



Mohammed Choudhury  
State Superintendent of Schools

November 21, 2022

**CORRECTED LETTER**  
**November 23, 2022**

[REDACTED]  
[REDACTED]  
[REDACTED]

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: #23-067

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), has completed the investigations of the complaint regarding special education services for the above-referenced student. This correspondence is the report of the final results of the investigations.

**ALLEGATIONS:**

On October 27, 2022, the MSDE received a complaint from Ms. [REDACTED] 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. Whether the PGCPS followed proper procedures when determining initial eligibility for special education services since May 2022, in accordance with 34 CFR §300.301, 34 CFR §300.111 and 34 CFR §300.131.
2. Whether the PGCPS followed proper procedures since May 2022, when evaluating and offering services to the student in accordance with 34 CFR §300.111, 34 CFR §300.131, 34 CFR §300.323(a), and 34 CFR §300.323(f).
3. Whether the student was evaluated in all areas of suspected impact, specifically relating to behavior, since May 2022, in accordance with 34 CFR §§300.304(c)(4) and (6).
4. Whether the Individualized Education Program (IEP) team considered information provided by the complainant since May 2022, in accordance with 34 CFR §300.305(1)(i).

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5. Whether the PGCPs followed proper procedures in ensuring an IEP [was in place prior to the start of the school year] since May 2022, in accordance with 34 CFR §300.323(a) and 34 CFR §300.323(f).
6. Whether the PGCPs considered the concerns of the complainant during the IEP team meeting held in August 2022, or when developing the student's IEP, in accordance with 34 CFR §300.324(a)(ii).

**BACKGROUND:**

The student is seven years old and is identified as a student with Autism under the IDEA. The student is currently being homeschooled by his mother.

**FINDINGS OF FACTS:**

1. The student has an IEP from ██████████ dated June 15, 2020. The ██████████ IEP identifies the student as eligible for special education and related services as a student with multiple disabilities. There is documentation that the complainant enrolled the student at his home school on May 12, 2022. The student's enrollment forms indicate that he has autism and that the complainant is requesting referral to ██████████ School (a public school in PGCPs) or the ██████████ ██████████ (a nonpublic school) in ██████████. The PGCPs was provided health information (including his immunization history), enrollment information, the student's birth certificate, and his transcript from his home schooling program at ██████████ at the time of his May 12, 2022, enrollment.
2. There is documentation that the date of the student's referral for special education eligibility determination (Child Find referral) entered by his home school was June 6, 2022. The documentation notes that the student was referred by his mother.
3. The complainant was notified on August 1, 2022, that her application for enrollment in PGCPs was complete .
4. There is documentation on August 3, 2022, from PGCPs requesting parental consent to contact the student's previous public school in ██████████ to obtain the student's records.
5. There is documentation of email communication between PGCPs and the complainant from August 3, 2022, through August 17, 2022, reflecting confusion (requests for both a 504 Plan and an IEP), concerns about delays in scheduling, confirming receipt of documents provided to the student's home school (IEP), school stating there is a need for reevaluation, parental placement concerns, and staff vacancies causing delays.
6. An invitation to an IEP team meeting was sent to the complainant on August 19, 2022, for a meeting to be convened on August 24, 2022. The purpose of the meeting was "to review existing information to determine the need for additional data."
7. The IEP team convened on August 24, 2022, with the complainant present. The team determined that additional assessments were needed in the following areas: cognitive/intellectual; social/emotional and behavioral; speech/language/articulation/expressive and receptive language; motor; academics (math calculation, math problem solving, written language mechanics, phonemic awareness, and phonics).

8. There is documentation that there was some confusion over what assessments were recommended and whether the form was completed correctly. On August 30, 2022, the complainant provided consent for the assessments to be completed.
9. There was no discussion at the August 30, 2022, IEP team meeting of the provision of comparable services for the student's IEP that lapsed on June 15, 2021, or any effort to expedite the IEP process to ensure there was an IEP in place prior to the start of the 2022-2023 school year .
10. There is documentation that the student was re-enrolled in his home school on September 2, 2022.
11. There is documentation that the student was enrolled through in PGCPs the Private/Religious process in PGCPs on September 5, 2022.
12. The Child Find referral form was completed on September 8, 2022, by staff at [REDACTED] School. The form notes the following: difficulty following directions; difficulty expressing thoughts and ideas; difficulty with letter/word recognition; difficulty with spelling; difficulty with one to one correspondence; difficulty with rote counting; difficulty with writing his name; lack of self control; easily frustrated. There was no screening information or performance summary included with the referral form.
13. On September 26, 2022, the IEP team sent the complainant an invitation to a meeting on October 17, 2022, to review existing information and determine the need for additional data and information, and if appropriate, determine eligibility. This meeting did not take place.
14. On October 19, 2022, the complainant was sent an invitation to an IEP team meeting for October 26, 2022. The purpose of this meeting was to review the written referral and existing data and information, and if appropriate determine eligibility.
15. The IEP team reviewed the PGCPs assessment reports at the October 26, 2022, IEP team meeting and determined the student meets eligibility as a student with autism pursuant to the IDEA. There is documentation that a special educator, a psychologist, an occupational therapist, speech language pathologist were present at the meeting to interpret the results of the assessments in those areas. There was no general educator present at the meeting.
16. There is documentation that the complainant provided the following information for IEP team consideration: Nutritional Therapy Report; VB Road Map; Transcripts; Quarterly Progress; Impressions Pediatric OT Report. There is documentation stating that the IEP team considered these documents at the August 24, 2022, IEP team meeting.
17. There is no documentation that the IEP team discussed interim services or implementation of any of the parentally provided plans or programs (feeding, OT, behavior) with respect to the student attending any PGCPs program or school at any time. There is no documentation that PGCPs offered to provide the student with any services or accommodations from May 2022 through November 1, 2022.
18. There is no documentation that the PGCPs addressed the complainant's concerns regarding the implementation of the student's feeding plan, desire to have the student

attend school at the start of the school year, the type of program the student would be attending, or other questions she had regarding the student's educational program.

19. PCGPS developed a Maryland IEP for the student on November 16, 2022.

**DISCUSSION/CONCLUSIONS:**

**Allegation #1: Child Find**

The "child find" requirements of the IDEA impose an affirmative obligation on the school system to identify, locate, and evaluate all students residing within its jurisdiction who have disabilities and need special education and related services or who are suspected of having disabilities and being in need of special education and related services.

Based on the Findings of Facts #1 through #8, and #10 through #15, the PGCPs did not follow proper procedures in determining the student's initial eligibility for special education services since May 2022, in accordance with 34 CFR §300.301, 34 CFR §300.111 and 34 CFR §300.131. Therefore, this office finds that a violation occurred with respect to this allegation.

**Allegation #2: Evaluation and Services for Out of State Transfer Student**

If a student with an IEP in one state transfers to a public agency in another state, the new public agency, in consultation with the student's parent, must provide the student with FAPE, including services comparable to those described in the student's IEP from the previous state, until the new public agency conducts an evaluation if determined to be necessary; and develops, adopts, and implements a new IEP, if appropriate (34 CFR §300.323).

Based on the Findings of Facts #1 through #19, the PGCPs did not follow proper procedures since May 2022, when evaluating and offering services to the student in accordance with 34 CFR §300.111, 34 CFR §300.131, 34 CFR §300.323(a), and 34 CFR §300.323(f). While the student's out of state IEP was not in effect when he moved to Maryland, there was no evidence of any discussion to expedite the process, implement any of the recommendations of the reports provided by the complainant, or to provide any supports to address the student's safety concerns or educational needs until the Maryland IEP was developed. Therefore, this office finds that a violation occurred with respect to this allegation.

**Allegation #3: Assessment**

When conducting an evaluation, the public agency must ensure that the student is assessed in all areas related to the suspected disability, and that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. A variety of assessment tools and strategies must be used to gather relevant functional, developmental, and academic information about the student, including information provided by the parents, to assist the team in determining whether the student is a student with a disability and in determining the content of the student's IEP (34 CFR §300.304).

Based on Findings of Fact #7, the PGCPs did evaluate the student in all areas of suspected impact, including behavior, since May 2022, in accordance with 34 CFR §§300.304(c)(4) and (6). Therefore, this office does not find a violation with respect to this allegation.

**Allegation #4**

**Considering Information Provided by the Parent**

Based on the Findings of Fact #16, there is documentation that the IEP team considered documents provided by the complainant. Therefore, this office does not find a violation with respect to that concern.

**Allegation #5**

**IEP in Place by the Start of the School Year**

At the beginning of each school year, the public agency must have in effect, for each child with a disability within its jurisdiction, an IEP 34 CFR §300.343(a). Therefore, public agencies must ensure that an IEP is in effect at the beginning of the school year for children who move into the new public agency during the summer. If the parent requests that the new public agency convene the IEP team prior to the start of the school year and the public agency refuses to do so, the agency must provide written notice for the parent of the refusal. The prior written notice must include, among other content, an explanation of why the agency determined that conducting the meeting is not necessary to ensure the provision of appropriate services to the student 34 CFR §300.503.

Based on the Findings of Fact #19, there is documentation that there was no IEP in place for the student at the start of the 2022-2023 school year, despite multiple and varied attempts by the complainant to begin the process with sufficient time to have both evaluations and an IEP completed prior to the start of the school year. Therefore, this office finds that the PGCPs failed to follow proper procedures in ensuring an IEP [was in place prior to the start of the school year] since May 2022, in accordance with 34 CFR §300.323(a) and 34 CFR §300.323(f).

**Allegation #6**

**Considering the Parent's Concerns**

Based on Findings of Fact #17 and #18, there is no documentation that the IEP team addressed the complainant's concerns about information presented in the documents provided to the IEP team or any discussion about whether or how the recommendations would be implemented on an interim basis, or whether it would be incorporated into the IEP. Therefore, this office finds that the PGCPs did not properly consider the concerns of the complainant during the IEP team meeting held in August 2022, or when developing the student's IEP, in accordance with 34 CFR §300.324(a)(ii).

**Additional Violations:**

1. Parental Notification of the meeting 10 days in advance of the October 26, 2022, IEP team meeting.

To ensure parent participation, the school system must provide the parent with written notice at least ten (10) days in advance of the meeting. The notice must state the purpose, time, date, and location of the meeting, and who will be in attendance. It must also state that the parent may invite other individuals to attend the meeting whom the parent deems to have knowledge or special expertise regarding the student's needs (COMAR 13A.05.01.07).

There is documentation that the complainant was sent an invitation to an IEP team meeting on August 19, 2022, for a meeting to be held on August 24, 2022, and on October 19, 2022, for a meeting to be held on October 26, 2022. Based on Findings of Fact #6 and #15, this office finds a violation.

2. Transfer of records between public schools.

There is no requirement to obtain parental consent to share records between public school systems where a student has attended and one where they intend to enroll. COMAR 13A.08.02.19 and 34§ CFR 99.31.

Based on Finding of Fact #4, obtaining consent that is not required caused further delay and contributed to the violations outlined above.

3. General Educator at the October 26, 2022 evaluation meeting.

**The IEP team must include the student's parent, at least one (1) regular education teacher of the student if the student is, or may be, participating in the regular education environment, at least one (1) special education teacher of the student, a representative of the public agency who is qualified to provide or supervise the provision of specially designed instruction, is knowledgeable about the general education curriculum, and about the availability of resources of the public agency, an individual who can interpret the instructional implication of evaluation results, at the discretion of the parent or public agency, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate, and the student when appropriate (34 CFR §300.321).**

**Based on the Finding of Fact #15, there is no documentation that a general educator was present at the October 26, 2022, IEP team meeting. Therefore, this office finds a violation.**

**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.<sup>1</sup> 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.<sup>2</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

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<sup>1</sup> 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.

<sup>2</sup> 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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### **Student Specific**

The MSDE requires the PGCPS to provide documentation that it has convened an IEP team meeting prior to January 15, 2023, to determine compensatory services to be provided for the student based on the delay in completing the Child Find process and developing a Maryland IEP for the student.

The PGCPS will provide the complainant with prior written notice (PWN) of the results of the IEP team meeting. The PWN from the meeting will also be provided to the MSDE.

### **School Specific**

Before January 30, 2023, the PGCPS will provide professional development to the staff at [REDACTED] School on the following topics:

1. Transfer of out of state students with IEPs, including Child Find, IEP development, provision of comparable services, enrollment procedures;
2. Documenting consideration of external reports;
3. Considering and documenting parent concerns;
4. Process for requesting records from public schools;
5. Timelines for notifying families of IEP team meetings;
6. Required participants at IEP team meetings, or the process for documenting excusals.

PGCPS must also review the records at [REDACTED] School and determine whether there are any other students with IEPs who have moved in from out of state during the 2022-2023 school year, review the process that was followed and determine whether there were any delays that resulted in a loss or delay of services. If so, there must be IEP team meetings convened prior to February 28, 2023, to determine appropriate compensatory services for these students. The results of the audit must be provided to the MSDE.

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

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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  
       Keith Marston  
       Darnell Henderson  
       Henry Johnson  
       Alison Barmat  
       Diane Eisenstadt