



Mohammed Choudhury
State Superintendent of Schools

January 31, 2021

Ms. Jessica Williams
711 Bain Drive #205
Hyattsville, Maryland 20785

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

RE: [REDACTED]
Reference: #22-051

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.

ALLEGATION:

On November 1, 2021, the MSDE received a complaint from Ms. Jessica Williams, hereafter, "the complainant," on behalf of the above-referenced student and her mother, Ms. [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 above-referenced student.

The MSDE investigated the allegation that the PGCPS did not ensure that, in September 2021, the confidentiality of personally identifiable information about the student was maintained, in accordance with 34 CFR §300.622 and the Family Educational Rights and Privacy Act (FERPA) at 34 CFR Part 99.

On December 30, 2021, the MSDE issued an Extension Letter indicating that, while there is a sixty (60) day timeline for the completion of the investigation process, the parties were notified that the investigation of the Allegation would be extended in order for the MSDE to review a large volume of documentation that was received in our office on December 21 and 29, 2021. This correspondence is the report of the final results of the investigation of the Allegation.

BACKGROUND:

The student is fourteen (14) years old and is identified as a student with an Intellectual Disability under the IDEA. She attends [REDACTED] and has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. There is documentation that on September 11 and 17, 2021, an individual representing the PGCPS staff provided the student's confidential psychological evaluation, dated September 2, 2021, to individuals that are not officials of the PGCPS and do not have a legitimate educational interest related to the student.
2. The confidential psychological evaluation reflects that the student's name was redacted from the evaluation; however, indirect identifiers, such as the student's date of birth and her mother's name were not redacted from the evaluation.
3. There is no documentation that written consent was provided by the student's parent that would authorize the individual representing the PGCPS staff to disclose personally identifiable information to individuals that are not officials of the PGCPS and do not have a legitimate educational interest related to the student.
4. There is no documentation that indicates that any conditions existed under the law, which would allow the individual representing the PGCPS staff to disclose personally identifiable information without prior written consent from the student's parent, to individuals that are not officials of the PGCPS and do not have a legitimate educational interest related to the student.

CONCLUSION:

The term Personally Identifiable Information includes, but is not limited to the student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's social security number, student number, or biometric record, other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name, other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty, or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates (34 CFR Part 99.3).

An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will

not disclose the information to any other party without the prior consent of the parent or eligible student (34 CFR 99.33).

Based on the Findings of Facts #1 - #4, the MSDE finds that the PGCPS did not ensure that the confidentiality of personally identifiable information about the student was maintained, in accordance with 34 CFR §300.622 and FERPA at 34 CFR Part 99. 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 Family Support and Dispute Resolution Branch, MSDE, at (410) 767-7770, to ensure the effective implementation of the action.²

The MSDE requires the PGCPS to provide documentation of the steps taken to ensure that individuals representing the PGCPS staff understand the requirements regarding the disclosure of personally identifiable information, consistent with the law.

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

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.

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on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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 (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: 
Monica Goldson
Barbara VanDyke
Darnell Henderson
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