



July 22, 2022

Ms. Jessica Williams
Education Due Process Solutions, LLC
711 Bain Drive #205
Hyattsville, Maryland 20785

Ms. Trinell Bowman
Associate Superintendent-Special Education
Prince George's County Public Schools
John Carroll Center
1400 Nalley Terrace
Landover, MD 20785

RE: [REDACTED]
Reference: #22-156

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 May 23, 2022, the MSDE received a complaint from Ms. Jessica Williams, hereafter, "the complainant," on behalf of 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 above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS did not follow proper procedures when conducting a reevaluation of the student which began on November 9, 2021, to ensure that all of the student's needs were identified, in accordance with 34 CFR §§300.303 - .306.
2. The PGCPS did not provide the parent with proper Prior Written Notice (PWN) of the team's decision to reject their request for a sensory evaluation, which was made at the Individual Education Program (IEP) team meeting on January 24, 2022, and April 22, 2022, in accordance with 34 CFR §300.503.

BACKGROUND:

The student is four (4) years old and is identified as a student with Developmental Delay under the IDEA. 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 at the start of the 2021-2022 school year was developed on June 4, 2021¹. The IEP reflects that he has identified needs in the areas of pre-academics, medical, vision, adaptive, social emotional/behavioral, expressive and receptive language, gross and fine motor. The IEP includes specialized instruction, supports, related services, and annual goals to improve the student's skills in these areas.
2. An email dated October 29, 2021, reflects that the complainant provided "consent to evaluate" on behalf of the student's parents via email to the PGCPs staff. The consent states "concerns in the following areas" and the need to evaluate in the following areas:
 - "Psychological - cognitive, autism screening, and adaptive"
 - "Educational - academic"
 - "Developmental"
 - "Occupational Therapy - fine motor and sensory profile"
 - "Speech and Language"
3. A "Notice and Consent for Assessments" form generated on November 9, 2021, by the PGCPs reflects that on October 6, 2021, the IEP team "considered evaluations from [REDACTED] [REDACTED]. The form further states that the IEP team "believes additional information is needed to determine how to best support the student in the school setting." The IEP team recommended assessments in expressive and receptive language, adaptive, cognitive, social/emotional, and fine motor skills. There is no documentation that the parent provided consent for PGCPs to complete the recommended evaluations.
4. On November 19, 2021, the IEP team convened to review "outside documents presented to the school by the parents." The PWN generated following the meeting reflects that the team reviewed a second "outside" document diagnosing the student "as a child on the Autism spectrum based on the medical model." The IEP team did not accept the conclusions of the "outside" document because it was not a "comprehensive report with data from standardized assessments and did not include qualitative or quantitative data to review." The IEP team requested consent to release information to the team from the student's doctor. The IEP team proposed and agreed to complete psychological, speech and language and occupational therapy assessments. The school psychologist "will attempt assessments in the areas of cognitive functioning, adaptive functioning, and social emotional/behavioral development." The parent stated that a recent occupational therapy report would be shared with the school team. There

¹ The student was not receiving services pursuant to an IEP prior to June 4, 2021.

is no documentation that the IEP team considered the parent's October 29, 2021 requests for an "autism screening", academic testing, or sensory profile.

5. On January 24, 2022, the IEP team convened to review assessment data collected for the student. The PWN generated following the IEP meeting reflects that the IEP team refused the parent's proposal to complete a sensory profile assessment because the student's "sensory processing abilities are not felt to impact his functional performance and participation in the classroom and school environment at this time." The IEP team did not consider any other options. The IEP team considered speech and language, psychological, and occupational therapy (OT) assessments as well as teacher and parent interviews. The OT assessment included a review of an outside OT report dated February 4, 2019, a PGCPs OT report dated September 3, 2020, and an outside OT report dated September 17, 2020. There are no recommendations related to sensory processing in the outside reports. A further review of an outside OT discharge summary dated August 4, 2021, recommends a "sensory diet for the family to use at home in order to develop and implement a sleep routine to improve sleeping habits."
6. On April 22, 2022, the IEP team convened to "share assessment results." The PWN generated following the IEP meeting reflects that the IEP team refused to complete a sensory profile. The IEP determined previously on January 24, 2022, that a sensory profile was not appropriate because the student's "sensory processing abilities are not felt to impact his functional performance and participation in the classroom and school environment at this time." The student's "arrival time (1.5 hours late daily) and non-arousal level when sleeping at school are felt to impact his availability for participation in daily school activities." The IEP team considered the student's psychological assessment which includes a Conners Early Childhood, and Autism Spectrum Rating Scale.

CONCLUSIONS

ALLEGATION #1:

RE-EVALUATION PROCEDURES

Based on the Findings of Facts #1-#4, the MSDE finds that the PGCPs did not follow proper procedures when conducting a re-evaluation of the student which began on November 9, 2021, to ensure that all of the student's needs were identified, in accordance with 34 CFR §§300.303 - .306. Therefore, this office finds that a violation has occurred with respect to this allegation.

Notwithstanding this violation, based on finding of Fact #6, the MSDE further finds that the IEP team has convened to review additional assessment data on April 22, 2022. Therefore, no student-specific corrective action is necessary to remediate this violation.

ALLEGATION #2:

PRIOR WRITTEN NOTICE

Based on the Findings of Facts #5 and #6, the MSDE finds that the PGCPs did provide the parent with proper PWN of the team's decision to reject their request for a sensory evaluation, which was made at the IEP team meeting on January 24, 2022, and April 22, 2022, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation has occurred with respect to this 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 non-compliance is corrected in a timely manner.² 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 Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

The MSDE requires the PGCPs to provide documentation by October 1, 2022, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for re-evaluating students under the IDEA. The documentation must include a description of how the PGCPs will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur. The PGCPs must provide monitoring reports to the MSDE on December 1, 2022, March 1, 2023, and June 1, 2023 reflecting compliance with requirements for evaluation and identification pursuant to the IDEA and COMAR.

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 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

² 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.

³ 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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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/tg

c: Monica Goldson
Barbara VanDyke
Monica Wheeler
[REDACTED]
Alison Barmat
Diane Eisenstadt
Gerald Loiacono
Tracy Givens