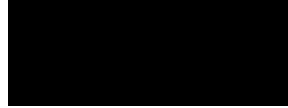





July 11, 2023




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

RE: 
Reference: #23-224

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 12, 2023, MSDE received a complaint from Mr.  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.

MSDE investigated the following allegations:

1. The PGCPS has not provided Prior Written Notice of the Individualized Education Program (IEP) team's May 12, 2022, decisions, in accordance with 34 CFR §300.503.
2. The PGCPS did not ensure that the IEP and Behavior Intervention Plan developed for the student reflected IEP team decisions on May 12, 2022, in accordance with 34 CFR §300.324.
3. The PGCPS did not ensure that the IEP team addressed the student's needs and the parent's concerns on May 12, 2022, in accordance with 34 CFR §300.324.
4. The PGCPS did not provide the parent with a written invitation that included notice of each expected meeting participant for the May 12, 2022, team meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
5. The PGCPS did not ensure that the student was provided with the special education instruction and supports required by his IEP between May 12, 2023, and May 20, 2023, in accordance with 34 CFR §§300.101 and .323.

6. The PGCPs did not ensure that behavioral data collected for the student was reviewed quarterly as required by his IEP between May 12, 2023, and March 17, 2023, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is seventeen years old, is identified as a student with Autism under the IDEA and has an IEP that requires the provision of special education and related services. The student is placed by the PGCPs at [REDACTED] a nonpublic, separate, special education school.

ALLEGATIONS #1- #3:

DEVELOPMENT OF THE STUDENT'S IEP AND PROVISION OF PRIOR WRITTEN NOTICE

FINDINGS OF FACTS:

1. On May 12, 2022, the IEP team met to review and revise, as appropriate, the student's IEP. During the IEP team meeting, the IEP team determined that the student would be provided with the following supports: proximity of staff to the student during particular times, services provided in an environment low in distractions, ability to lay down for a sensory break, transition breaks, consistent schedule with reminders, verbal prompts, clear verbal and visual directions with one directive at a time, no less than two choices, and a plan to present options if that is not possible, chunking assignments, social stories, frequent praise, time and space, allow the student to lay his head on desk, preferred activities, keeping food and trash cans out of sight and being mindful of their placement including removing them from the classroom, ability to eat food in an alternative space, cleaning areas prior to the student entering classrooms, using a low calm voice with the student, implementation of a bus plan, ensuring that all staff interacting with the student implement Behavior Implementation Plan (BIP), identify and provide sensory breaks to the student when his behaviors are escalated, reporting aggressive behavior in the student's daily communication sheet, and quarterly review of data. The IEP developed following the IEP team meeting reflects these decisions of the IEP team and the service providers responsible for providing the supports to the student.
2. The prior written notice generated following the IEP team meeting includes notice of the following supports included in the student's IEP: proximity of staff to the student during particular times, services provided in an environment low in distractions, ability to lay down for a sensory break, transition breaks, consistent schedule with reminders, verbal prompts, clear verbal and visual directions with one directive at a time, no less than two choices, and a plan to present options if that is not possible, chunking assignments, frequent praise, preferred activities, and ability to eat food in an alternative space.
3. The prior written notice generated following the IEP team meeting does not include notice of the following supports included in the student's IEP: social stories, time and space, allow the student to lay his head on desk, keeping food and trash cans out of sight and being mindful of their placement including removing them from the classroom, cleaning areas prior to the student entering classrooms, using a low calm voice with the student, implementation of a bus plan, ensuring that all staff interacting with the student implement the BIP, and quarterly review of data.
4. During the IEP team meeting, the IEP team considered and rejected proposals by the parent to collect particular behavioral and toileting data for the student by particular staff in a form proposed by the student's parents. The prior written notice generated following the IEP team meeting reflects these decisions.

5. During the IEP team meeting, the IEP team considered information collected for the student related to his verbal and non-verbal intelligence, his difficulty identifying words, need for visual and physical aids for math problem solving, as well as his impairments in short term memory. This information was included in the student's IEP.
6. During the IEP team meeting, the complainant raised concerns related to the assessments conducted for the student and whether they were reliable in light of his identification as a student with autism. The PGCPs school psychologist present explained that it was a reliable source of information.

DISCUSSION/CONCLUSIONS:

Allegation #1: PRIOR WRITTEN NOTICE

Based on Findings of Facts #1 to #4, MSDE finds that the PGCPs did not ensure that the complainant was provided with prior written notice of each of the IEP team's decisions made during the May 12, 2022, IEP team meeting, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2: DEVELOPING AN IEP CONSISTENT WITH THE DECISIONS OF THE IEP TEAM

Based on Findings of Facts #1 and #5, MSDE finds that the PGCPs has ensured that the IEP developed for the student at the May 12, 2022, IEP team meeting was consistent with the decisions of the IEP team, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this allegation.

Allegation #3: ADDRESSING THE STUDENT'S NEEDS AND CONSIDERATION OF THE PARENT'S CONCERNS

Based on Findings of Facts #1 to #6, MSDE finds that the PGCPs has ensured that the IEP team addressed the student's needs and considered the concerns raised by the student's parents during the May 12, 2022, IEP team meeting, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #4: NOTICE OF THE IEP TEAM MEETING

FINDINGS OF FACTS:

7. The notice of IEP team meeting generated prior to the IEP team meeting included information that a school psychologist would attend the IEP team meeting convened for the student on May 12, 2022.
8. A PGCPs school psychologist supervisor attended and participated in the IEP team meeting convened on May 12, 2022, in the role of the school psychologist.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts #7 and #8, MSDE finds that the PGCPs did provide the parent with a written invitation that included notice of the role of each expected meeting participant for the May 12, 2022, team meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATIONS #5 AND #6: IMPLEMENTATION OF THE STUDENT'S IEP

FINDINGS OF FACTS:

9. The student's IEP, in effect on May 13, 2022, was developed on May 28, 2021. The IEP requires that the student be provided with the assistance of a therapeutic behavioral aide, implementation of a BIP, and 31 hours per week of specialized instruction outside of the general education setting.
10. There is no documentation that the student was provided with the support of a therapeutic behavioral aide or the specialized instruction, as required by his IEP, between May 13, 2022, and May 20, 2022.
11. The student's IEP, developed on May 12 and May 18, 2022, requires the quarterly review of data as part of the BIP.
12. There is no documentation that the student's behavioral data has been reviewed quarterly, as required by the student's BIP.

Allegation #5: IMPLEMENTATION OF SPECIAL EDUCATION SUPPORTS AND SERVICES

Based on Findings of Facts #9 and #10, MSDE finds that there is no documentation that the student was consistently provided with the special education supports and services as required by his IEP, from May 13, 2022, to May 20, 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #6: IMPLEMENTATION OF QUARTERLY DATA REVIEW

Based on Findings of Facts #11 and #12, MSDE finds that there is no documentation that PGCPs ensured that the student's behavioral data was reviewed quarterly, as required by his BIP, from May 12, 2022, to March 20, 2023, in accordance with 34 CFR §§300.101 and .323. 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, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

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 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

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, 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 MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

MSDE requires the PGCPS to provide documentation by September 1, 2023, of the following:

- a. That the student is provided with the special education, supports, and quarterly data review, as required by his IEP;
- b. That the student's parents have been provided with prior written notice of each of the IEP team's decisions made on May 12, 2022;
- c. That the IEP team has convened and determined whether the violation related to the lack of special education instruction and supports from May 13, 2022, to May 20, 2022, and the lack of quarterly data review for the student from May 2022 to March 2023, 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 parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC/gl

c: Millard House II
Keith Marston
Darnell Henderson
Alison Barmat
Diane Eisenstadt
Gerald Loiacono