



Mohammed Choudhury
State Superintendent of Schools

July 29, 2022

██████████
██████████
██████████

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

RE: ██████████
Reference: #22-171

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 June 7, 2022, the MSDE received a complaint from Ms. ██████████, 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 has not ensured that the Individualized Education Program (IEP) team convened to review the student’s IEP before January 21, 2022, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
2. The PGCPS did not develop an IEP that addresses the student’s math needs since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324.
3. The PGCPS did not provide the parent with proper Prior Written Notice (PWN) of the team’s decision to reject the request for a vision assessment and assistive technology assessment, which was made at the IEP team meeting in March 2022, in accordance with 34 CFR §300.503.
4. The PGCPS did not ensure that proper procedures were followed when responding to a request to inspect and review the student’s educational record, in accordance with 34 CFR §300.613.

5. The PGCPs did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the May 2022, IEP team meeting at least five (5) business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
6. The PGCPs did not ensure that proper procedures were followed when considering the need for the student's Extended School Year (ESY) services for the 2020-2021 school year, in accordance with 34 CFR §300.106, COMAR 13A.05.01.03, and 13A.05.01.08.

BACKGROUND:

The student is eight years old and is identified as a student with Developmental Delay under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1 and #2:

**ANNUAL REVIEW OF IEP AND IEP THAT ADDRESSES
THE STUDENTS MATH NEEDS**

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2021-2022 school year was developed on January 20, 2021. The IEP reflects that he has identified needs in the areas of reading, speech and language, behavioral, and fine motor. The IEP includes annual goals, specialized instruction, supports, and related services to improve the student's skills in these areas.
2. The student's IEP, developed on January 20, 2021, requires that he be provided with a daily math intervention, daily manipulatives to help with computation, and one hour per day of specialized math instruction. However, the IEP does not contain a present level of performance for math, a math goal or a current statement of how the student's disability affects his involvement in general education.
3. The prior IEP developed on February 13, 2020, reflects that his disability "impacts his performance in mathematics" and his "difficulties interfere with his performance and progress in mathematics."
4. Informal assessment data completed for the student indicated that he was performing "below performance level" in the 2020-2021 school year in mathematics.
5. There is documentation that the IEP team convened on July 20, 2022, to review and revise the student's IEP. As part of that review the IEP team determined the student has identified needs in the areas of cognitive, math, reading, speech and language, and fine motor. The student's present level of performance in math problem solving indicates the student performs "below expected level" and shows "significant impairment with respect to math concept understanding and completing simple math problems". The IEP team reviewed the student's goals and developed math goals to address the student's needs.

CONCLUSIONS:

ALLEGATION #1: CONDUCTING AN ANNUAL REVIEW OF THE STUDENT'S IEP

Based on Findings of Facts #1 and #5, the MSDE finds that the PGCPs did not ensure that the IEP team convened to review the student's IEP in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #2: IEP THAT ADDRESSES THE STUDENTS MATH NEEDS

Based on the Findings of Facts #2 - #5, the MSDE finds that the PGCPs did not develop an IEP that addresses the student's math needs since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #3: PROVISION OF PROPER PRIOR WRITTEN NOTICE

FINDINGS OF FACTS:

6. On March 16, 2022, the IEP team convened to discuss the parent's request for a vision and assistive technology consult and a vision assessment. The Prior Written Notice generated following the meeting reflects that the complainant requested a vision consult, a vision assessment, and an assistive technology consult. The IEP team members shared their thoughts on the need for a vision assessment and agreed to collect data and wait for a copy of the student's follow-up vision report before making a final decision on the need for a vision assessment. The assistive technology consultant proposed that "additional supports be provided (i.e. keyboarding)." The occupational therapist and IEP team members "plan" to introduce the student to keyboarding to support the increasing writing demands. The IEP team reviewed work samples and input from the parent and the school team members.
7. There is documentation that the PWN from the March 16, 2022 IEP team meeting was provided by email to the complainant on March 24, 2022.

CONCLUSION:

Based on the Findings of Facts #6 and #7, the MSDE finds that the PGCPs provided the parent with proper Prior Written Notice of the team's decision to reject the request for a vision assessment and assistive technology assessment, which was made at the IEP team meeting in March 2022, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation has occurred with respect to this allegation.

ALLEGATION #4: ACCESS TO THE STUDENT'S EDUCATIONAL RECORDS

FINDINGS OF FACTS:

8. There is documentation that the complainant requested to review "all of the student's official records" on March 15, 2022. The PGCPs staff responded on March 15, 2022, that a time for the

complainant to review the records would be scheduled. There is documentation that the complainant received the requested educational records on June 3, 2022.

CONCLUSION:

Based on the Findings of Facts #8, the MSDE finds that the PGCPs did not ensure that proper procedures were followed when responding to a request to inspect and review the student's educational record, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation has occurred with respect to this allegation.

Notwithstanding the violation, the MSDE further finds that the parent received the requested records on June 3, 2022. Therefore, no student specific corrective action is necessary to remediate this violation.

ALLEGATION #5:

PROVISION OF IEP MEETING DOCUMENTS

FINDINGS OF FACT:

9. On May 13, 2022, the IEP team convened to discuss extended school year services. The Prior Written Notice generated following the meeting reflects the student was determined eligible for ESY based upon critical life skills, attention, and self-management. The IEP team "reviewed input" from team members and the parent as the basis for the decision. The PWN does not reflect that the team considered any documents during the course of the IEP team meeting.

CONCLUSION:

Based on the Findings of Fact #9, the MSDE finds that the PGCPs was not required to provide the parents with documents prior to the May 2022 IEP team meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office does not find that a violation has occurred with respect to this allegation.

ALLEGATION #6:

PROPER PROCEDURE FOR DETERMINING ESY SERVICES

FINDINGS OF FACT:

10. On January 20, 2021, the IEP team convened for the student's annual review and to discuss ESY services. The PWN generated following the meeting reflects the IEP team "refused Extended School Year" because the student's goals "did not include critical life skills". The IEP team agreed to reconvene if "a change occurs that would alter this decision." The team reviewed data and observation notes shared by the classroom and special education teachers, "speech teacher", and occupational therapist. The complainant and private ABA therapist provided input. The IEP team did not consider how the student reading comprehension goal and phonemic awareness goals affected his critical life skills. There is no documentation of the type of data the team considered to make the decision.

CONCLUSION:

Based on the Findings of Facts #10, the MSDE finds that the PGCPs did not ensure that proper procedures were followed when considering the need for the student's Extended School Year (ESY) services for the 2020-2021

school year, in accordance with 34 CFR §300.106, COMAR 13A.05.01.03, and 13A.05.01.08. 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 non-compliance 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 Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

Student-Specific

The MSDE requires the PGCPs to provide documentation by October 1, 2022, that the IEP team has convened to determine whether the violations related to annual IEP review, provision of an IEP that addresses the student's math needs and ESY determination, had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The PGCPs must ensure that the parents are provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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.

Ms. Trinell Bowman

July 29, 2022

Page 6

School-Based

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 annual IEP review, record request, and ESY determinations under the IDEA. The steps taken to ensure that the violations do not recur must include staff development. Additionally, Please note that any documentation that is submitted related to steps that will be undertaken in the future must be supplemented with a signed acknowledgement by those staff members responsible for implementing those steps. PGCPs must also conduct monitoring activities to ensure that IEPs are reviewed at least annually at [REDACTED] School. PGCPs is required to report to the MSDE no later than Dec 1, 2022 and June 1, 2023, data reflecting compliance with this requirement at [REDACTED] School.

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 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