSDE finds that the PGCPs IEP team was not required to determine the placement in which the student would receive special education instruction on November 6, 2023, in accordance with 34 CFR §§300.114 and .116. Therefore, this office finds a violation did not occur concerning this aspect of the allegation.

Based on Findings of Fact #2 and #3, MSDE finds that PGCPs did not follow proper procedures by failing to determine the placement in which the student would receive special education instruction on November 17, 2023, in accordance with 34 CFR §§300.114 and .116. Therefore, this office finds a violation occurred concerning this aspect of the allegation.

ALLEGATION #2: PROVISION OF SPEECH AND LANGUAGE SERVICES

SUMMARY OF FINDINGS AND CONCLUSIONS:

4. In its written response, the PGCPs acknowledges that the student has not been provided with speech and language services. Specifically, the student's IEP requires the provision of speech/language services outside the general education classroom; these services have not been provided since November 17, 2023, as required by the IEP.

Based on Finding of Fact #4, MSDE finds that the PGCPs did not ensure that the student was provided with speech and language services as required by the IEP since November 6, 2023, in accordance with 34 CFR §§300.101 and .323. MSDE concurs with the PGCPs' conclusions and appreciates the school system's response to the investigation.

ALLEGATIONS #3 AND #4: PROGRESS MEASURED IN THE MANNER REQUIRED BY THE IEP AND ADDRESSING THE LACK OF PROGRESS

FINDINGS OF FACTS:

5. In its written response, the PGCPs acknowledges that the student's progress towards achievement of the annual IEP goals were not measured in the manner required by the student's IEP since November 6, 2023.
6. The November 6, 2023, IEP requires goals in the areas of visual motor, math problem-solving and calculation, written language expression, reading phonics, reading comprehension, and speech and language: receptive, expressive, and pragmatic language. There is no documentation of a report of progress towards the achievement of the speech and language: pragmatic language goal for November 2023.
7. The report of progress reported towards the achievement of the visual motor goal on October 30, 2023, and the math problem solving, reading comprehension and phonics, and written language goals reported on November 17, 2023, reflects that the student did not make sufficient progress to achieve the goals.
8. In its written response, the PGCPs acknowledges that the student's IEP was not reviewed and revised to address the lack of expected progress toward achieving the IEP goals since November 6, 2023

DISCUSSION AND CONCLUSIONS:

Progress Measured In The Manner Required

Based on the Findings of Fact #5, MSDE finds that the PGCPs has not ensured that the student's progress towards achievement of the annual IEP goals were measured in the manner required by the IEP since November 6, 2023, in accordance with 34 CFR §§300.320. MSDE concurs with the PGCPs' conclusions and appreciates the school system's response to the investigation.

Addressing The Lack Of Progress

Based on the Findings of Fact #7 and #8, MSDE finds that the PGCPs has not ensured that the student's IEP was reviewed and revised to address the lack of expected progress toward achieving the visual motor goal since October 29, 2023, and the math problem solving, written language goals and reading comprehension and phonics goals since November 17, 2023, in accordance with 34 CFR §300.324. MSDE concurs with the PGCPs' conclusions and appreciates the school system's response to the investigation.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Provision of Progress Reports

The local public agency must provide periodic reports on the progress the child is making toward meeting the annual goals. In this case, IEP progress reports were not completed for speech and language: pragmatic language goals in November 2023 (34 CFR §300.320).

Based on the Findings of Fact #6, MSDE finds that the PGCPs did not ensure that the student's parent was provided with reports of progress toward achieving the annual IEP goals, specifically the speech and language: pragmatic language goals for November 2023, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation occurred.

ALLEGATION #5: IMPLEMENTATION OF IEP TEAM DECISIONS MADE ON NOVEMBER 6, 2023, AND NOVEMBER 17, 2023

FINDINGS OF FACTS:

9. The Prior Written Notice (PWN) generated after the November 6, 2023, IEP team meeting reflects that the IEP team agreed to add a word processing goal to the student's IEP. There is documentation that word processing objectives were added to the occupational therapy (OT) visual motor goal.
10. The PWN generated after the November 17, 2023, IEP team meeting reflects that the IEP team agreed to add a Speech and Language vocabulary goal, but not to increase Speech and Language service hours. There is documentation that vocabulary objectives were added to the Speech and Language: receptive language goal.
11. The November 17, 2023, IEP include goals in the areas of visual motor, math problem-solving and calculation, written language expression, reading phonics, reading comprehension, and speech and language: receptive and expressive language.

- a. Visual Motor: “[The student] will demonstrate improved visual motor skills and participate in written expression and locker management activities within the classroom by independently completing the following objectives with 80% accuracy in 4 out of 5 trials.”
 - i. Objective 1: “Utilizing a visual checklist and a modified lock as needed, [the student] will be able to perform 4 out of 6 steps required to open her locker across 3 trials.”
 - ii. Objective 2: “Through the use of a writing checklist, [the student] will enhance visual motor skills by correctly identifying and correcting at least 60% of mistakes during a writing prompt.”
 - iii. Objective 3: “Through the use of a word processor with adaptive software to address deficits in visual motor skills, [the student] will increase the efficiency of her writing by typing at 30 words per minute with 80% accuracy in 4 out of 5 trials.”

- b. Speech and Language: Receptive Language: “By November 2024, given direct instruction and visual and verbal supports in receptive language skills, [the student] will demonstrate comprehension of shared material in 4 out 5 sessions with 80% accuracy based on therapy data.”
 - i. Objective 1: “Given direct instruction, demonstration, and practice, [the student] will define and explain unknown vocabulary found in required reading material.”
 - ii. Objective 2: “Given direct instruction, demonstration, and practice, [the student] will define and explain academic vocabulary encountered in instructions and directions for assignments.”
 - iii. Objective 3: “Given direct instruction, demonstration, and practice, [the student] will explain language concepts embedded in required reading material.”

DISCUSSION AND CONCLUSION:

The student’s IEP is required to contain measurable academic and functional annual goals, including benchmarks or short-term instructional objectives. In this case it was agreed upon at the November 6, 2023, and November 17, 2023, IEP team meetings to add goals in the area of word processing and vocabulary. The IEP goal is what progress is reported on, whereas the objective is a benchmark to assisting in the achievement of the goal (COMAR 13a.05.01.09).

Based on the Findings of Fact #9 through #11, MSDE finds that the PGCPs did not implement the decisions made by the IEP team on November 6, 2023, and November 17, 2023, to add an OT word processing goal and a vocabulary goal to speech and language services, in accordance with 34 CFR §300.101. Therefore, this office finds a violation occurred concerning this allegation.

ALLEGATION #6: RESPONDING TO A REQUEST TO AMEND THE STUDENT'S EDUCATIONAL RECORD

FINDING OF FACT:

12. There is no documentation that the student's parent made a request to amend the student's educational record.

CONCLUSION:

Based on the Finding of Fact #12, MSDE finds since there is no documentation of a request to amend the student's education record, therefore, the PGCPs was not required to respond to a request to amend the student's education record since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.618 - .621. This office does not find a violation occurred concerning the allegation.

ALLEGATIONS #7 AND #8: PROVISION OF IEP DOCUMENTS

FINDINGS OF FACT:

13. There is documentation that on October 31, 2023, and November 5, 2023, the PGCPs staff emailed the student's parent copies of the documents the IEP team planned to discuss at the November 6, 2023, and November 17, 2023, IEP team meetings.
14. In its written response, the PGCPs acknowledges that the parent was not provided the IEP document within five business days after the IEP team meetings on November 6, 2023, and November 17, 2023.
15. There is documentation that the completed IEP was provided to the parent on March 3, 2024.

CONCLUSIONS:

Provision of IEP Documents Five Days Prior

Based on the Finding of Fact #13, MSDE finds that the PGCPs did ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the November 6, 2023, and November 17, 2023, IEP team meeting at least five (5) business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office does not find a violation occurred concerning the allegation.

Provision of IEP Documents Five Days After

Based on the Finding of Fact #14, MSDE finds that the PGCPs did not provide the parent with a copy of the IEP document within five (5) business days after the IEP team meeting on November 6, 2023, and November 17, 2023, in accordance with COMAR 13A.05.01.07. MSDE concurs with the PGCPs' conclusions and appreciates the school system's response to the investigation.

Notwithstanding the violation based upon Findings of Fact #15, MSDE finds that the PGCPs provided the parent a copy of the IEP document on March 3, 2024. Therefore, no further student specific corrective action is required.

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.¹This 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.² Ms. Barmat can be reached at (410) 767-7770 or by email at sarah.denney@maryland.gov.

Student Specific

MSDE requires the PGCPs to provide documentation by August 1, 2024, that the school system has taken the following actions:

- Convened an IEP team meeting to develop word processing and vocabulary goals;
- Determined the amount and nature of compensatory services necessary to redress the violations related to the provision of speech and language services, required measurement of progress towards IEP goals, the provision of quarterly progress reports, review and revision of the IEP to address the lack of progress, the implementation of the decisions made by the IEP team on November 6, 2023, and November 17, 2023, and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The PGCPs must ensure that the parent is provided with prior written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School Based

MSDE requires the PGCPs to provide documentation by August 1, 2024, of the steps taken to ensure that the violations identified in this Letter of Finding do not recur at [REDACTED]. Those steps must include staff development and a monitoring report of 15 randomly selected students with IEPs must be

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

² MSDE will notify the Public Agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

May 9, 2024

Page 8

submitted to MSDE by August 1, 2024, demonstrating that their provision of speech and language services have been provided as required by their IEPs, progress towards IEP goals have been measured in the manner required by their IEPs, and the provision of quarterly progress reports have been provided in the manner required by their IEP, and the provision of documents 5 days before and following IEP team meetings. Full compliance is required. If the monitoring sample does not reflect 100% compliance, a second sample will be taken and submitted by October 1, 2024. The PGCPs must consult with MSDE if further monitoring is required.

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 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, PGCPs
Keith Marston, Compliance Instructional Supervisor, PGCPs
Lois Jones Smith, Compliance Liaison, PGCPs
Darnell Henderson, General Counsel, PGCPs
William Fields, Associate Counsel, PGCPs
Dr. [REDACTED] Principal, [REDACTED], PGCPs
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