



Karen B. Salmon, Ph.D.
State Superintendent of Schools

April 27, 2020

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

Ms. Trinell Bowman
Director of Special Education
Prince George's County Public Schools
1400 Nalley Terrace
Landover, Maryland 20785

RE: [REDACTED]
Reference: #20-104

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), 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 February 27, 2020, the 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.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the Individualized Education Program (IEP) was reasonably calculated to enable the student to make progress appropriate in the areas of math, reading, writing, and speech articulation in light of the student's circumstances, since March 1, 2019, in accordance with 34 CFR §§300.101 and .324.
2. The PGCPS has not ensured that the IEP team reviewed and revised, as appropriate, the student's IEP to address lack of expected progress toward achieving the IEP annual goals since February 18, 2020, in accordance with 34 CFR §§300.101 and 324.

3. The PGCPS did not ensure that the documents that the IEP team planned to discuss at the February 18, 2020 IEP team meeting were provided at least five (5) business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
4. The PGCPS did not provide the parent with a copy of the documents within five (5) business days after the February 18, 2020 IEP team meeting, in accordance with COMAR 13A.05.01.07.

BACKGROUND:

The student is six (6) years old and is identified as a student with a Speech/Language Impairment under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

During the time period under investigation, the student was enrolled in pre-school at [REDACTED] in PGCPS. On May 29, 2019, the student enrolled in kindergarten at [REDACTED]

The student is placed at the [REDACTED] where he attended school until a March 16, 2020 Statewide closure of all schools as a result of the national COVID-19 pandemic.

FINDINGS OF FACTS:

1. On March 1, 2019, the IEP team convened to develop an initial IEP for the student. The educational assessment which included pre-school teacher reports, reflects that the student's "overall pre-academic/cognitive skills fall within normal limits, and there are no identified needs that would impact his learning in the general education environment at this time."
2. The speech/language assessment, which was considered when the IEP was developed, states that "[the student's] communication weakness affects his ability to participate in the general education curriculum because he has articulation difficulties in single words and conversational speech, as well as a fluency disorder that will require ongoing modeling, prompting and monitoring in order for measurable learning to occur." Based on this information, the team developed annual goals for the student to improve his speech/language fluency, as well as articulation. The articulation goals required the student to pronounce words with the "l" sound and the "f" sound. The IEP required special education instruction and support to assist the student with achieving the goals.
3. The student achieved one of the speech articulation goals by January 2020, and was making sufficient progress on the other speech articulation goal by that time.

4. At the IEP team meeting held on February 18, 2020, the team revised the goal to pronounce words with the “f” sound to require pronunciation of words with the “sh, tw, th, and ch” sounds consistent with reports of the speech/language pathologist of the student’s progress and needs.
5. At the February 18, 2020 IEP team meeting, the complainant requested that academic annual goals be added to the IEP. The team rejected the request based on the school staff’s report that the student was performing in the “high to average” range in academics.
6. The documentation of the February 18, 2020 IEP team meeting states “speech/language progress report, classroom assessments, attendance, and first and second quarter grades” were considered when determining the basis for team decisions. However, there is no evidence that these documents were provided to the parent prior to the meeting.
7. There is no documentation that the parent has been provided with the IEP following the February 18, 2020 IEP team meeting.
8. There is no documentation to indicate that the student has not been making sufficient progress on the IEP annual goals.

CONCLUSIONS:

Allegation #1: Addressing Math, Reading, Writing, and Speech Articulation Needs

Based on the Findings of Facts #1 - #6, the MSDE finds that there is no documentation that the student has needs in math, reading, and written language. Further, based on the Findings of Facts #2 - #4, the MSDE finds that the IEP addresses the student’s identified speech articulation needs, since March 1, 2019, in accordance with 34 CFR §§300.101 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #2: Addressing the Student’s Lack of Progress since February 18, 2020

Based on the Findings of Facts #1 - #6, and #8, the MSDE finds that there is no documentation to support the allegation that the student has not made sufficient progress to achieve the annual goals, in accordance with 34 CFR §§300.101 and 324. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #3: Provision of IEP Documents At Least Five (5) Business Days Before the February 18, 2020 IEP Team Meeting

Based on the Finding of Fact #6, the MSDE finds that there is no evidence that documents considered by the IEP team on February 18, 2020 were provided to the parent prior to meeting,

in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #4: Provision of IEP Documents At Least Five (5) Business Days After the February 18, 2020 IEP Team Meeting

Based on the Finding of Fact #7, the MSDE finds that there is no evidence that the IEP document was provided to the parent following the IEP team meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

CORRECTIVE ACTIONS/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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

The 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 Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770.

Student-Specific

The MSDE requires documentation that the PGCPs has provided the parent with the IEP and documents used in developing the IEP, and has offered to reconvene an IEP team to address any concerns.

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

School-Based

The MSDE requires the PGCPS to provide documentation of the steps taken at [REDACTED] [REDACTED] to ensure that documents to be considered at an IEP team meeting are provided to parents at least five (5) business days before the IEP team meeting, and the IEP at least five (5) business days after the IEP team meeting.

Documentation of completion of the corrective action taken is to be submitted to this office to:
Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention and Special Education Services, MSDE.

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 parent and the school system 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. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Early Intervention/Special Education Services

MEF:ac

c: [REDACTED]
Monica Goldson
Gwendolyn Mason
Barbara VanDyke
Jeffrey Krew
[REDACTED]
Dori Wilson
Anita Mandis
Albert Chichester