

August 5, 2024

Ms. Jessica Williams
Education Due Process Solutions, LLC
1296 Cronson Boulevard, #4071
Crofton, Maryland 21114

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

RE: [REDACTED]
Reference: #24-260

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 June 6, 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 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 to ensure that Home and Hospital Teaching (HHT) services were provided to the student from August 2023 through January 2024, in accordance with COMAR 13A.05.01.10.
2. The PGCPS did not follow proper procedures since February 2024, to fulfill its Child Find obligation to ensure that the student was evaluated and identified as a student with a disability under the IDEA, in accordance with 34 CFR §§ 300.111, 300 -311 and COMAR 13A.05.01.04 - .06, and COMAR 13a.05.01.06(A)(1)(B).
3. The PGCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record since February 2024, in accordance with 34 CFR § 300.613.

4. The PGCPs did not provide the parent with a copy of the Individualized Education Program (IEP) document within five business days after the May 2024 IEP team meeting, in accordance with COMAR 13A.05.01.07.

BACKGROUND:

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

FINDINGS OF FACT:

1. On February 9, 2024, the complainant emailed PGCPs staff a copy of what was referred to as the "Parent/Guardian Consent to Evaluate." The form requested the student to be assessed in the following areas:
 - Occupational Therapy (Fine Motor and Sensory Processing);
 - Psychological (Executive Functioning, Social Emotional, Cognitive);
 - Speech-Language (Pragmatic, Receptive, and Expressive Language); and
 - Educational (Academic Reading, Writing, and Math).

The email requested that the complainant be provided with dates and times for "a meeting."

2. On February 12, 2024, a PGCPs central office staff sent an internal email to PGCPs compliance staff regarding the complainant's February 9, 2024, request stating, "An initial IEP meeting will need to be scheduled to determine if there is a suspicion of a disability." The email reflects that the "consent form" submitted by the complainant "does not work as [consent] for assessments." The email further stated that the complainant requested records for the student, and "this appears to be the first referral to IEP for this 3rd-grade student."
3. On February 12, 2024, a PGCPs central office staff sent an internal email to the school-based staff providing the procedures for records requests. There is no documentation that PGCPs responded to the complainant's request for the student's records.
4. On March 6, 2024, the IEP team convened for an evaluation meeting. The Prior Written Notice (PWN) generated after the meeting reflects that the team reviewed the student's grades, input from English Language Arts (ELA) and math teachers, input from family, work samples, benchmark scores, and reading and math intervention data. The IEP team proposed to assess the student in the following areas:
 - Academics (reading, mathematics, written language);
 - Speech (pragmatics, expressive language, receptive language);
 - Occupational Therapy (fine motor, sensory processing, self-management);
 - Cognitive; and
 - Social/Emotional/Behavioral.
5. On March 8, 2024, the parent provided signed consent for an initial evaluation of the student in cognitive/intellectual, social/emotional/behavioral, speech-language, academic performance, motor skills, self-management/sensory processing, and observation. The consent form reflects that a parent referral for testing was received on February 9, 2024.

6. On April 26, 2024, an academic assessment report was completed. The report reflects “Due to a recent diagnosis of [REDACTED], and the effect of symptoms prior to diagnosis, [the student’s] ability to attend school has been impacted. To date, he has 24 absences for this school year...[the student] received a grade of [“E”] in reading, [a “D”] in math, [a “D”] in science, and [an “E”] in social studies for the 3rd quarter.” Results from the Kaufman Test of Educational Achievement, Third Edition (KTEW-3) and the Academic Skills Battery (ASB) assessment reflect the student is “functioning in the below-average range in most academic content areas.” The report states that the student requires “minimal assistance” to access grade-level content.
7. On April 28, 2024, a psychological evaluation report was completed. Results from the Wechsler Intelligence Scales for Children, Fifth Edition (WISC-5), reflect that the student’s FSIQ fell within the average range (91). The student’s verbal comprehension, visual-spatial, working memory, and processing speed fell within the average range; and his fluid reasoning skills fell within the “very low” average range. Results from the Comprehensive Test of Phonological Processing, Second Edition (CTOPP-2) reflect the student’s phonological awareness fell within the poor range, while his phonological memory and rapid symbolic naming were in the average range. Results from the Behavioral Assessment for Children, Third Edition (BASC-3) reflect the student was in the clinically significant range in externalizing problems, internalizing problems, school problems, behavioral symptoms, and adaptive skills. Results from the Comprehensive Executive Functioning Inventory (CEFI) reflect the student is “impacted across settings by deficits in...executive functioning [especially in school settings] where [the student] is navigating a larger group setting with less adult support while meeting both academic and behavioral expectations.” The report also reflects that the student’s score on the WISC-5 “could have been impacted by vision issues.”
8. On April 30, 2024, an occupational therapy assessment report was completed. The report states that on February 23, 2024, a parentally requested meeting was held to discuss “concerns in all academic areas and requesting assessment in all areas to determine if there is a need for special education services.” Results from the Beery Visual Motor Integration (VMI, 6th Edition) assessment reflect the student scored in the average range for overall visual-motor skill and motor coordination, and in the low range on the visual-perception subtest. The report states the student has “self-regulation/self-management deficits that impact his ability to access, participate, and progress in his educational setting.”
9. On May 3, 2024, the IEP team convened to determine eligibility for special education services for the student. The PWN generated after the meeting reflects the student has a medical diagnosis of [REDACTED] [REDACTED] “which can impact his availability for learning.” The IEP team concluded that this “medical condition impacts [the student’s] attentiveness, alertness, and ability to remain focused and organized within the classroom setting.” The IEP team determined the student was eligible for special education services under “the code of Other Health Impairment” (OHI).
10. On May 29, 2024, the IEP team reconvened. The PWN generated after the meeting reflects that the team reviewed the student’s eligibility data and developed the student’s IEP.

The team decided the student would participate in district and statewide assessments and pursue a high school diploma. The team reviewed the student’s present level of performance and determined the student was performing below grade level in phonics and written language and has difficulty with task initiation. The team added present levels in reading, phonics, math calculation, written language expression, and self-management. The team determined the student would benefit from the following special considerations and accommodations:

- General directions clarified;
- General directions read aloud and repeated as needed;
- Redirection;
- Small group; and
- Frequent breaks.

The team determined that the student did not require an assistive technology (AT) device or services but did require instructional and assessment accommodations.

The team determined the student would also receive supplementary aids during instruction, and goals were “created to target the areas of weakness identified in the present levels after discussion during the initial IEP meeting.”

The team proposed providing the student with 90 minutes of academic support outside of general education weekly with no IEP goal in math calculation. This option was rejected because the student's family requested that his academic hours outside of general education be increased to three hours weekly, however, the IEP team settled on two hours. The student’s family also proposed the student receive a goal specific to reading analog clocks based on results from his academic assessments. The IEP team determined the student requires four hours a week of specialized instruction inside the general education setting, two hours weekly of specialized instruction outside the general education setting and one hour of occupational therapy (OT) monthly as a related service. The student's Least Restrictive Environment (LRE) would be inside general education for more than 80% of the school day.

The PWN reflects that the family attended the meeting with their advocate and expressed concern about the student’s readiness for the next grade level, retention, and the “SIT” process. The school-based team shared that “SIT” and retention matters would have to be addressed by “building-level administration.”

The family and advocate disagreed with the amount of time proposed for the student to receive academic services and OT, and the team determined to conduct a 45-day review of the student's progress and services at the beginning of the upcoming school year to look at data and make any necessary changes.

The PWN reflects that the student's family requested that he attend ESY, and the IEP team determined that the student was eligible for ESY services.

The PWN reflects that the occupational therapist was unable to attend the meeting but would be connected with the family to discuss service requests and OT goals for the student.

11. The IEP developed on May 29, 2024, reflects the student’s disability as OHI with math calculation, reading phonics, written language content, and self-management as the areas impacted by the disability.

The IEP reflects that the student is performing on the following instructional grade levels:

- Reading phonics - second grade;
- Reading comprehension - third grade;
- Math calculation - second grade;
- Math problem solving - third grade;
- Written language content - second grade;
- Speech and language pragmatics - met age/grade level expectations;

- Communication - met age/grade level expectations; and
- Self-management - below age/grade expectations.

The instructional and assessment accommodations required by the IEP are as follows:

- General direction clarified;
- General directions read aloud and repeated as needed;
- Redirect student;
- Small group; and
- Frequent breaks.

The supplementary aids, services, program modifications, and supports required by the IEP are as follows:

- Utilize math intervention, weekly;
- Use of word bank to reinforce vocabulary and/or when extended writing is required, daily;
- Utilize reading intervention, weekly;
- Allow use of organizational aids, daily;
- Home-school communication system, weekly;
- Preferential seating, daily; and
- Occupational therapist consult, monthly.

The IEP required the following goals:

- Reading phonics: "By May 2025, when given a list of 25 new, instructional sight words (e.g. single syllable, multi-syllable, or irregularly spelled words), [the student] will read and decode the teacher-selected words with 80% accuracy in 3 out of 4 trials."
- Reading phonics: "By May 2025, given a written word list of 15 one-syllable words that contain a variety of vowel teams (e.g., ai, ee, oa, etc.), [the student] will sound out each phoneme and blend to read 80% (12 out of 15) words aloud, with use of the vowel team anchor chart, on 4 out of 5 progress monitoring assessments."
- Written language content: "By May 2025, [the student] will be able to independently write a paragraph consisting of at least five sentences, including at least one simple, one compound, and one complex sentence, with correct capitalization and punctuation in out of 10 trials, as measured by teacher observation and writing samples."
- Self-management: "By May 2025, when given written or verbal instruction for an in-class assignment, [the student] will gather the supplies necessary to complete the task (e.g. notebook, journal, pens, pencil) and begin working independently on the assignment within 30 seconds of being asked to begin for 4 out of 5 in-class assignment."
- Math calculation: "By May 2025, given a 2D shape (e.g. circle) and a unit fraction with a denominator of 2, 4, or 12, [the student] will create a visual model of the fraction by partitioning the shape into equal parts and shading one of the parts, for 80% (4 out of 5) problems, on 3 out of 4 progress monitoring assessments."

The special education services required by the IEP are as follows:

- Four 30-minute sessions of classroom instruction outside general education, weekly;
- Four one-hour sessions of classroom instruction inside general education, weekly;
- Two 30-minute sessions of occupational therapy outside general education, monthly; and
- Transportation.

The LRE required by the IEP was inside general education for 80% of the school day.

There is no documentation that the PGCPs provided the parent with a copy of the IEP.

12. There is no documentation that a referral for HHT services was submitted to the PGCPs by the parent during the 2023-2024 school year.
13. The student's report card reflects the student received the following grades during the first and second quarters of the 2023-2024 school year:
 - Social Skills - "D"
 - Oral & Written Communication - "E"
 - Reading - "E"
 - Science - "D"
 - Social Studies - "E"
 - Math - "D" (Quarter 1), "C" (Quarter 2)

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1 PROVISION OF HHT SERVICES

Based on the Finding of Fact #12, MSDE finds that the parent did not make a request for HHT services during the 2023-2024 school year, therefore, the PGCPs was not required to follow procedures to ensure that HHT services were provided to the student from August 2023 through January 2024, in accordance with COMAR 13A.05.01.10. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #2 CHILD FIND

The "child find" requirements of the IDEA impose an affirmative obligation on the school system to identify, locate, and evaluate all students residing within its jurisdiction who have disabilities and need special education and related services or who are suspected of having disabilities and being in need of special education and related services. It is the intent of State and federal law that interventions and strategies be implemented to meet the needs of students within the regular school program, as appropriate, before referring students for special education services. However, the public agency must ensure that this process does not delay or deny a student's access to special education services under the IDEA (34 CFR §300.111).

Based on the Findings of Fact #4 to #11, MSDE finds that the PGCPs followed proper procedures since February 2024, to fulfill its Child Find obligation to ensure that the student was evaluated and identified as a student with a disability under the IDEA, in accordance with 34 CFR §§ 300.111, 300-.311 and COMAR 13A.05.01.04 - .06, and COMAR 13A.05.01.06(A)(1)(B). Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #3 ACCESS TO STUDENT RECORDS

Based on the Findings of Fact #2, and #3, MSDE finds that the PGCPs did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record since February 2024, in accordance with 34 CFR § 300.613. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #4 PROVISION OF IEP DOCUMENT AFTER AN IEP MEETING

Based on the Finding of Fact #10, MSDE finds that the PGCPs did not provide the parent with a copy of the IEP document within five business days after the May 2024 IEP team meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

CORRECTIVE ACTIONS and 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. 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 the 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, Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action. 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 30, 2024, that the IEP team has:

- Provided the parent with the requested records; and
- Provided the parent with a copy of the finalized IEP.

School-Based

MSDE requires the PGCPS to provide documentation by October 30, 2024, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for responding to a request for student's records and the provision of IEP documents after an IEP team meeting under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance. 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 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.

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.

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/ebh

- c: Millard House II, Chief Executive Officer, PGCP
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