




Mohammed Choudhury
State Superintendent of Schools

October 22, 2021




Ms. Trinell Bowman
Associate Superintendent-Special Education
Prince George's County Public Schools
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 2078

RE: 
Reference: #22-017

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 August 25, 2021, the MSDE received correspondence from Mr.  hereafter, “the complainant,” on behalf of his son, 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 student.

The MSDE investigated the allegation that the PGCPS did not ensure that proper procedures were followed when conducting a hearing to contest the accuracy of the student’s educational record on August 25, 2020, in accordance with 34 CFR §§300.99.22 and 300.621. The complainant specifically alleged the following:

- a. The hearing was conducted by an official of the public agency who had a direct interest in the outcome of the hearing;
- b. The hearing did not provide a full and fair opportunity to present evidence relevant to the issues;

- c. The hearing decision was not issued in writing within a reasonable period of time after the hearing;
- d. The hearing decision was not based solely on the evidence presented at the hearing; and
- e. The hearing decision did not include a summary of the evidence and reasons for the decision.

BACKGROUND:

The student is sixteen (16) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services.

The student is placed by the PGCPs at [REDACTED] a nonpublic, separate, special education school.

FINDINGS OF FACTS:

June 30, 2019 Request to Amend the Record

1. On June 30, 2019, the complainant made a request to PGCPs staff to amend the Student's educational record. In his request he asked that a statement regarding corrective action be removed from the June 11, 2019 Individualized Education Program (IEP) team meeting prior written notice.
2. On July 1, 2019, the PGCPs staff responded to the complainant and denied the request. The PGCPs staff informed the complainant of his right to appeal the decision to a PGCPs supervisor.
3. On July 8, 2019, the complainant wrote to the PGCPs supervisor appealing the decision of the PGCPs staff.
4. On July 10, 2019, the PGCPs supervisor denied the complainant's request, but amended the language used in the prior written notice. The PGCPs supervisor informed the complainant of this right to a hearing on the matter.
5. On July 17, 2019, the complainant requested a hearing to contest the denial of his request to amend the June 11, 2019 IEP team meeting prior written notice.

June 2, 2020 Request to Amend the Record

6. On June 2, 2020, the complainant made a request to PGCPs staff to amend the student's record. In his request, he asked that a statement regarding the "false and misleading" June 11, 2019 prior written notice be added to the July 17, 2019 IEP.

7. On June 11, 2020, the PGCPS staff responded to the complainant and denied the request. The PGCPS staff informed the complainant of his right to appeal the decision to a supervisor.
8. On June 19, 2020, the complainant wrote to the PGCPS supervisor appealing the decision of the PGCPS staff.
9. On June 24, 2020, the PGCPS supervisor denied the complainant's request. The PGCPS supervisor informed the complainant of this right to a hearing on the matter.
10. On July 6, 2020, the complainant requested a hearing on the matter.

June 8, 2020 Request to Amend the Record

11. On June 8, 2020, the complainant made a request to PGCPS staff to amend the student's record. In his request, he asked that information from the student's IEP related to the student's "preferences and interests" be removed because the student is not capable of expressing his preferences and interests on the survey utilized by school staff.
12. On June 15, 2020, the PGCPS staff responded to the complainant and denied the request. The PGCPS staff informed the complainant of his right to appeal the decision to a supervisor.
13. On June 20, 2020, the complainant wrote to the PGCPS supervisor appealing the decision of the PGCPS staff.
14. On June 24, 2020, the PGCPS supervisor denied the complainant's request. The PGCPS supervisor informed the complainant of this right to a hearing on the matter.
15. On July 6, 2020, the complainant requested a hearing on the matter.

June 10, 2020 Request to Amend the Record

16. On June 10, 2020, the complainant made a request to the student's school staff to amend the student's record. In his request, he asked that information from the services log related to the student's toileting abilities be changed.
17. On June 15, 2020, the school staff responded to the complainant and denied the request in part. The PGCPS staff informed the complainant of his right to appeal the decision to a supervisor.
18. On June 21, 2020, the complainant wrote to the PGCPS supervisor appealing the decision of the school staff.

19. On June 24, 2020, the PGCPS supervisor denied the complainant's request. The PGCPS supervisor informed the complainant of this right to a hearing on the matter.
20. On July 6, 2020, the complainant requested a hearing on the matter.

August 25, 2020 Hearing

21. On August 25, 2020, the PGCPS conducted a virtual hearing to consider the complainant's appeal of the denials to amend the student's record.
22. The hearing was conducted by the PGCPS "Senior Hearing Officer".
23. The hearing officer is an employee of the PGCPS, but there is no documentation that she had a direct interest in the outcome of the hearing.
24. During the hearing, the complainant had the opportunity to share evidence with the hearing officer including recordings of IEP team meetings and displaying documents on the virtual platform for the hearing officer to view.
25. The hearing officer considered explanations of the evidence from both the complainant and the PGCPS staff present.
26. During the hearing, at the conclusion of the discussion on each issue, the hearing officer asked both the complainant and the PGCPS staff if there was any additional evidence that should be considered. Both the PGCPS staff and the complainant indicated that for each issue there was nothing additional to be considered.
27. On September 18, 2020, the hearing officer issued her decision to the parties. For each issue, the hearing officer summarized the evidence offered by the parties at the hearing as well as the explanations of the evidence made in support during the hearing.

DISCUSSION/CONCLUSIONS:

The IDEA requires the public agency to provide complainants with the opportunity for a hearing to challenge information in education records to ensure that the information is not inaccurate or misleading. The IDEA requires that the hearing be conducted in accordance with procedures provided in the Family Educational Rights and Privacy Act (FERPA) (34 CFR §§300.619 and .621).

The FERPA states that hearings to challenge the content of education records meet the following requirements:

1. The hearing may be conducted by any individual, including an official of the educational agency who does not have a direct interest in the outcome of the hearing.

2. The educational agency must give the complainant a full and fair opportunity to present evidence relevant to the issues.
3. The educational agency must make its decision in writing within a reasonable period of time after the hearing.
4. The hearing decision must be based solely on the evidence presented at the hearing.
5. The hearing decision must include a summary of the evidence and the reasons for the decision (34 CFR §99.22).

Official Conducting the Hearing

Based on the Findings of Facts #21-#27, the MSDE finds that there is no documentation to support that the official conducting the hearing had a direct interest in the outcome of the hearing, in accordance with 34 CFR §§99.22 and 300.621. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Opportunity to Present Evidence

Based on the Findings of Facts #1 - #20 and #24 - #26, the MSDE finds that the parties were afforded the opportunity to present evidence at the hearing in accordance with 34 CFR §§99.22 and 300.621. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Issuance of Hearing Decision within a Reasonable Period of Time After the Hearing

Based on the Findings of Facts #21 and #27, the MSDE finds that the hearing decision was issued in a reasonable period of time after the hearing, in accordance with 34 CFR §§99.22 and 300.621. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Basis for Hearing Decision

Based on the Findings of Facts #21 - #27, the MSDE finds that the hearing decision was based on the evidence presented at the hearing, in accordance with 34 CFR §§99.22 and 300.621. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Content of Hearing Decision

Based on the Findings of Facts #21 - #27, the MSDE finds that the hearing decision contained a summary of the evidence and arguments made at the hearing and a reason for the decision, in

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accordance with 34 CFR §§99.22 and 300.621. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

TIMELINE:

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.

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 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:gl

c: Monica Goldson
Barbara VanDyke
Keith Marston
Gail Viens
Nancy Birenbaum