



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

August 14, 2020

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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: #20-138

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 15, 2020, the MSDE received a complaint from Ms. Jessica Williams, hereafter “the complainant,” on behalf of the above-referenced student and his father, Mr. [REDACTED]. 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 student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the Individualized Education Program (IEP) has been implemented, since April 2, 2020, in accordance with 34 CFR §§300.101 and .323. The complainant specifically expressed concern that:
  - a. The PGCPS has not provided the student with the specialized instruction and supplementary supports required by the IEP; and

- b. The PGCPS has not provided the student with the speech/language services required by the IEP.
2. The PGCPS did not ensure that, when conducting the annual review of the IEP during the 2019 – 2020 school year, the IEP team considered the potential harmful effects on the student or the quality of services he needs when selecting the Least Restrictive Environment (LRE), in accordance with 34 CFR §§300.116, and .324.
3. The PGCPS did not ensure that the parent was provided with the reports of the student’s progress towards mastery of the IEP goals for the third (3rd) and fourth (4th) quarters of the 2019 -2020 school year, in accordance with 34 CFR §300.320.

### **BACKGROUND:**

The student is eight (8) years old and is identified as a student with Autism under the IDEA. He has an IEP that requires the provision of special education and related services.

The student attended the [REDACTED] ([REDACTED] ES) until the March 16, 2020 closure of all schools, as a result of the national COVID-19 pandemic.

### **FINDINGS OF FACTS:**

#### **IEP Requirements**

1. On March 4, 2020, the IEP team convened and conducted the annual review of the student’s education program. The IEP team documented the following:

“[The student’s] disability affects him in the areas of Academics, Personal/Social, Speech and Language and Adaptive Skills. This also affects his ability to communicate with his teachers and peers, answer questions during large and small group activities, attend to and focus on instruction for more than 3-5 minutes, and follow directions not related to routine activities. [The student] will require supports throughout the day to participate in class and communicate with his classmates.”
2. At the March 4, 2020 meeting, the IEP team developed nine (9) annual goals to address the student’s needs, including a receptive language goal and a math calculation goal. The IEP team also identified twelve (12) supplementary supports required in order to assist him with achieving the goals.
3. The March 4, 2020 IEP documents that the IEP team determined that the student requires fifteen (15) hours per week of specialized instruction in a general education classroom to

address his academic, social emotional, behavioral and social interactions skills. It also identifies that a special education teacher is the required primary provider of this specialized instruction.

4. The March 4, 2020 IEP also documents the IEP team's decision that the student's placement in the Least Restrictive Environment (LRE) is "in a co-taught classroom setting with a general educator, special educator, and special education support staff in the Autism Program" at ██████████ ES.
5. A review of the audio recording of the March 4, 2020 IEP meeting reflects that, during the team's discussion about placement in the LRE, the complainant inquired about whether the student could return to ██████████ Elementary School, the school that he would attend if not disabled. The audio recording documents that the IEP team determined that the student requires the support of three (3) staff members in the classroom, specifically a general education teacher, a special education teacher, and support staff with training in students with Autism, as well as smaller class sizes, which are not available at ██████████ Elementary School.
6. The March 2020 IEP documents that the IEP team determined that there are no potential harmful effects on the student or quality of services that he needs when selecting his placement. In addition, a review of the audio recording of the March 4, 2020 IEP meeting documents that there were no concerns expressed by the team about the potential harmful effects of the student's placement.
7. The March 2020 IEP reflects that the student also requires thirty (30) minute sessions of speech/language therapy three (3) times per month, in a separate special education classroom, provided primarily by a speech/language pathologist (SLP).
8. Following the Statewide closure of schools on March 16, 2020, the MSDE issued a Technical Assistance Bulletin, on April 2, 2020, indicating that, with parent agreement, a student's IEP could be amended to reflect changes to how the IEP is implemented during the COVID-19 pandemic, consistent with Fact Sheets issued by the United States Department of Education on March 16 and 21, 2020.
9. Also on April 2, 2020, the school system staff developed an Individualized Continuity of Learning Plan (ICLP) documenting the services that "will be implemented for this student throughout the period of time in which schools are closed due to the COVID-19 Pandemic."
10. The ICLP states that "these services are based on the student's current IEP, dated 03/04/2020," and that "once the school system is able to resume regular programming, the services outlined in the IEP will be implemented in their entirety."

11. The ICLP includes the following (2) annual goals from the March 2020 IEP:
  - The math calculation goal states that “When given 5 addition or subtraction equations with numbers within 50, [the student] will solve the problem using the strategies and state his answer with 4 out of 5 correct responses in 4 out of 5 opportunities.”
  - The receptive language goal states that “By March 2021, after a grade level text is read aloud and given visual/verbal stimuli, [the student] will retell a story by summarizing (verbally or in writing) the beginning, middle, and end with 80% accuracy across three consecutive sessions.”
12. The ICLP identifies the following accommodations, supplementary aids and services that are required to be provided to the student: “Intervention (Lexia<sup>1</sup>/iReady<sup>2</sup>);” allowing the use of organizational aids and manipulatives, repetition of directions, and a schedule.
13. The ICLP reflects that the method of delivery of the student’s specialized instruction was changed to “online lesson(s) with special education supports” and “instructional assignments.” It further reflects that the frequency of the specialized instruction was changed to thirty (30) to forty-five (45) minutes per week.
14. The ICLP does not reflect any change to the educational placement required by the IEP, or to the number and type of providers required in that placement.
15. The ICLP reflects that the student’s speech/language related services were reduced to consultations twice a month.
16. On April 7, 2020, the school staff documented that the ICLP was reviewed with the student’s parents via telephone, and that the “parents were on board.”

### **Provision of Speech/Language Services**

17. The SLP provider logs document that, since April 2020, consultative services have been provided at least twice a month.<sup>3</sup>

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<sup>1</sup> “Lexia Reading is a computerized reading program that provides phonics instruction and gives students independent practice in basic reading skills. Lexia Reading is designed to supplement regular classroom instruction. It is designed to support skill development in the five areas of reading instruction identified by the National Reading Panel” ([https://ies.ed.gov/ncee/wwc/Docs/InterventionReports/wwc\\_lexia\\_063009.pdf](https://ies.ed.gov/ncee/wwc/Docs/InterventionReports/wwc_lexia_063009.pdf)).

<sup>2</sup> “i-Ready is a comprehensive assessment and instruction program that empowers educators with the resources they need to help all students succeed.” i-Ready “delivers online lessons that provide tailored instruction and practice for each student to accelerate growth.” It also “supports teachers with in-the-moment resources for remediation and reteaching at individualized, small group, and whole class levels of instruction” (<https://www.curriculumassociates.com>).

<sup>3</sup> The documentation includes consultations that occurred between the SLP and the student’s mother.

18. However, on June 11, 2020, when developing the progress report for the receptive language IEP goal, the SLP documented that while she “monitored [the student’s] language indirectly” through teacher consults and by reviewing homework, progress on the IEP receptive language goal could not be measured.
19. As an explanation offered for the June 11, 2020 progress report, the SLP subsequently documented that “Due to the district’s directive to provide students like [the student] with indirect services only, I was unable to report progress.” She further documented that “an indirect service delivery model prevents me from accurately assessing the way the [IEP goal] target is taught, the accuracy of the target performance [on the IEP goal], and the cueing hierarchy implemented [that the goal requires.] Therefore, I can only report the methods I used to monitor language rather than making a statement regarding progress or lack thereof.”

### **Provision of Specialized Instruction and Supports**

20. The school system has developed a “PGCPS Special Education Continuity of Learning Services Log” (Services Log) to record dates when services are provided to a student, the type of service or supports that are provided, the accommodations and supplementary aids that are provided, and student responses to services.
21. The Services Log maintained by the school staff reflects that, from April 15, 2020 through June 1, 2020, the student participated in weekly “live zoom” instruction addressing math “content,” and that the student was provided with repetition of directions, organizational aids, and manipulatives during the instruction.
22. The Services Log does not identify the provider(s) of the instruction delivered through the “zoom” sessions.
23. The teacher whom both parties report is teaching the student’s class, holds certification as a special education teacher. However, there is no documentation that, since April 2, 2020, the student has been provided with specialized instruction in a “co-taught classroom setting with a general educator, special educator and special education support staff in the Autism Program.”
24. There is also no documentation that the student has been provided with any intervention using Lexia or iReady, or a schedule, since April 2, 2020.
25. On June 8, 2020, the school staff documented that the student was making sufficient progress to achieve the IEP math calculation goal. However, there is also documentation that in April, May and June 2020, the student’s mother expressed concern to the school system staff that the student was struggling with distance learning, having difficulty with understanding the online instruction, needing a lot of support to complete assignments, “refusing to stay a long time on the computer,” and that it was “a fight” to keep him focused.

### **Progress Reports**

26. There is documentation that the IEP goal progress reports for the third (3rd) and fourth (4th) quarters of the 2019 - 2020 school year were provided to the student's father, via electronic mail, on June 19, 2020.

### **CONCLUSIONS:**

#### **ALLEGATION #1 IEP IMPLEMENTATION**

##### **Speech-Language Services**

Based on the Findings of Facts #1, #2, #8, #10, #12 and #16, the MSDE finds that, since April 2, 2020, the IEP has required special education services to address a receptive language goal, as well as consultations by a SLP twice a month.

Based on the Findings of Facts #16 and #18, the MSDE finds that there is documentation of the provision of the SLP consultations that have been required by the IEP since April 2, 2020. However, based on the Findings of Facts #19 and #20, the MSDE also finds that there is documentation that the SLP consultations were not sufficient to address the receptive language goal that has been required by the IEP since April 2, 2020, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds a violation with respect to this aspect of the allegation.

##### **Specialized Instruction and Supplementary Supports**

Based on the Findings of Facts #1, #3 and #5, the MSDE finds that the IEP developed on March 4, 2020 requires that the student be provided with fifteen (15) hours per week of specialized instruction in a general education classroom, and that the instruction be provided in a "co-taught model." Based on the Findings of Facts #5 and #6, the MSDE also finds that, when developing the March 4, 2020 IEP, the team decided that the student requires the support of three (3) adults in the classroom, specifically a general education teacher, a special education teacher, and staff with training in supporting students with Autism.

Based on the Findings of Facts #9 - #11 and #17, the MSDE finds that the student's IEP was amended on April 2, 2020 through the ICLP, and that the ICLP specifically states that it was based on the IEP developed on March 4, 2020.

Based on the Findings of Facts #12 and #14, the MSDE finds that the ICLP identified the IEP math calculation and receptive language goals to be addressed during school closure, reduced the amount of specialized instruction to thirty (30) to forty-five (45) minutes per week, and changed the method of delivery of the specialized instruction to online lessons and instructional assignments. However, based on the Findings of Facts #5, #6 and #15, the MSDE finds that the ICLP did not amend the requirements of the March 4, 2020 IEP that the student be provided with

specialized instruction using a “co-teaching” instructional model, and the IEP team’s decision when developing the March 4, 2020 IEP that the student requires the support of three (3) adults in the classroom.

Based on the Findings of Facts #5, #6, #15, #21 - #24, the MSDE finds that there is no documentation that, since April 2, 2020, the student has been provided with specialized instruction using a “co-teaching” instructional model, as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds a violation with respect to this aspect of the allegation.

Based on the Finding of Fact #13, the MSDE also finds that the ICLP amended the IEP supplementary supports to require “Intervention (Lexia/iReady),” organizational aids, manipulatives, repetition of directions, and a schedule. However, based on the Findings of Facts #15, #22 and #25, the MSDE finds that there is no documentation that the student has been provided with all of the supplementary supports that the IEP has required since April 2, 2020, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds a violation with respect to this aspect of the allegation.

**ALLEGATION #2                      CONSIDERATION OF POTENTIAL HARMFUL EFFECTS  
WHEN DETERMINING LRE**

Based on the Finding of Fact #7, the MSDE finds that, on March 4, 2020, the IEP team documented that when selecting the LRE, there were no potential harmful effects on the student or the quality of services he needs, in accordance with 34 CFR §§300.116, and .324.

Based on the same Finding of Fact, the MSDE further finds that there were no concerns raised about potential harmful effects on the student at the March 4, 2020 IEP team meeting. Therefore, the MSDE finds that the facts do not support the allegation, and does not find a violation with respect to this allegation.

**ALLEGATION #3    PROVISION OF PROGRESS REPORTS**

Based on the Findings of Facts #27, the MSDE finds that on June 16, 2020, the student’s parent was provided with IEP goal progress reports for the third (3rd) and fourth (4th) quarters of the 2019 - 2020 school year, in accordance with 34 CFR §300.320. Therefore, the MSDE finds that the facts do not support the allegation, and does not find a violation with respect to this allegation.

**CORRECTIVE ACTION/TIMEFRAMES:**

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.<sup>4</sup> This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that the action will not be completed within the timeframe indicated, 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.<sup>5</sup> Dr. Birenbaum can be reached at (410) 767-7770.

### **Student-Specific**

The MSDE requires the PGCPS to provide documentation that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to be provided to the student for the violation related to the loss of special education services to address his speech-language needs since April 2, 2020, and developed a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

The MSDE also requires the PGCPS to provide documentation the IEP team has determined whether the violations related to not ensuring that the student was provided with specialized instruction using a “co-taught” delivery model and all of the supplementary supports, had a negative impact on the student’s ability to benefit from the education program.

If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

### **School-Based**

The MSDE requires the PGCPS to provide documentation of the steps it has taken to ensure that the [REDACTED] ES staff comply with the IDEA requirements for IEP implementation. The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not reoccur.

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<sup>4</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must 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.

<sup>5</sup> 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.



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Documentation of all 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 student's parents 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 Special Education/  
Early Intervention Services

MEF/ksa

c:

  
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