



Mohammed Choudhury
State Superintendent of Schools

July 8, 2022

Corrected Letter

Ms. Megan Berger
1500 Union Ave. Suite 2000
Baltimore, Maryland 21211

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

RE: [REDACTED]
Reference: #22-148

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 9, 2022, the MSDE received a complaint from Ms. Megan Berger 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 allegation that the PGCPS did not ensure that the decisions regarding recovery services made on May 17, 2021 were consistent with the needs of the student, in accordance with 34 CFR §§300.101 and 324.

BACKGROUND:

The student is 15 years old and attends [REDACTED] School. Prior to enrolling at [REDACTED] School he also attended [REDACTED] School and [REDACTED] School during the

time period under investigation. He is identified as a student with a Specific Learning Disability under the IDEA and has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services

FINDINGS OF FACTS:

1. On May 17, 2021, the PGCPs convened a "COVID-19 Impact Meeting", to consider the need for compensatory and/or recovery services following the transition to virtual learning during the COVID-19 pandemic. During the IEP team meeting the IEP team determined that the student had poor attendance and did not consistently complete assignments during virtual learning. The IEP team did not determine if the student had been denied a Free Appropriate Public Education (FAPE) during virtual learning, only that "the team has decided that the student does not need an impact meeting."
2. On October 19, 2021, the IEP team met for the student to conduct an evaluation of the student. During the IEP team meeting, the parent shared that she disagreed with the May 17, 2021 determination regarding the student's need for compensatory and/or recovery services. The IEP team agreed to revisit the determination following the review of the assessment data collected for the student.
3. On January 26, 2022, the IEP team met to complete the evaluation of the student. There is no documentation that the IEP team revisited the need for compensatory and/or recovery services during this IEP team meeting.
4. On March 17, 2022, the IEP team met to determine the need for compensatory services. The IEP team determined that the student would receive 120 hours of compensatory services to include a reading intervention. The IEP team did not, however, document the basis for this determination, whether the student was impacted in any other area of need, or if the services were required to remediate any impact to the student as a result of the transition to virtual learning during the COVID-19 pandemic.

DISCUSSION/CONCLUSIONS:

Based on Findings of Facts #1 to #4, the MSDE finds that the PGCPs has not ensured that the decisions regarding recovery services made since May 17, 2021 were consistent with needs of the student, in accordance with 34 CFR §§300.101 and 324. Therefore, this office finds that a violation 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 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 Ms. 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 clarify the determinations made related to the student's need for compensatory and/or recovery services including the rationale for the services and the areas of need impacted resulting in the need for services.

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

School-Based

The MSDE requires the PGCPs to provide documentation by October 1, 2022, of the steps taken to ensure that the staff at the student's current and prior schools properly implement the requirements of the IDEA related to making decisions based on the needs of the student. Any documentation related to a future plan of action must be supplemented with documentation

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. Megan Berger
Ms. Trinell Bowman

July 8, 2022

Page 4

that demonstrates that the plan has been implemented and monitored, prior to the closing of the case.

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:gl

c: Monica Goldson
Barbara VanDyke
Keith Marston
Darnell Henderson
[REDACTED]
Alison Barmat
Diane Eisenstadt
Gerald Loiacono