

July 11, 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: #24-229

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 20, 2024, MSDE received a complaint from [REDACTED], hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Prince George's County 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 follow proper procedures in the identification and evaluation of the student since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.111 and .301-.311 and COMAR 13A.05.01.06.
2. The PGCPS did not follow proper procedures in responding to a request for reevaluation assessments and additional services since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.303-.311 and .503.
3. The PGCPS has not developed an Individualized Education Program (IEP) and Behavior Intervention Plan (BIP) that addressed the student's identified behavioral and speech needs since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .324.
4. The PGCPS has not ensured that the IEP contains appropriate measurable speech goals since the start of the 2023-2024 school year, in accordance with 34 CFR §300.320.

5. The PGCPS did not provide the student's parents with prior written notice (PWN) of the team's decision to amend the student's safety plan and Functional Behavior Assessment (FBA), since April 15, 2024, in accordance with 34 CFR §300.503.
6. The PGCPS did not ensure that the student's substitute teacher had access to the student's IEP and, as a result, did not ensure that the student's IEP was implemented in that class since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .323.
7. The PGCPS did not follow proper procedures when using physical restraint with the student, since the start of the 2023-2024 school year, in accordance with COMAR 13A.08.04.05.
8. The PGCPS did not follow proper procedures when responding to a request to review and inspect the student's education record, specifically video footage of an incident that took place on January 10, 2024, in accordance with 34 CFR 300.613.¹

BACKGROUND:

The student is eight years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. She attends [REDACTED] and has an IEP that requires special education instruction and related services.

ALLEGATIONS #1, #2, #3, #4, and #5

PROPER PROCEDURES IN THE IDENTIFICATION AND EVALUATION OF THE STUDENT, RESPONDING TO A REQUEST FOR ASSESSMENTS AND ADDITIONAL SERVICES, IEP AND BIP THAT ADDRESSED THE STUDENT'S IDENTIFIED BEHAVIORAL AND SPEECH NEEDS, MEASURABLE SPEECH GOALS, AND PROVISION OF PWN

FINDINGS OF FACT:

1. On September 21, 2023, the IEP team convened to determine the student's eligibility for special education services. The prior written notice (PWN) generated following the IEP team meeting reflects that the student had an "IEP in kindergarten and part of first grade before being withdrawn to be homeschooled. At that time, the IEP became inactive, so the team reviewed new information as part of the initial referral process." The PWN further reflects that the IEP team reviewed information from a private speech evaluation, historical knowledge of the student's needs in articulation, and teacher reports to determine that the student was eligible for an IEP with the disability code of speech-language impairment, with needs in articulation. The Notice and Consent for Assessment document generated on September 21, 2023, reflects that the IEP team agreed to conduct an assessment in the area of emotional/social/behavior development and an observation of the student.

¹ The original allegation referenced 34 CFR §303.405, but the correct citation is 34 CFR 300.613.

2. On October 13, 2023, the IEP team convened to develop the student's initial IEP. The PWN generated following the IEP team meeting reflects that the IEP team discussed student participation, communication, assistive technology special considerations, supplementary aids and services, Extended School Year (ESY), IEP goals, IEP services, and the Least Restrictive Environment (LRE).
3. The student's IEP developed on October 16, 2023, reflects the area of need as speech-language articulation. The Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflect that the student's speech-language is below average compared to same age peers. The IEP requires that the student be provided with the daily accommodation of communication repair strategies.

The IEP requires that the student be provided with goals in the areas of speech-language articulation:

- Speech-language: articulation (goal one): During structured activities in a small group or one-on-one setting, [the student] will reduce the phonological process of gliding by producing /r/ sounds in initial and final position of words or syllables with 80% accuracy given visual/verbal/tactile cues and clinician models.
- Speech-language: articulation (goal two): During structured activities in a small group or one-on-one setting, [the student] will reduce the phonological process of gliding by producing /l/ sounds in initial and medial position and /l/ blends in initial position of words within structured conversation with 80% accuracy given minimal cues and/or prompts.
- Speech-language: articulation (goal three): [The student] will use clear speech strategies to improve intelligibility and repair communication breakdowns in 4 out of 5 observed opportunities given minimal cues.

The IEP requires that the student be provided with four 30-minute monthly sessions of speech-language therapy outside of the general education classroom.

4. On October 17, 2023, the student was assessed by the PGCPs psychologist. The psychological report reflects that the student is presenting with characteristics of attention deficit hyperactivity disorder (ADHD)-combined presentation in the school setting. Based on this information, the evaluator suggests that the team should consider the educational coding of OHI, due to the student's diagnosis of ADHD. The findings from this evaluation confirm that characteristics of ADHD are present and impact the student's availability for instruction and her social skills development. The following recommendations were made: flexible seating options, movement breaks, check-ins, and social skills training.
5. On November 16, 2023, the IEP team convened to review and revise the student's IEP. The PWN generated following the IEP team meeting reflects that the IEP team reviewed the psychological evaluation including the Connors-4 rating scales and agreed to change the student's disability code to OHI, the IEP team determined that the student was "presenting characteristics of ADHD." In addition, the IEP team added supports and services to her IEP to address needs in self-management, behavior, and peer interactions.

The student's IEP developed on December 21, 2023, reflects the areas of need as speech-language articulation, and behavioral: self-management. The PLAAFP reflect that the student's speech-language is below average compared to same age peers, and that the behavioral: self-management is below age expectancy.

The IEP requires that the student be provided with the following accommodations:

- Small group;
- Frequent breaks;
- Extended time (1.5x);
- Daily paraphrase questions and instruction;
- Daily check for understanding;
- As needed wait time;
- Daily monitor independent work;
- Daily repetition of directions;
- Daily communication repair strategies;
- Periodic use of positive/concrete reinforcers;
- Daily movement breaks;
- Weekly check-ins;
- Twice a month social skills training provided by the school counselor and the IEP team;
- Used at the student's discretion noise canceling headphones;
- Daily preferential seating;
- As needed flexible seating; and
- Periodic audiology consults to monitor diagnosis of [REDACTED] ([REDACTED]).

The IEP requires that the student be provided with goals in the areas of behavioral: self-management, and speech-language: articulation:

- Behavioral: self-management (goal one): By December 2024, given a familiar academic task, [the student] will independently remain on-task (i.e. actively working on the task, minimal disruption to self/others, asking relevant questions of peers/teacher) for 10 minutes or until the task is completed as directed, for 4 out of 5 academic tasks.
- Behavioral: self-management (goal two): By December 2024, given a verbal prompt to practice self-talk that calms oneself, [the student] will state one calming self-talk phrase, scoring 1 out of 1 on 4 out of 5 observation tools.
- Behavioral: self-management (goal three): By December 2024, when verbally asked to demonstrate a self-selected, familiar listening behavior (e.g., nod, ask clarifying questions) during a group activity, [the student] will independently demonstrate one observable aspect of a listening behavior, scoring 1 out of 1 on 8 out of 10 progress monitoring assessments.
- Speech-language: articulation (goal one): During structured activities in a small group or one-on-one setting, [the student] will reduce the phonological process of gliding by producing /r/ sounds in initial and final position of words or syllables with 80% accuracy given visual/verbal/tactile cues and clinician models.

- Speech-language: articulation (goal two): During structured activities in a small group or one-on-one setting, [the student] will reduce the phonological process of gliding by producing /l/ sounds in initial and medial position and /l/ blends in initial position of words within structured conversation with 80% accuracy given minimal cues and/or prompts.
- Speech-language: articulation (goal three): [The student] will use clear speech strategies to improve intelligibility and repair communication breakdowns in 4 out of 5 observed opportunities given minimal cues.

The IEP requires that the student be provided with two 30-minute weekly sessions of special education in the general education classroom, four 30-minute monthly sessions of speech-language therapy outside of the general education classroom, and two 30-minute monthly sessions of counseling services outside of the general education classroom.

6. On December 27, 2023, the IEP team convened to review and revise the student's IEP and to discuss the student's need for ESY. The PWN generated following the meeting reflects that the IEP team reviewed eligibility, participation in district/statewide assessments, graduation requirements, parental input, present levels, special consideration, instructional and testing accommodations, supplementary aids, services, and supports, ESY, goals, and the LRE. The IEP team determined that the student did not qualify for ESY services and will receive:
 - a. Two sessions per week of special education services for 30-minutes each session to support her goals and objectives in self-management in the general education setting;
 - b. Four sessions per month of 30-minute speech-language therapy;
 - c. Two sessions per month of 30-minutes to support and assist with self-management and social skills by the professional school counselor; and
 - d. "Audiologist consult services will be provided to monitor classroom performance considering the diagnosis of a [REDACTED] ([REDACTED])."
7. On February 5, 2024, the IEP convened to develop a safety plan for the student. The PWN generated following the IEP team meeting reflects that the IEP team agreed to:
 - a. The audiologist updating the IEP's PLAAFP to address the potential impact from the student's [REDACTED] diagnosis on the student's classroom performance. In addition, the IEP team agreed to the audiologist conducting a Functional Listening Evaluation, observations, and questionnaires. The parents requested a full [REDACTED] evaluation. The IEP team shared that the audiologist would be completing interviews and observations with the general educator and if needed they would make a referral to the [REDACTED] for a [REDACTED] evaluation;
 - b. The IEP team completing additional rating scales to provide more information regarding social/emotional/behavioral functioning;
 - c. The IEP team conducting an FBA to determine if a BIP is needed; and
 - d. The IEP team will develop a safety plan that outlines steps to follow when a crisis occurs.
8. The student's safety plan developed on February 12, 2024, reflects that it will be monitored by the school crisis team. The safety plan further identifies behavior of concern as "unsafe behavior", triggers, environmental safety strategies, strategies when calm/regulated, strategies when elevated/escalated, additional strategies to utilize, and after the behavior has occurred follow up.

9. On February 16, 2024, the IEP team convened to further develop a safety plan for the student. The PWN generated following this IEP team meeting reflects that the IEP team reviewed the student's safety plan and agreed to update the emergency contact information on the safety plan. The PWN further reflects that on the prior safety plan, the "Zones of Regulations" were used to communicate the student's feelings, but now a "thumbs system" is used.
10. On February 7, 2024, and April 3, 2024, the student was assessed by the PGCPS audiologist, using the Educational Audiology Assessment. The assessment report recommends that the student be provided with strategic/preferential seating, checks for understanding, repetition of directions, use of visual supplements, closed captioning, and an audiology consult throughout the school year.
11. On March 14, 2024, the student was assessed by the PGCPS psychologist, and the report reflects that "the data indicates that [the student] is experiencing symptoms that are consistent with Autism Spectrum Disorder (ASD) (although this is not endorsed concurrently by all three raters) and ADHD."
12. There is documentation of a Notice for an IEP team meeting to be held on April 15, 2024, with the purpose of addressing the FBA, and reviewing the classroom observation, teacher questionnaire, functional listening evaluation, and the rating scales completed by the school psychologist.

On April 15, 2024, the IEP team convened to review assessment data and review and revise the student's IEP. The PWN generated following the IEP team meeting reflects that the IEP team reviewed the assessments that were completed by the school psychologist which included a Teacher Questionnaire, Parent Interview, Autism Spectrum Rating Scale (ASRS), and the Conners Comprehensive Behavior Rating Scale (CBRS). The PWN further reflects that the IEP team reviewed and amended the following:

- a. Reviewed the FBA, scales and questionnaires from the school psychologist, Educational Audiology assessment, the parent provided Occupational Therapy Initial Therapy Examination, and current work samples.
- b. Amended to add to the student's IEP an emergency evacuation accommodation, the safety plan to supplementary aids and services, the Behavior Intervention section under Special Considerations, and closed captioning to the instructional and assessment accommodations.
- c. Amended to update the student's IEP's supplemental aids: preferential seating to include throughout the school day and during extracurricular activities including assemblies, repetition of directions by adding announcements presented by loudspeaker to be repeated aloud to provide a visual supplement, noise canceling headphones that are used at the student's discretion (during quiet reading, taking a test, or during a fire drill).
- d. Updated the safety plan to reflect data from the FBA; "the safety plan was not initially on the IEP team meeting agenda to be reviewed, but the IEP team shared that it would be adjusted/updated to reflect the data from the FBA."

The IEP team determined that the student does not require a BIP because the frequency and severity of behavior incidents do not merit a BIP.

The PWN reflects that while the assessment data demonstrated that the student was "displaying specific characteristics consistent with ASD", "the characteristics were not endorsed by all three of the raters in total". Furthermore, the assessment data reflected that the student is "experiencing symptoms that that are consistent with ASD and ADHD. The ASRS teacher's form yielded elevation in

behavior rigidity, the ASRS parent's form yielded elevation in peer and adult socialization and behavior rigidity. The data from the CBRS yielded concerns on the parent's form in the areas related to social difficulties, academic difficulties, self-regulation, rigidity, and experiencing physical symptoms. The CBRS teacher's ratings indicated concerns related to defiance, hyperactivity/impulsivity, and perfectionistic and compulsive behaviors, which encompassed behaviors such as rigidity, inflexibility, and becoming stuck on ideas of certain behaviors. "Due to the student's unique and gifted profile as well as ongoing difficulties with articulation and speech, ADHD, sensory integration, it is very difficult to determine the root of some of the academic and behavioral challenges that the student is experiencing."

In addition, the PWN reflects that the student's parents requested a dedicated aide. The IEP team shared that they were not going to move forward with the request for a dedicated aid to assist with the student's behavior, because the student's safety plan was working.

There is documentation that on April 19, 2024, the updated safety plan, PWN, updated FBA, and updated IEP were emailed to the student's parent.

13. There is documentation that on April 19, 2024, the parent was provided the PWN from the April 15, 2024, IEP team meeting.
14. The student's IEP amended on April 15, 2024, reflects the following changes:
 - a. That an FBA was conducted on April 15, 2024, and that the student does not require a BIP; and
 - b. The addition of the accommodation of closed-captioning of multi-media passages and, as needed, a safety plan.
15. On April 15, 2024, an FBA Summary Report was completed for the student. The FBA reflects that it was conducted in response to the IEP team developing a safety plan for the student in February 2024, the FBA was done in response to the request to obtain additional data regarding the student's safety. The FBA reflects two targeted behaviors: "refusal to follow directions (non-compliance) and shutting down/crying (refusal to move, difficulty transitioning)." The data collection methods used include observational data and direct observation of the student. The FBA further reflects that a BIP is not needed. The IEP team determined that a BIP is not required as the safety plan has good elements, and the general educator/team can de-escalate the student, re-regulate her and create a safe space for her in the building. The frequency and severity of incidents do not merit a BIP.
16. On April 15, 2024, the student's safety plan was updated. It reflects that it will be monitored by the IEP team and the school crisis team. The safety plan further identifies behavior of concern as "unsafe behavior", triggers, environmental safety strategies, strategies when calm/regulated, strategies when elevated/escalated, additional strategies to utilize, and after the behavior has occurred follow up.
17. On June 10, 2024, the IEP team convened at the parents' request. The PWN generated after the IEP team meeting reflects that the student's parents had their private psychologist attend the IEP team meeting. The finalized neuropsychological assessment report was not shared at this meeting. Therefore, the PGCPSS did not agree to accept the assessment report.

18. There is documentation that on June 18, 2024, the parent was provided the PWN from the June 10, 2024, IEP team meeting.

Allegation #1

Identification and Evaluation of the Student

DISCUSSIONS AND CONCLUSIONS:

In this case, the complainant alleges that the IEP team failed to evaluate the student in all areas of suspected disability, consistent with 34 CFR §300.304(c)(4). Specifically, the complainant believes the student should have been evaluated for ASD on September 21, 2023. However, on September 21, 2023, there was no documented mention of a concern of an ASD diagnosis. Therefore, as information and concerns were presented to the IEP team, they followed proper protocol and amended the identification and requested evaluations as needed.

Based upon the Findings of Fact #1 through #5, #10 through #12, and #17 through #18, MSDE finds that the PGCPs did follow proper procedures in the identification and evaluation of the student since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.111 and .301-.311 and COMAR 13A.05.01.06. Therefore, this office does not find a violation occurred concerning the allegation.

Allegation #2

Responding to A Request for Reevaluation Assessments and Additional Services

In this case, the complainant alleges that on February 5, 2024, the parents requested a full [REDACTED] evaluation. There is documentation to support that when they made the request, the IEP team responded indicating that after completing interviews and observations they would make a referral to the [REDACTED] for a [REDACTED] evaluation if needed. There is no additional documentation to support whether this referral was needed.

The complainant also alleges that on April 15, 2024, the parents requested the addition of a dedicated aid be included in the student's IEP. There is documentation to support that the IEP team addressed this possible need and determined it not necessary at the time because the student's needs were being supported with the use of a safety plan. In both instances, the IEP team considered the parents' requests, made a decision, and documented the decision in PWN.

Based upon the Findings of Fact #7 and #12, MSDE finds that the PGCPs did follow proper procedures in responding to a request for reevaluation assessments and additional services since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.303 -.311 and .503. Therefore, this office does not find a violation occurred concerning the allegation.

Allegation #3

IEP and BIP that Addresses the Student's Identified Behavioral and Speech Needs

IEP

Based upon the Findings of Fact #1 through #12, and #14 through #16, MSDE finds that the PGCPs has developed an IEP that addressed the student's identified behavioral and speech needs since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .324. Therefore, this office does not find that a violation occurred concerning this aspect of the allegation.

BIP

The public agency is required to develop an IEP that includes special education and related services designed to meet the unique needs of each student that arise from the student's disability. In developing an IEP, the team must consider the concerns of the parent, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student. In the case of a student whose behavior impedes his or her learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address the behavior (34 CFR §300.324).

Based upon the Findings of Fact #21 and #15, MSDE finds that the IEP team determined that the student did not require that a BIP be developed to address the student's identified behavioral needs since the start of the 2023-2024 school year. Therefore, this office does not find a violation occurred concerning this aspect of the allegation.

Allegation #4

Measurable Speech Goals

Based upon the Findings of Fact #1, through #4, and #10, MSDE finds that the PGCPs has ensured that the IEP contains appropriate measurable speech goals since the start of the 2023-2024 school year, in accordance with 34 CFR §300.320. Therefore, this office does not find a violation occurred concerning the allegation.

Allegation #5

Provision of PWN

In this case the complainant alleges that the PGCPs did not provide the student's parents with prior written notice of the IEP team's decision to amend the student's safety plan and FBA before the April 15, 2024, IEP team meeting. The decision to update the student's safety plan with the data obtained from the FBA occurred after the IEP team reviewed the FBA and data and determined that the student did not require a BIP. Therefore, updating the student's safety plan with the FBA information became the appropriate next step during the IEP team meeting.

The public agency is required to provide the parent of a student with a disability with written notice before proposing or refusing to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. This notice includes a description of the action proposed or refused, an explanation of the action, a description of each evaluation procedure, assessment, record, or report used as a basis for the decision, a statement that the parents of a student with a disability have protection under the procedural safeguards and the means by which a copy of the description of the safeguards can be obtained, sources for parents to contact to obtain assistance in the understanding the provisions, a description of other options that the IEP team considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal (34 CFR §300.503).

Based upon the Finding of Fact #11, MSDE finds that the PGCPs was not required to provide the student's parents with prior notice of the team's decision to amend the student's safety plan and FBA, before the April 15, 2024, IEP team meeting in accordance with 34 CFR §300.503. Therefore, MSDE finds that a violation did not occur concerning this allegation.

ALLEGATION #6

SUBSTITUTE TEACHER'S ACCESS TO THE STUDENT'S IEP

FINDING OF FACT:

19. There is documentation that the substitute teacher had access to the accommodations, modifications, and supports that the student required to addressing her behavior and speech needs, including a list of accommodations, transportation information, safety plan, and indicated staff members to contact in the case of an emergency.

CONCLUSION:

In this case, the complainant alleges that the PGCPs did not ensure the substitute teacher was provided with the student's IEP. The Local Educational Agency (LEA) must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, and any other service provider who is responsible for its implementation; and each teacher is informed of their responsibilities related to implementing the student's IEP and the specific accommodations, modification, and supports that must be provided for the child in accordance with the IEP. (CFR §300.323).

In this case, the substitute was provided with the pertinent components of the student's IEP, lesson plans with strategies and accommodations indicated, transportation guidance, the student's safety plan, and staff members to contact in case of an emergency involving the student.

Based upon the Finding of Fact #19, MSDE finds that the PGCPs did ensure that the student's substitute teacher had an understanding of their responsibilities under the student's IEP including a summary of the student's accommodations, modifications, and support. As a result, the PGCPs did ensure that the student's IEP was implemented in that class since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, MSDE finds that a violation did not occur concerning this allegation.

ALLEGATION #7

PROPER PROCEDURES WHEN USING PHYSICAL RESTRAINT

FINDING OF FACT:

20. While there is documentation that the student was escorted using an approved escort technique on January 10, 2024, there is no documentation that physical restraint was used with the student since the start of the 2023-2024 school year.

CONCLUSION:

In this case the complainant alleges that possible physical restraint may have been used on the student. While there is no documentation to support the use of physical restraint, there is documentation to support the proper use of an escort. MSDE defines an escort as having a purpose to guide a student in need to walk to a safe location with the use of temporary touching or holding of hand, wrist, arm, shoulder or back during the limited and temporary timeframe are discontinued once the student reaches a safe location. (*Restraint and Seclusion: Frequently Asked Questions*, MSDE, Winter 2024, <https://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/PRSR/FAQ-R-S-A.pdf>).

Based upon the Finding of Fact #20, MSDE finds that there is no documentation of the use of physical restraint with the student, since the start of the 2023-2024 school year, in accordance with COMAR 13A.08.04.05. Therefore, PGCPS was not required to follow proper procedures when using physical restraint with the student, since the start of the 2023-2024 school year, in accordance with COMAR 13A.08.04.05. Therefore, this office does not find a violation occurred concerning the allegation.

ALLEGATION #8

REQUEST TO REVIEW AND INSPECT THE STUDENT'S EDUCATIONAL RECORD

FINDINGS OF FACT:

21. There is documentation that on February 9, 2024, the student's parent made a request to view video footage from January 10, 2024.
22. On February 26, 2024, the PGCPS sent a letter in response to the parents' request. The letter reflects that per PGCPS policies and the Maryland Public Information Act the student's parents would not be afforded the opportunity to view the video footage from January 10, 2024. It was the position of the PGCPS that the video was not an educational record. The video footage from January 10, 2024, was determined to be a part of a personnel matter and not available for review by other individuals.

DISCUSSION AND CONCLUSION:

Pursuant to 34 CFR §300.613, each participating agency must permit parents the ability to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under Part B of the IDEA. Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)). (34 CFR §300.611(b)). Specifically, education records are directly related to a student and maintained by an educational agency or institution. (See 34 CFR §99.3).

In this case, the complainant is requesting to view a video recording that was created as a part of the school's routine videotaping of all students' movement throughout the school hallway. The video was not "maintained" by the LEA as it is typically on a continuous loop and is often taped over by the next day's recording. This record was not created by or for the student and was not maintained in the student's file. Therefore, it is not an education record pursuant to the Family Educational Rights and Privacy Act and 34 CFR §99.3; thus, it is not subject to review pursuant to 34 CFR §300.613.

Based upon the Findings of Fact #21 and #22, MSDE finds that the PGCPS did follow proper procedures when responding to a request to review and inspect the student's education record, specifically video footage of an incident that took place on January 10, 2024, in accordance with 34 CFR 300.613. Therefore, this office does not find a violation occurred concerning the allegation.

TIMELINES:

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, Superintendent, 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