



200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

February 5, 2018

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
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 20785

RE: XXXXX
Reference: #18-055

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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 December 12, 2017, the MSDE received a complaint from Ms. Jessica Williams, hereafter, "the complainant," on behalf of the above-referenced student and his mother, Ms. XXXXXXXXXXX. 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 Educational Program (IEP) has addressed the student's behavioral needs since December 2016, in accordance with 34 CFR §§300.320 and .324;
2. The PGCPS has not ensured that the student has been provided with the behavioral supports required by the IEP since December 2016, in accordance with 34 CFR §§300.101, and .323;

3. The PGCPS has not ensured that proper procedures were followed when disciplinarily removing the student from school since January 2017, as required by 34 CFR §300.530; and
4. The PGCPS has not ensured that reports of the student's progress towards achievement of the annual IEP goals since December 2016, have been provided to the parent as required by the IEP, in accordance with 34 CFR §§300.101, .320 and .323.

BACKGROUND:

The student is six (6) years old, and is identified as a student with an Other Health Impairment under the IDEA, due to Attention Deficit Hyperactivity Disorder (ADHD). The student attends North XXXXXXXXXXXX school and has an IEP that requires the provision of special education and related services.

ALLEGATIONS #1 AND #2

ADDRESSING THE STUDENT'S BEHAVIORAL NEEDS, AND PROVISION OF BEHAVIORAL SUPPORTS, SINCE DECEMBER 2016

FINDINGS OF FACTS:

1. Since the start of the investigation period, the student has been participating in a separate special education classroom in the XXXXXXXXXXXXXXXXXXXX Transition Program. The school handbook states that the purpose of the program is to "service children identified as having behavioral problems which interfere with their academic performance." The handbook also states that the program is "designed to provide a consistent and supportive educational environment," that provides students with the following:
 - "A comprehensive education and directions, enabling each to manage his or her own behavior to that they can become functioning, productive members of society;"
 - Special education services, and instruction in the general education curriculum, in a "highly structured, goal related, and success oriented behavior management system;" and
 - "Consequences and rewards [that] are consistently available for inappropriate and appropriate behaviors."
2. The main goal of the Transition Program is to return students to the general education classroom through the use of a behavior management system. There are six (6) behavior levels in the Transition Program. Students' progress through the levels by earning a required number of points over a required time period, in the areas of respect, following directions, and cooperation. They also earn points in one (1) additional area identified based on their particular need. Points are calculated for each half hour period of the school day. As students achieve higher levels, they earn specific privileges. Once students have achieved "level 6," they are returned to the general education classroom.

IEP in Effect From December 2016 to February 2017

3. The IEP in effect at the start of the investigation period was developed in February 2016, and amended in July 2016 (July 2016 IEP). It reflects that the student has self-management, social, emotional, and behavioral needs, and that these areas have an impact on the student's academic achievement and functional performance.
4. The July 2016 IEP states that the student has "a developmental delay in the areas of emotional regulation, self-management, working memory and attention. These difficulties impact his ability to initiate tasks without multiple reminders and prompts." "His distractibility, difficulty with regulating his body, and filtering auditory input to remain focused in a group setting negatively impact his ability to attend and participate throughout his educational setting."
5. The July 2016 IEP also provides the following information about the student:
 - He demonstrates a high degree of activity and high levels of distractibility.
 - He has difficulty with initiating and completing tasks without close adult supervision and prompting, and requires frequent redirection, including visual and verbal promoting, to participate in "all classroom activities."
 - He has difficulty with "independent instruction and requires one-on-one [instruction] to be productive."
 - He has poor coping skills and poor ability to regulate his emotions, and may engage in tantrums, arguments, yelling, screaming, and hitting when he is frustrated, asked to comply with an adult directive, asked to participate in a non-preferred task, and when denied, or asked to discontinue, his participation in a preferred task.
 - He has a "very strong opinion of right and wrong," and difficulty accepting limits or other points of view.
 - He requires a comprehensive behavioral approach, such as the use of picture symbols, visual schedules, and visual behavioral expectations, to support his attention and compliance in the classroom.
 - He requires a classroom setting with clear and firm limits, immediate and consistent consequences, and positive reinforcement.
6. The July 2016 IEP includes five (5) behavioral goals. The three (3) social, emotional, and behavior goals require the student to comply with undesired directives by the teacher without engaging in disruptive behaviors, demonstrate an understanding of personal space and refrain from invading others personal space during social interactions, and demonstrate "pro-social" thoughts, emotions, and behaviors by through appropriate interactions with others. The two (2) self-management behavior goals require the student to remain on task for five (5) minutes in both a large group and small group setting, with decreasing prompts, and to organize his materials, and initiate and follow through on learning tasks.

7. To assist the student with achieving mastery of the IEP behavioral goals, the July 2016 IEP requires numerous behavioral supplementary supports. These include the following, each of which the IEP requires on a daily basis:
 - frequent reminder of rules;
 - pressure and weighted materials;
 - preferential seating;
 - frequent changes in activities or opportunities for movement;
 - social skills training;
 - frequent eye contact and proximity control;
 - advance preparation for change in schedule;
 - encourage and reinforce appropriate behavior; and
 - use of a timer and counting strategies.
8. The July 2016 IEP also requires crisis intervention as a supplementary support to address the student's behavior. It clarifies that the student will meet weekly, or as needed, with a school-based mental health provider, guidance counselor, psychologist, social worker, or crisis intervention teacher, for instruction, practice and review of strategies to prevent a crisis, and how to de-escalate and return to the classroom when a crisis occurs.
9. Weekly social skills training is also required by the July 2016 IEP as a supplementary support to assist the student with developing skills and strategies for managing peer and adult relationships.
10. On a monthly basis, the July 2016 IEP requires an occupational therapist or certified assistant to observe the student and consult with classroom staff to assist with implementing and monitoring strategies and equipment to promote the student's self-management skills, attention and participation in the educational environment.
11. The July 2016 IEP also requires that the student be provided with thirty (30) minutes of counseling per week, as a related service, to address his coping, self-advocacy, and social skills. It identifies a "school-based mental health provider" as the primary provider of the counseling, and also identifies a guidance counselor, psychologist, and school social worker as "other" providers of the counseling.
12. The July 2016 IEP reflects that the student requires a Behavior Intervention Plan (BIP). It states that he "engages in disruptive non-compliant behaviors that limit his availability for learning," and that his poor attention skills "significantly negatively impact his school performance."
13. The BIP reflects that the student is non-compliant, does not follow teacher directions, does not take responsibility for his actions, is aggressive, invades others' personal space, and has poor attention and self-regulation skills. It identifies that the functions of the student's behaviors are to obtain peer attention, access to an activity, object, or event, and to escape adult attention, participating in an activity or event. The behaviors also function to both obtain and avoid sensory input.

14. The prevention strategies in the BIP include reviewing classroom rules and expectations, visual supports, positive reinforcement, and curriculum addressing social, emotional behavior. Teaching strategies include immediate reminders of clear behavior expectation, close adult proximity and prompting, social stories, timers, and a praise board. The response strategies required by the BIP to minimize inappropriate behaviors consist of warnings, loss of privileges, “time outs,” and crisis intervention.
15. The July 2016 IEP documents the student’s need for a small, highly structured program with a low student to teacher ratio, opportunities for individual and small group instruction, and “a comprehensive behavior approach including positive reinforcement, [and] clear limits and behavioral expectations.”
16. The July 2016 IEP requires that the student receive 22 hours and five (5) minutes per week of specialized instruction in a separate special education classroom.
17. There is no documentation that the student was provided with the behavioral supports required by the IEP, from December 2016 to February 2017.
18. There is documentation that the student was provided with counseling as a related service from a school psychologist, from December 2016 to February 2017, as required by the IEP.

IEP Developed on February 23, 2017

19. On February 23, 2017, the IEP team convened to conduct the annual review of the student’s IEP. The IEP team discussed that the student has “significant problems with attention and over-activity,” and that “his level of emotional regulation is problematic.” They also discussed that the student has difficulty with peer and adult relationships, and that he “requires one-on-one support” to address his social, emotional and behavioral needs throughout the school day. The IEP team documented that the student continues to demonstrate developmental delays in the areas of emotional regulation, self-management, working memory and attention.
20. There is documentation that, as of the time of the February 2017 IEP meeting, the student had not made any progress from “level 1” of the Transition Program, and that he had been disciplinarily removed from the school for five (5) days during the 2016 – 2017 school year.
21. At the time of the meeting, the IEP team also had information available to it documenting that the student had been removed from the classroom on fourteen (14) occasions, since December 2016, for behaviors including refusal to follow directions, work refusal, excess talking, inability to accept consequences, calling out and yelling, disruptive behavior during group activity, losing self-control, threatening others, being out of assigned location, and hitting school staff and peers.

22. The IEP developed by the team at the February 2017 meeting continued to document that the student requires a comprehensive behavior approach “to support his attention and compliance within the classroom environment,” to be addressed through the supplementary supports. However, the IEP team discontinued all of the behavioral supplementary supports, except the requirements for a pressure vest and weighted materials, and consult by an occupational therapist. There is no documentation explaining the team’s removal of all but 2 of the behavioral supplementary supports.
23. The IEP developed at the February 2017 IEP meeting continued to document that the student “engages in disruptive non-compliant behaviors that limit his availability for learning,” and that his school performance is “negatively” impacted by his poor attention skills. However, the IEP team decided to discontinue the goals requiring the student to comply with a teacher directive without engaging in disruptive behaviors, and to organize his materials, initiate, and follow through on learning tasks, without explanation.
24. The IEP team decided to continue the remaining three (3) behavioral goals. However, there is no documentation that the IEP team considered whether the student’s progress on the IEP goals was sufficient.
25. In April 2017, the school staff prepared progress reports documenting that the student was not making sufficient progress towards mastery on two of the three IEP goals and directing the IEP team to meet to address the lack of progress. The progress reports reflect the following about the student’s performance:
 - He continues to have difficulty with peer and adult interactions, working appropriately in small groups, remaining in his seat, and completing tasks.
 - He will acknowledge classroom rules when reminded by the school staff, “and then escalate into a temper tantrum, resulting in the need for a reflection room visit to calm down.” When not allowed “his way,” he becomes physically aggressive.
 - He does not attend to instruction in a large group setting, and needs constant redirection. He is “often removed from the large group due to his extreme mood changes, loud outbursts, screaming and temper tantrums.”

The IEP team did not convene to address the student’s lack of progress on the goals.

26. There is documentation that, from March 2017 through the end of the 2016 - 2017 school year, the student was removed from the classroom on eleven (11) occasions due to disruptive, inappropriate behaviors.
27. There is documentation that, following the February 2017 IEP meeting, the student was suspended on three separate occasions, totaling seven (7) days.
28. There is no documentation of the provision of the behavioral supports required by the February 2017 IEP.

29. There is documentation that, since February 2017, the student has been provided with counseling as a related service, from a psychologist, as required by the IEP.

2017 – 2018 School Year

30. Since the start of the 2017 – 2018 school year, the student’s behavior has improved, resulting in his progression from behavior “level 1” to “level 3.”
31. The November 2017 IEP progress reports document that the student is making sufficient progress towards mastery of all of the annual goals. They reflect that the student “has made significant progress” with demonstrating personal space, and an increased willingness to focus and complete classwork. The reports state that the student is able to demonstrate a “certain degree of self-control,” he has shown growth in listening and attending to class discussion, and, at times, will self-correct his behavior. The reports also note that the student is making gains in the area of social skills, “often” participates in class, and has had “minimal” times when he has required the use of the “reflection room.”
32. The student has not been disciplinarily removed from school since the start of the 2017 – 2018 school year.
33. There is documentation that the student has been provided with weekly counseling, as required by the IEP, since the start of the 2017 – 2018 school year.

CONCLUSIONS:

Allegation #1 Addressing the Student’s Behavioral Needs

Based on the Findings of Facts #1 - #18, the MSDE finds that the IEP in effect from December 2016 to February 2017 addresses the student’s behavioral needs. Therefore, the MSDE does not find a violation with respect to the allegation during this time period.

However, based on the Findings of Facts #1 - #24, the MSDE finds there is no data to support the team’s decision, at the February 23, 2017 IEP meeting, to remove behavioral supports. While the school staff report that the supports were removed because they are provided to all students within the program, and thus that they continued to be provided, the MSDE finds that, based on the Findings of Facts #25, - #33, the IEP team did not convene to address the April 2017 reports documenting that the student was not making sufficient progress toward achieving two (2) of the IEP goals, in accordance with 34 CFR §300.324. Therefore, the MSDE finds that, since February 2017, a violation occurred with respect to the allegation.

Allegation #2 Provision of Behavioral Supports Required by the IEP

Based on the Findings of Facts #1 and #2, the MSDE finds that the student is participating in a highly structured program that utilizes a behavior management system to support students who exhibit inappropriate behaviors that interfere with their access to instruction and academic

progress. However, based on the Findings of Facts #3 - #29, the MSDE finds that there is no documentation that the student was being provided with the specific behavioral supports required by the IEP, since December 2016, in accordance with 34 CFR §§300.101, and .323. Therefore, this office finds that a violation occurred.

ALLEGATION #3

**DISCIPLINARILY PROCEDURES WHEN
REMOVING THE STUDENT FROM SCHOOL**

FINDINGS OF FACTS:

34. There is documentation of the following disciplinary removals of the student, totaling twelve (12) days, since the start of the investigation period:
 - On December 13, 2016, for two (2) days;
 - On January 10, 2017, for three (3) days;
 - On March 21, 2017, for three (3) days;
 - On May 23, 2017, for two (2) days; and
 - On June 5, 2017, for two (2) days.
35. There is no documentation that the IEP team has convened to determine whether the student's behavior resulting in the disciplinary removal, on June 5, 2017, was a manifestation of his disability or the result of the school system's failure to implement the IEP.
36. The school day at XXXXXXXXXXXXXXXXXXXXXXXX begins at 7:45 in the morning and ends at 1:55 in the afternoon.
37. The daily point sheets that track the student's behavior document that, starting January 18, 2017 through February 22, 2017, the student was dismissed before the end of the regular school day on 20 consecutive days. The point sheets reflect that each dismissal occurred between 11:00 a.m. and 11:30 a.m.
38. The dismissal log documents that, starting January 26, 2017 through February 22, 2017, the student was dismissed prior to the end of the regular school day on 15 days. Each dismissal occurred between 10:50 a.m. and 11:29 a.m. The dismissal log documents "leaving" as the reason for each of these early dismissals.
39. The school staff maintain data of the occasions when the student is sent to the "reflection room" to calm down when his behavior cannot be managed in the classroom. Prior to the time that the student began early dismissals in January 2017, the data reflects 13 removals of the student on days when he was in school for a full day. The data documents that the student's behavior could not be managed in the classroom in the morning, necessitating removal to the "reflection room" for no more than 20 minutes. There is no documentation that the student required removal from the classroom in the afternoon.

40. On February 23, 2017, the school staff included the following statement in the self-management present levels of performance section of the IEP:

“It is important to note that [the student] is currently on an adapted half-day daily schedule. He leave[s] at 11:00 a.m. daily. This two week temporary early dismissal was implemented in agreement with his mother while she awaited a scheduled evaluation appointment for [the student] at Children’s Hospital, Washington, D.C. The purpose was to avoid the afternoon transitions to specials where [the student] would become so dis-regulated he would have to visit the reflection room. Once escalated, it takes hours for [the student] to de-escalate, which resulted in a three day suspension.”

However, there is no documentation that the parent agreed to amend the student’s program without convening an IEP team meeting.

CONCLUSION:

In this case, the complainant reports that the parent denies that she agreed that the student required a half day program, and that the parent reports that she was required by the school staff to pick-up the student from school before the end of the school day due to his behavior.

Based on the Findings of Facts #36 - #38, the MSDE finds that there is no documentation that the IEP team determined that the student required a shortened school day, or that the parent agreed to such a change in the educational program outside of the IEP team meeting, in accordance with 34 CFR §300.324.

Based on the Findings of Facts #38 and #39, the MSDE finds that the basis for the decision to have the student attend school in the morning only is inconsistent with the data that the student’s behaviors were manageable in the afternoon but that he had difficulty in the morning. Therefore, this office finds that the early dismissals constituted disciplinary removals from school.

Based on the Findings of Facts #33 - #34, the MSDE finds that the student was disciplinarily removed from school in excess of 10 days during the 2016-2017 school year. Based on the Findings of Facts #34 and #35, the MSDE finds that there is no documentation that the IEP team held a manifestation determination meeting within ten (10) school days of the June 5, 2017, disciplinary removal of the student, in accordance with 34 CFR § 300.530. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #4

PROVISION OF QUARTERLY IEP PROGRESS REPORTS SINCE JANUARY 2017

FINDINGS OF FACTS:

41. The IEP requires that reports of the student’s progress towards mastery of the annual IEP goals be provided to the parent on a quarterly basis.

42. There is documentation that, since December 2016, the school staff have developed two (2) reports of the student's progress towards mastery of the IEP goals. Those progress reports were made on April 7, 2017, following the third (3rd) quarter of the 2016 - 2017 school year, and on November 28, 2017, after the 1st quarter of the 2017 - 2018 school year. However, there is no documentation that the parent was provided with these progress reports.
43. There is no documentation that the school staff developed reports of the student's progress towards mastery of the IEP goals following the second (2nd) and fourth (4th) quarters of the 2016 - 2017 school year.

DISCUSSION/CONCLUSION:

Based on the Findings of Facts #40 - #42, the MSDE finds that the parent has not been provided with quarterly reports of the student's progress towards achieving the annual IEP goals since December 2016, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINE:

Student-Specific

The MSDE requires the PGCPS to provide documentation by March 15, 2018, that the IEP team has convened and taken the following actions:

- a. Reviewed and revised the IEP, as appropriate, to ensure that the IEP addresses the student's behavioral needs, based on the data, and that the IEP documents all behavioral supports that the student requires; and
- b. Determined the amount and nature of compensatory services or other remedy to be provided to the student to remediate the violations identified in this Letter of Findings, and developed 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 by April 1, 2018, of the steps taken, including training, to ensure that the XXXXXXXXXXXXXXXXXXXX staff comply with the requirements related to each of the violations identified in this Letter of Findings. 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 recur.

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

Ms. Jessica Williams
Ms. Trinell Bowman
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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that both the complainant and the PGCPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of facts or conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

If additional information is provided, it will be reviewed and the MSDE will determine if a reconsideration of the conclusions is necessary. Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, set forth additional findings and conclusions, or enter new findings and conclusions. Pending the decision on a request for reconsideration, the school system must implement any corrective actions consistent with the timeline requirement as reported in this Letter of Findings.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The parents and the PGCPS 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. 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:	XXXXXX	Kevin Maxwell
	Gwen Mason	Barbara VanDyke
	Jodi Kaseff	XXXXXX
	Dori Wilson	Anita Mandis
	K. Sabrina Austin	Bonnie Preis