

July 17, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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: #24-232

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services 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 [REDACTED], 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 follow the proper procedures when identifying and evaluating the student to determine if he is a student with a disability requiring special education and related services, since July 3, 2023, in accordance with 34 CFR §§300.301-.306 and COMAR 13A.05.01.06.
2. The PGCPS did not ensure proper procedures were followed when conducting a reevaluation of the student on May 2, 2024, in accordance with 34 CFR §§300.303 - .306 and COMAR 13A.05.01.06.

BACKGROUND:

The student is four years old and is identified as a student with Autism under the IDEA. The student currently attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. On July 3, 2023, the PGCPs IEP team convened to conduct the initial evaluation of the student, determine eligibility under the IDEA, and, if appropriate, develop an IEP for the student. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team reviewed the Preschool Child Find referral form submitted on June 8, 2023, by the complainant due to concerns in the areas of speech, adaptive, and personal-social. The PGCPs IEP team determined that additional assessments in the areas of pre-academics, social/emotional skills, adaptive skills, receptive language, and expressive language were needed to determine eligibility for special education services. The PGCPs IEP team scheduled the eligibility meeting for July 19, 2023.
2. On July 3, 2023, a PGCPs special education teacher evaluated the student. The assessment report reflects that the student is enrolled in a childcare program. The student was evaluated using the Developmental Assessment of Young Children-Second Edition (DAYC-2)¹. This assessment measured the student's cognitive, social-emotional, and adaptive abilities.

The report reflects the following:

- The cognitive domain (COG) measures conceptual skills such as memory, purposive planning, decision-making, and discrimination. The student received a low average range compared with typically developing peers.
- The social-emotional domain (SE) measures social awareness, social relationships, and social competence. The student received a low average range compared with typically developing peers.
- The adaptive behavior domain (AB) measures independent self-help functioning, including skills such as toileting, feeding, dressing, and personal responsibility. The student received a developmental delay category compared with typically developing peers.

The student also received the Devereux Early Childhood Assessment for Preschoolers-Second Edition (DECA-P2)². The assessment reflects that the student scored within the "Need" range in initiative, self-regulation, attachment/relationships, total protective factors, and behavioral concerns. The assessment reports reflect that "the student does demonstrate delays in the adaptive and social-emotional areas of functioning and therefore, is in need of special education services."

3. The DAYC-2 can be administered by occupational, physical, speech-language therapists, and a special educator, or separately by domain.

¹ The DAYC-2 is an individually administered, norm-referenced measure of early childhood development in the domains of cognition, communication, social-emotional development, physical development, and adaptive behavior for children from birth through age 5 years 11 months.

² (DECA-P2) is a standardized, norm-referenced behavior rating scale that is completed by the parents and/or teachers which provides an assessment of within-child protective factors central to social and emotional health and resilience, as well as a screener for behavioral concerns in children ages 3 through 5 (i.e., up to the sixth birthday).

4. On July 3, 2023, a PGCPs speech pathologist evaluated the student. The speech pathologist used the DAYC-2 assessment to evaluate receptive and expressive language skills. The assessment reflects the “student is not eligible for services for receptive or expressive language.”
5. There is no documentation that the student received an occupational therapy (OT) assessment.
6. On July 19, 2023, the PGCPs IEP team convened to conduct the initial evaluation of the student, determine eligibility under the IDEA, and, if appropriate, develop an IEP for the student. The Prior Written Notice (PWN) generated after the meeting reflects that the team reviewed referral information, formal assessments, observations, and parental input to determine that the student is eligible for special education services with a disability code of developmental delay (DD).
7. On August 9, 2023, the PGCPs IEP team met to develop an initial IEP for the student. The PGCPs IEP team determined that the student requires eight sessions monthly of direct special education services inside the general education setting for two and a half hours each session twice a week with services provided by the special education teacher and IEP team.
8. On November 10, 2023, the complainant emailed the PGCPs the student’s private neurodevelopmental evaluation which describes the assessments conducted and a plan for the student due to developmental delays and behavior concerns. The assessment noted developmental delay and concerns related to autism but found that he does not meet the criteria for that diagnosis.
9. On November 11, 2023, the complainant emailed the PGCPs requesting an IEP meeting due to concerns regarding new developmental needs for OT and speech-language therapy.
10. On November 13, 2023, and December 4, 2023, the PGCPs created a Notice of IEP Team Meeting for an IEP meeting to be held on December 4, 2023, to review and, if appropriate, revise the IEP, however, there is no documentation a meeting was held.
11. On March 8, 2024, and March 24, 2024, the PGCPs created a Notice of IEP Team Meeting for an IEP meeting to be held on March 15, 2024, to review and, if appropriate, revise the IEP.
12. On March 15, 2024, the PGCPs IEP team convened to conduct an annual review of the student’s IEP. The PWN generated after the meeting reflects that the complainant provided the PGCPs with a private occupational report that recommended an informal assessment to address the student’s needs. The complainant also informed the IEP team that they would provide a medical report to add to the student’s medical diagnosis, a neurological report, and a speech therapy evaluation. The IEP team proposed conducting an additional meeting once the school team received the additional information. During the meeting, the complainant expressed concerns and shared, “It is [the student’s] right to be in a class with a special education teacher.” Members of the PGCPs IEP team discussed the “pros and cons of moving [the student] to a different class” and proposed to “try small steps of transitioning to a class with a special education teacher during greeting circle, read aloud and centers.” The PGCPs IEP team discussed the student’s Least Restrictive Environment and determined for the remainder of the 2023-2024 school year, he will continue in a three-year-old inclusion program at the [REDACTED] [REDACTED] and will attend a Pre-K Co-Taught Program at the [REDACTED] for the 2024-2025 school year. The PWN further reflects that the IEP team determined there was sufficient data and no additional data was needed as the student continued to be eligible for special education services.

13. On April 16, 2024, the complainant emailed the PGCPs the student's private Speech-Language Evaluation and a private Neurodevelopment/Neurogenetic Clinic Note.
14. On April 19, 2024, the complainant emailed the PGCPs the student's private Interdisciplinary Diagnostic Evaluation that diagnosed the student with Autism Spectrum Disorder.
15. On May 2, 2024, the IEP team convened to review private assessments, determine continued eligibility, and revise the IEP if appropriate. The PWN generated after the meeting reflects that the PGCPs IEP team reviewed the private assessment and the student's progress and determined no additional assessments were needed. The team concluded that the student continues to qualify as a student with autism based on the Interdisciplinary Diagnostic Evaluation. The PWN also reflects the assessment results, including the student displays deficits in social-emotional and adaptive development, as well as some restricted and repetitive patterns of behavior, which align with the educational classification of autism spectrum disorder.

The PGCPs IEP team reviewed the private speech-language and OT assessment and determined that his needs could be accommodated through additional goals, supplementary aids, and speech and language and OT consultative services. The complainant disagreed and requested PGCPs to conduct additional assessments in the areas of speech-language and OT. The PGCPs IEP team rejected the complainant's request, and the complainant then requested the school district to provide documentation as to why the student does not qualify for direct speech-language and OT services. The PGCPs IEP team stated that sufficient data was available and had just been reviewed following the student's annual review on March 15, 2024, and the results from the private assessment were shared and discussed during this meeting.

16. On May 20, 2024, the complainant met with a PGCPs Central Office staff member to discuss the complainant's concerns and this State complaint. It was agreed that the IEP team would meet to discuss additional assessments and obtain consent.
17. On June 4, 2024, the PGCPs IEP team convened to conduct a reevaluation of the student at the request of the complainant, due to concerns about the student in the areas of receptive language, expressive language, articulation, fine motor skills, functional adaptive skills, and self-management. The IEP team proposed reevaluation in these areas.
18. On June 4, 2024, a PGCPs IEP team member emailed the complainant, informing her that the "consent for assessment" form was provided to her via email and that she would need to respond to the email to sign the consent form.

On June 5, 2024, the complainant emailed the PGCPs IEP team and disagreed with the "verbiage" on the "consent for assessment form" stating it did not reflect what was discussed in the IEP meeting held on June 4, 2024. She requested that a new consent form be provided to include the addition of assessing for "social, emotional and behavior", and to change the "Other" box from "manage" to "regulate", as it involves control. Additionally, the complainant requested copies of the speech-language and OT assessments conducted by the PGCPs in 2023, including the scoring sheet from the DAYC-2 assessment and any other standardized evaluation scoring forms that were used.

19. On June 6, 2024, a PGCPs IEP team member emailed the complainant a new consent form, reflecting the change to remove “Self-Management” and add “Self-Regulation.” The PGCPs IEP team member also informed the complainant that they are “unable to share the original copies of the scoring sheet as they are part of the student record, and copyright law prohibits us from sending copies.” The complainant was invited “to arrange a time to view the standardized scoring forms with a qualified examiner.”
20. There is no documentation that the complainant signed the “consent for assessment” form provided to her on June 6, 2024, with the updated request.
21. On June 14, 2024, a PGCPs IEP team member emailed a response to the complainant to reiterate the attached consent form reflected the changes she requested; however, they were not able to add an assessment for emotional/social/behavior development as this was not discussed in the IEP meeting held on June 4, 2024, and consent had already been provided on May 6, 2024, to conduct a Functional Behavior Assessment (FBA). The complainant was informed that once consent was provided, the student would be assessed, and the IEP team would reconvene to review the assessment reports, existing evaluations, and other documentation to determine if any amendments are necessary to the current IEP. The PGCPs IEP team member also provided the complainant with a letter from the PGCPs Department of Special Education that acknowledges the request to be able to review test materials for the DAYC-2. The letter informs the complainant of her rights under the PGCPs’ procedures to access and review test materials, which states access is granted in a controlled school environment, where a Non-Disclosure Agreement must be signed beforehand. The complainant can review the materials under supervision, but copying, sharing, or photographing the test materials is prohibited due to security and copyright protections. The letter provides specific dates for a review meeting and outlines identification and check-in procedures required for school visits. Parents are asked to confirm their attendance at the proposed times.
22. On June 18, 2024, the complainant emailed the PGCPs IEP team member that she was unable to come to the school and gave permission for the requested documents to be emailed or mailed to her home.
23. On June 21, 2024, the PGCPs IEP team member emailed the complainant that the principal, as the Custodian of the school, would make arrangements to send copies of the documents in the student’s Limited Access Record.
24. On June 22, 2024, the complainant emailed the PGCPs IEP team member, sharing that she found the proposed areas of testing inadequate and emphasized the need for individual occupational and speech-language therapy. She also stated that emotional, social, and adaptive needs require attention from licensed therapists and that an FBA and an IEP serve different purposes. The complainant stressed that an FBA alone cannot address the student’s expressive language and sensory issues and requested occupational and speech-language therapy services. The complainant stated she is open to another IEP meeting to reassess the initial evaluation, which she believed was conducted by an unqualified teacher and did not result in the necessary services.

DISCUSSION AND CONCLUSIONS:

In this case, the complainant alleges that an OT component of the DAYC-2 assessment was improperly conducted by a special education teacher. Therefore, invalidating the scores used to determine eligibility for special education services.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.³ 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. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.⁴ Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the PGCPs to provide documentation by October 1, 2024, of the following:

- Provide the student with special education services as required by the IEP; and
- The IEP team has convened and determined the amount and nature of compensatory services or other remedy to redress the lack of special education services that were to be provided by a special education teacher during the 2023- 2024 school year 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 complainants are provided with written notice of the team's decisions. The complainants maintain 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 October 1, 2024, of the steps it has taken to ensure that [REDACTED] staff properly implement requirements for the provision of special education services as required by the IEP. 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.

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.

³ 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.

⁴ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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