



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

May 10, 2019

Ms. Jessica Williams  
Education Due Process Solutions  
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: XXXXX  
Reference: #19-134

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 March 18, 2019, the MSDE received a complaint from Ms. Jessica Williams, hereafter, the complainant" on behalf of Ms. XXXXXXXXXXXX and her son, the above-referenced student. In that correspondence, the complainant alleged that 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 did not ensure that a reevaluation conducted on May 9, 2018 was comprehensive enough to identify the student's fine motor skills needs, in accordance with 34 CFR §300.304.
2. The PGCPS did not provide written notice (PWN) within a reasonable time before proposing or refusing to initiate or change the identification, evaluation, or educational placement of the student or the provision of a Free Appropriate Public Education (FAPE) to the student on March 6, 2019, in accordance with 34 CFR §300.503.

3. The PGCPS did not ensure that the student was provided with the special education and related services in the placement and by the provider required by the Individualized Education Program (IEP) between March 18, 2018 and October 18, 2018, in accordance with 34 CFR §§300.101 and .323.
4. The PGCPS has not ensured that the results of a Functional Behavioral Assessment (FBA) determined necessary by the IEP team since March 18, 2018, has been used by the team in reviewing the IEP within ninety (90) days of the decision that the data was required, in accordance with COMAR 13A.05.01.06.
5. The PGCPS has not ensured that the IEP was reviewed at least annually, and reviewed, and revised, as appropriate, to address lack of expected progress towards achievement of the annual goals since July 31, 2018, in accordance with 34 CFR §300.324.
6. The PGCPS has not ensured that proper procedures were followed to provide Home and Hospital Teaching (HHT) services since October 2018, in accordance with COMAR 13A.03.05 and 13A.05.01.

### **BACKGROUND:**

The student is six (6) years old, and is identified as a student with a Developmental Delay under the IDEA and has an IEP that requires the provision of special education instruction and related services. He attends XXXXXXXXXXXXXXXX School.

### **ALLEGATION #1:                    COMPREHENSIVE EVALUATION TO IDENTIFY THE STUDENT'S FINE MOTOR NEEDS**

### **FINDINGS OF FACTS:**

1. On March 28, 2018, the IEP team considered the results of a private occupational therapy assessment, the student's progress in the classroom and the concerns of the parent about the student's sensory needs and determined an assessment of the student's fine motor and sensory processing skills were recommended in order to determine levels in sensory and fine motor skills.
2. On May 10, 2018, the occupational therapist reported on a report of an occupational therapy report that included a record review, a teacher interview, and observations of the student in the classroom and on the playground and the results of the *Sensory Profile 2, School Companion*.
3. The *Sensory Profile 2, School Companion* is a standardized, norm referenced tool for measuring a student's sensory processing abilities and the sensory system's effect on the student's functional performance in the classroom and school environment.<sup>1</sup>

---

<sup>1</sup> The Sensory Profile School Companion is an assessment tool used to evaluate a child's sensory processing skills and determine how these skills affect the child's classroom behavior and performance. The sensory assessment can take place in clinic, at home or in school. The assessment may be completed by an occupational therapist through

4. The occupational therapy report was based on observation and an analysis of the students' motor skills, process skills, social interaction skills and performance patterns, and indicated that the student was able to perform fine motor tasks without difficulty. However, per report, he has difficulty managing fasteners in a coordinated fashion independently on his own clothing. The report also indicated that the student has difficulty mouthing and fidgeting with objects within the classroom, but, his teacher reported that he is able to complete developmentally appropriate tasks within the classroom.
5. The occupational therapy report documented instructional implications of the student's participation in general education curriculum which indicated that the student has poor visual attention and decreased interest in non-preferred tasks, such as fine motor writing tasks, which impacts his ability to effectively participate within a classroom environment. The report also indicated that the student may miss more sensory cues than others, thus demonstrating a slow pattern of noticing sensory stimuli within the classroom, requiring an increase in the intensity of sensory experiences in everyday tasks.
6. The report also documented an occupational profile of the student's skills, a description of the student's overall performance in comparison to developmental milestones, specific ways to help the student deal with sensory input, supports and barriers to participation in general education curriculum and recommendations, including accommodations, modifications, supplementary aids and supports and resources for the parent.
7. The report stated that a thorough assessment of fine motor development will help to determine the student's fine motor needs and identify the underlying factors. The assessment recommendations will focus on treatment to enhance and address underlying issues, as opposed to focusing on the end product of fine motor skills.<sup>2</sup> This assessment report identifies handwriting tasks and fasteners as areas of need and indicated that the student required continuous redirection during writing activities. However, this assessment report does not document the student's underlying factors in the areas of need and does not identify instructional implications and recommendations to address the area of fine motor skills.

### **DISCUSSION/CONCLUSIONS:**

In this case, the complainant alleges that the OT evaluation did not include a formal assessment of the student's fine motor skills and that the *Sensory Profile 2 School Companion* must be completed in two settings.

---

an observation of the behaviors and movements the student shows in relation to the sensory input they are receiving. (<https://www.pearsonclinical.com/talent/products/sensory-profile-2.html>).

<sup>2</sup> Without a thorough assessment, the relationship between what is the underlying problem and the fine motor difficulty may not be clear or apparent (<https://www.therapysolutionsforchildren.com/our-services2.html>).

Based on the Findings of Facts #1 - #6, this office finds that the occupational therapy assessment report provides relevant information that directly assists persons in determining the sensory needs of the student.

However, based on the Finding of Fact #7, the MSDE finds that the assessment conducted does not provide information of the student's fine motor skills strengths and needs, in accordance with 34 CFR §300.304. Therefore, this office finds that a violation has occurred with respect to the allegation.

**ALLEGATION #2: PROVISION OF PRIOR WRITTEN NOTICE  
WITHIN A REASONABLE TIMEFRAME**

**FINDINGS OF FACTS:**

8. An IEP team meeting was held on March 6, 2019. The meeting was audio-recorded by the complainant and the PGCPS.
9. On March 6, 2019, the IEP team reviewed a revised private neuropsychological assessment provided by the student's parent. After the IEP team reviewed the private assessment, the team determined not to accept the revised report because it did not answer the diagnostic questions the team posed at the previous IEP team meeting held on January 30, 2019. The IEP team reviewed historical data and determined that the student met eligibility requirements under the IDEA as a student with Attention Deficit with Hyperactivity Disorder. The student's parent made the decision to contact the private psychologist to discuss other disability options prior to the IEP team making a final decision. At the meeting, the parent was also informed that the medical verification, which allowed for the student to be provided with HHT services would expire on April 2, 2019 and current information would be needed to continue the HHT services.
10. On March 15, 2019, according to a parent contact log and electronic mail correspondence (email), the student's mother was sent the PWN electronically.

**DISCUSSION/CONCLUSIONS:**

In this case, the complainant alleges that the PGCPS failed to provide the PWN from the IEP team meeting held on March 6, 2019.

Based on the Findings of Facts #8 - #10, this office finds that the PGCPS provided the PWN within a reasonable timeframe, before the public agency proposed to change the identification of the student, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation has occurred with respect to the allegation.

**ALLEGATIONS #3 - #6:**

**PROVISION OF SPECIALIZED INSTRUCTION  
REQUIRED BY THE IEP, IMPLEMENTATION OF  
THE FBA, AND THE IEP REVIEWED AND  
REVISED TO ADDRESS THE STUDENT'S LACK  
OF PROGRESS AND HHT SERVICES**

**FINDINGS OF FACTS:**

11. On April 23, 2019 the PGCPs acknowledged that there is no documentation that the student was provided with the special education instruction and services required by the IEP in effect from March 18, 2018 through October 18, 2018.
12. On April 23, 2019 the PGCPs acknowledged that there is no documentation that the FBA was used by the IEP team in reviewing the IEP, since March 18, 2018.
13. On April 23, 2019 the PGCPs acknowledged that there is no documentation that the PGCPs reviewed and revised, as appropriate, the IEP to address lack of expected progress towards achievement of the annual goals, since February 28, 2018.
14. On April 23, 2019 the PGCPs acknowledged that proper procedures were not followed in the provision of HHT services, since October 2018.

**CONCLUSIONS:**

**Allegation #3: Provision of Specialized Education Instruction**

Based on the Finding of Fact #11, the MSDE finds that there is no documentation of the special education instruction to be provided from March 18, 2018 through October 18, 2018, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds that a violation occurred.

**Allegation #4: FBA Implemented by the IEP Team**

Based on the Finding of Fact #12, the MSDE finds that the PGCPs did not ensure that the FBA was reviewed and utilized by the IEP team since March 18, 2018, in accordance with 34 CFR §300.324. Therefore, the MSDE finds that a violation occurred.

**Allegation #5: IEP Reviewed and Revised to Addresses Lack of Expected Progress**

Based on the Finding of Fact #13, the MSDE finds that the IEP team did not review and revise the IEP to address lack of expected progress since February 28, 2018, in accordance with 34 CFR §§300.320 and .324. Therefore, the MSDE finds that a violation occurred.

**Allegation #6: Provision of HHT Services**

Based on the Findings of Facts #14, the MSDE finds that there is no documentation of the provision of HHT services since October 2018, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds that a violation occurred.

**CORRECTIVE ACTION/TIMELINES:**

**Student-Specific**

The MSDE requires the PGCPS to provide documentation prior to the start of the 2019 – 2020 school year, that the IEP team has taken the following actions:

- a. Convene an IEP team meeting to determine the assessment tools, strategies and additional data needed to gather relevant functional, developmental, and academic information about the student's fine motor skills and determine if the FBA/BIP needs to be revised;
- b. Re-assess to determine the student's needs in the area of fine motor skills and determine the student's levels of functioning and performance that were expected to have been demonstrated by this time and determine the student's present levels of functioning and performance in the area of behavior;
- c. Review and revise the IEP, as appropriate, to address the student's fine motor skills, lack of expected progress, and the student's present levels of behavioral functioning and performance;
- d. Determine the educational impact of not providing specialized education instruction, not reviewing the IEP to address the lack of expected progress, not implementing the FBA, and not providing HHT services; and
- e. Determine the compensatory services or other remedy to redress the violations identified in this Letter of Findings.

The IEP team must also have 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 the start of the 2019 - 2020 school year of the steps taken, including training, at the XXXXX School to ensure that the violations do not reoccur.

The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and provide monitoring to redress the violations.

Ms. Jessica Williams  
Ms. Trinell Bowman  
May 10, 2019  
Page 7

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.

**TECHNICAL ASSISTANCE:**

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

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 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/sf

c:     XXXXXXXXX  
       Monica Goldson  
       Gwendolyn Mason  
       Barbara Vandyke  
       XXXXXXXXX  
       Marcella E. Franczkowski  
       Anita Mandis  
       Sharon Floyd