

July 9, 2024

Ms. Jodi Louer
Volunteer Education Advocate
Juvenile Protection Division
Maryland Office of the Public Defender
217 E. Redwood Street, Suite 1000
Baltimore, Maryland 21202

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

RE: [REDACTED]
Reference: #24-226

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 May 10, 2024, MSDE received a complaint from Ms. Jodi Louer, hereafter, “the complainant,” on behalf of 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 following allegations:

1. The PGCPS did not ensure that the student’s Individualized Education Program (IEP) was obtained when he transferred from the District of Columbia Public Schools (DCPS), in accordance with 34 CFR §300.323.
2. The PGCPS did not follow proper procedures to determine comparable services; thus, the IEP was not implemented since October 2023, in accordance with 34 CFR §§300.101 and .323.
3. The PGCPS has not followed proper procedures when disciplinarily removing the student from school during the 2023- 2024 school year, in accordance with 34 CFR §§300.530 – 300.536, COMAR 13A.08.03, and COMAR 13A.05.01.10.

BACKGROUND:

The student is 14 years old and is identified as a student with a Specific Learning Disability (SLD) under the IDEA. The student currently attends [REDACTED] and has an IEP that requires the provision of special education instruction.

FINDINGS OF FACT:

1. On October 2, 2023, the parent completed a "PGCPS Student Registration Form." The parent did not respond to the question regarding the student's IEP.
2. On October 2, 2023, the parent completed a "PGCPS Parent Questionnaire" indicating the student had a current IEP.
3. On October 2, 2023, PGCPS submitted a "request for records" to the transferring school, requesting the following documents:
 - Educational Information;
 - Psychiatric Records;
 - Medical Records;
 - Legal Records;
 - IEP; and
 - All Discipline Records.

However, there is no documentation that PGCPS made reasonable steps to promptly obtain the child's records after not receiving the requested documents in a timely manner.

4. On October 7, 2023, the student enrolled in PGCPS. While the student had an out-of-state IEP, it was not provided to the IEP team at the time of enrollment.
5. On March 1, 2024, the student received a 10-day suspension.
6. On April 9, 2024, via email, the parent provided PGCPS with the student's out-of-state IEP, psychological assessment, and educational assessment from the transferring district. The IEP from the DCPS was dated October 26, 2022, and requires the provision of special education services within the general education setting for four hours per week of reading and four hours per week of math.
7. On April 12, 2024, a PGCPS IEP team member responded to the parent via email, requesting an IEP meeting on April 23, 2024, to review the received documentation.
8. On April 12, 2024, the parent received a "Notice of an IEP Team Meeting" scheduled for April 23, 2024. The notice indicated that the purpose of the meeting was to develop the IEP and/or to review and, if appropriate, revise the IEP.
9. On April 23, 2024, the IEP team convened to assess the student's eligibility based on the out-of-state IEP. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team reviewed

the current out-of-state IEP, considered district-based assessments, diagnostic assessments, academic assessment reports, IEP progress reports/report cards, and teacher and parent feedback and input. The IEP team determined that additional testing is needed to establish the student’s present level of performance and the parent provided consent. The IEP team also referred the student to the school’s mental health consultant. However, there is no documentation the IEP team discussed or determined comparable services pending completion of the assessments and development of a new IEP.

DISCUSSION and CONCLUSIONS:

To facilitate the transition for a student with a disability from another State, the new public agency must take reasonable steps to promptly obtain the student’s records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the student, from the previous public agency (34 CFR §300.323).

In this case, PGCPS requested the records on October 2, 2023; however, there were no reasonable steps taken to follow up and obtain them in a timely manner. The student’s records were provided by the parent on April 9, 2024.

ALLEGATION #1 TRANSFER OF RECORDS

Based on the Findings of Fact #1 through #4, MSDE finds that the PGCPS did not ensure that the student’s IEP was obtained when he transferred from the DCPS, in accordance with 34 CFR §300.323. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #2: DETERMINATION OF COMPARABLE SERVICES

If a student with an IEP in one state transfers to a public agency in another state, the new public agency, in consultation with the student’s parent, must provide the student with FAPE, including services comparable to those described in the student’s IEP from the previous state, until the new public agency conducts an evaluation if determined to be necessary; and develops, adopts, and implements a new IEP, if appropriate (34 CFR §300.323).

Based on the Findings of Fact #1 through #4 and #6 through #9, MSDE finds that the PGCPS did not follow proper procedures to determine comparable services; thus, the student’s IEP has not been implemented since October 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3 DISCIPLINARY REMOVAL

A student with a disability may be disciplinarily removed from school. However, after the tenth day of disciplinary removal during the school year, a student with a disability must be provided with the services necessary to appropriately progress in the general curriculum and advance toward achieving the annual IEP goals (34 CFR §300.530 and COMAR 13A.08.03).

Ms. Jodi Louer

July 9, 2024

Page 4

Based on the Findings of Fact #1 through #4, MSDE finds that the student did not incur a disciplinary removal beyond ten days; therefore, PGCPs was not required to follow procedures when disciplinarily removing the student from school during the 2023- 2024 school year, in accordance with 34 CFR §§300.530 – 300.536, COMAR 13A.08.03, and COMAR 13A.05.01.10. Therefore, this office finds that a violation did not occur concerning the allegation.

CORRECTIVE ACTIONS and TIMELINES:

The IDEA requires that State complaint procedures include those for 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.¹ 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.² Ms. Alison Barmat can be reached at (410) 767-7770 or by email at alison.barmat@maryland.gov.

Student Specific

MSDE requires the PGCPs to provide documentation by August 15, 2024, that the IEP team has convened to complete the evaluation process, determine eligibility, develop an IEP (if appropriate), determine the amount and nature of compensatory services or other remedy to redress the lack of special education services since the date of enrollment, and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The PGCPs must ensure that the parents are provided with written notice of the team’s decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team’s decisions.

¹ 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.

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.

Ms. Jodi Louer

July 9, 2024

Page 5

School-Based

MSDE requires the PGCPs to provide documentation by August 31, 2024, of the steps it has taken to ensure that [REDACTED] staff properly implement requirements for promptly obtaining student out-of-state records and providing comparable services to students transferring from out-of-state. The documentation must include a description of how the PGCPs will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur. Monitoring must include identifying other students who have transferred into [REDACTED] from out of state during the 2023-2024 school year, recording how long it took to obtain their educational records, documenting the dates comparable services were provided, and when PGCPs either adopted or developed their own IEP. Full compliance 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/sj

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 General Counsel, PGCPs
[REDACTED], [REDACTED], Principal, PGCPs
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicole Elliott, Section Chief, Monitoring and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Stephanie James, Complaint Investigator, MSDE