



Mohammed Choudhury
State Superintendent of Schools

February 17, 2022

Monisha Cherayil, Esq.
Public Justice Center
201 N. Charles Street
Suite 1200
Baltimore, Maryland 21201

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

RE: [REDACTED]
Reference: #22-077

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 December 22, 2021, the MSDE received a complaint from Monisha Cherayil, Esq., hereafter, "the complainant," on behalf of the above-referenced student, and his 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 following allegations:

1. The PGCPS has not ensured that a copy of the student's psychological report has been maintained in his educational record since December 22, 2020,¹ in accordance with COMAR 13A.08.02.28 and the *Maryland Student Records System Manual*.

¹ While you allege that the violations occurred prior to this date, only those violations that are alleged to have occurred within one (1) year can be resolved through the State complaint investigation procedure.

2. The PGCPS has not ensured that the student's Individualized Education Program (IEP) addresses his behavioral needs since December 22, 2020,¹ in accordance with 34 CFR §300.324.
3. The PGCPS did not ensure proper procedures were followed when conducting a manifestation determination for the student in October 2021,² in accordance with 34 CFR §300.530.
4. The PGCPS has not ensured that a Functional Behavioral Assessment (FBA) has been conducted for the student as determined by the IEP team in November 2021, in accordance with 34 CFR §§300.300, .303. and COMAR 13A.05.01.06.

BACKGROUND:

The student is seventeen (17) years old and is identified as a student with a Specific Learning Disability (SLD) under the IDEA, related to reading, writing, and math. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student's IEP in effect on December 22, 2020, reflects that he has identified social emotional/behavior needs that impact his work completion and academic performance. The annual goal, which was developed in June 2020 to assist the student with improving his skill in this area, states that the "[student] will cooperatively work with his teachers in the delivery of the best service and accommodations that will help him improve his classroom performance and grades."
2. The student's IEP reflects that, between June 2020 and January 2022, he has not achieved the annual social emotional/behavior goal. However, the goal continues to remain the same without a stated rationale. The progress reported on the goal has not been consistent with the data, progress was not consistently reported for each quarter as required by the IEP, and the IEP team did not consistently meet to address any lack of expected progress when it was reported to be insufficient during the time the goal has been in place for the student.
3. On October 25, 2021, the student was recommended for a disciplinary expulsion from school for a period of more than ten (10) days resulting from a "physical attack on another student."
4. There is correspondence which reflects that the manifestation determination meeting was scheduled to be held on November 4, 2021, however, the complainant requested that the meeting be rescheduled.

² The violation of the PGCPS Code of Conduct took place in October 2021; however, the manifestation determination meeting for the incident was conducted in November 2021.

5. On November 10, 2021, the IEP team convened to determine whether the student's behavior of physically attacking another student was a manifestation of his disability. The team reviewed the student's educational record, including his IEP, psychological and educational assessments dated April 2019, and teacher, parent, and student input. The IEP team also considered the student's primary disability and discussed whether the behaviors described were related to his disability. Based on this review, the IEP team decided that the student's behavior was not a manifestation of his disability. The IEP team recommended that the student receive an expulsion from school which would result in a change of placement because of the removal from school for more than ten (10) consecutive school days. The IEP team determined that the student would be removed from his current placement and that he would receive special education services in an alternative educational setting (AES) starting on November 12, 2021.
6. At the same manifestation determination meeting, the student's mother provided the team with a psychological assessment, dated April 3, 2015. The school-based members of the IEP team indicated that an IEP team meeting would be scheduled for a later date in order to review that assessment. The team also recommended updated assessments for the student, including a FBA. However, there is no documentation indicating that the IEP team made efforts to obtain parental consent to conduct the assessment on the student.
7. The correspondence from the PGCPS Office of Appeals to the student's parent, dated November 18, 2021, reflects that the recommended expulsion for the student was rescinded by the PGCPS superintendent designee, and that the student was to return to school on November 19, 2021.
8. The Consent for Assessment form dated January 26, 2022, reflects that the student's mother provided consent for the FBA to be conducted on the student, and that the assessment was completed on the same day.
9. On February 3, 2022, the IEP team convened for a reevaluation of the student. The team reviewed the student's IEP, previous private and school-based psychological assessments, academic reports, and behavioral incident reports. Based on this review, the team again recommended that updated assessments be conducted for the student, including additional data for the FBA. The parent provided consent for the assessments at the meeting. However, there is no documentation that indicates the FBA has been completed for the student.

DISCUSSION/CONCLUSIONS:

Allegation #1: Maintaining the Student's Psychological Assessment in his Educational Record

Student records (SR) will be forwarded to the new receiving school when an official request for records is received. The request for records from the receiving school should be maintained with the student record as evidence of the transfer. When a student transfers to another public school

in Maryland, within or outside of the local school system, send the original student records in their entirety, including special education and discipline records. The sending school may maintain copies of all SR cards, health information, current IEP or Individualized Family Service Plan (IFSP), most recent assessment reports, and documentation of the disability for students with disabilities. Copies of student records for students who transferred to another public school in Maryland must be maintained in accordance with the State Minimum Standards for Retention of Student Records (*Maryland Student Records System Manual, 2020*).

In this case, the complainant asserts that the student's psychological assessment dated April 3, 2015, was not maintained in the student educational record when he transferred from middle school to high school.

Based on the Findings of Facts #5 and #9, the MSDE finds that the student's most recent psychological assessment report was maintained in the student's educational record, in accordance with COMAR 13A.08.02.28 and the *Maryland Student Records System Manual*. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #2: An IEP that Addresses the Student's Behavior Needs

Based on the Findings of Facts #1, #2, #6, #8, and #9, the MSDE finds that the PGCPS has not ensured that the student's IEP addresses his behavioral needs since December 22, 2020, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #3: Manifestation Determination

Based on the Findings of Facts #3 - #7, the MSDE finds that the PGCPS did ensure that proper procedures were followed when conducting a manifestation determination for the student on November 10, 2021, in accordance with 34 CFR §300.530. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #4: Conducting Assessments within the Required Timeline

Based on the Findings of Facts #6, #8 and #9, the MSDE finds that the PGCPS did not ensure that the FBA was conducted for the student as determined by the IEP team on November 10, 2021, in accordance with 34 CFR §§300.300, .303 and COMAR 13A.05.01.06. 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.³ 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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.⁴ Ms. Eisenstadt can be reached at (410) 767-7770.

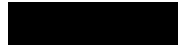
Student-Specific

The MSDE requires the PGCPS to provide documentation by March 31, 2022 that the IEP team has completed the recommended assessments that were required by the IEP team, determined the student's present level of performance in all areas assessed, and revised the IEP, consistent with the data.

The MSDE also requires the PGCPS to provide documentation by April 30, 2022 that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to redress the violations and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

School-Based

The MSDE requires the PGCPS to provide documentation by April 30, 2022 of the steps taken to ensure that the violations identified in this Letter of Findings do not recur at



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

³ 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.

⁴ 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 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 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
Darnell Henderson
Barbara VanDyke
Robert Reese

Brian Morrison
Gerald Loiacono
Albert Chichester
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