




Karen B. Salmon, Ph.D.
State Superintendent of Schools

December 3, 2020




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

RE: 
Reference: #21-023

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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 October 5, 2020, the MSDE received correspondence from Ms.  hereafter, "the complainant" on behalf of her 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 above-referenced student.

The MSDE investigated the allegation that the PGCPS did not ensure that Extended School Year (ESY) services were appropriately determined and offered in a timely manner for the summer following the 2019-2020 school year, in accordance with COMAR 13A.05.01.08B(2) and 34 CFR §§300.106, .320 - .324.

BACKGROUND:

The student is eleven (11) years old and is identified as a student with a Specific Learning Disability (SLD) under the IDEA. He has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

During the 2019-2020 school year, the student was placed at [REDACTED] where he attended until the March 2020 Statewide closure of schools and initiation of virtual learning as a result of the national COVID-19 pandemic. Since the start of the 2020-2021 school year, the student has been placed at [REDACTED]

FINDINGS OF FACTS:

1. On June 11, 2020, an IEP team meeting was held to conduct an annual review of the IEP. The IEP team, including the complainant, considered the student's need for ESY services and made the following decisions:
 - a. The student's IEP has annual goals related to critical life skills in the areas of reading, math, written language, and behavior.
 - b. There was data that the student demonstrated patterns of regression caused by the normal school breaks.
 - c. There was data showing progress on all of the student's goals related to critical life skills.
 - d. There was no presence of emerging skills or breakthrough opportunities.
 - e. There were no significant interfering behaviors exhibited by the student.
 - f. The nature and severity of the student's disability warranted ESY services. The IEP reflected the discussion that the student was a rising 6th grader and functioning significantly below grade level in all academic areas, as evidenced by the present levels of performance.
 - g. There were no other special circumstances considered.
2. The IEP team documented that, based on the above factors, the benefits the student received from his educational program during the regular school year would be significantly jeopardized if he is not provided ESY services. However, while the factors the IEP team based its decision on included the student's need for instruction on critical life skills in reading, math, written language, and behavior, it decided that ESY services were only needed in the area of reading, without explanation.
3. On June 11 and 25, 2020, the school staff notified the complainant of how ESY services would be provided virtually beginning on July 6, 2020.
4. On June 28, 2020, the PGCPs staff provided the complainant with information on how to participate in a Parent Orientation of how ESY 2020 services would be provided virtually.

5. On July 4, 2020, the PGCPS provided the complainant with information on how to access the virtual ESY services on July 6, 2020.
6. On July 14, 2020, the complainant informed the PGCPS that she paid for the student to attend a private virtual summer program and would not be accepting the ESY services offered.

DISCUSSION/CONCLUSIONS:

Based on the Finding of Facts #1 - #6, the MSDE finds that, while ESY services were offered to the student in a timely manner, the IEP team's decision about the amount and nature of ESY services was not consistent with the data it documented as a basis for the decision, in accordance with 34 CFR §300.324. Therefore, this office finds 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.¹

This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures. If the public agency anticipates that the timeframe below may not be met, or if any of the parties seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770 or nancy.birenbaum@maryland.gov.

Student-Specific

The MSDE requires the PGCPS to provide documentation that the IEP team has determined the amount and nature of compensatory or other services needed to remediate the loss of ESY services to address math, written language, and behavior. However, the MSDE does not require

¹ The OSEP states that the public agency must 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 Directors of Special Education of any corrective action that has not been completed within the required timelines.

the PGCPS to provide compensatory services in the area of reading since ESY services were offered in this area and declined.

School-Based

The MSDE requires the PGCPS to provide documentation of the steps taken at [REDACTED] to ensure that IEP team decisions are consistent with documented data.

Please be advised that both the complainant and the PGCPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of facts or conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

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 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 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: sf

c: Monica Goldson
[REDACTED]
Sharon Floyd

Barbara VanDyke
Dori Wilson

Gail Viens
Anita Mandis