




July 17, 2023




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

RE: 
Reference: #23-236

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 18, 2023, MSDE received a complaint from Mr. , hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that Prince George's 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 IEP team's May 18, 2022, decisions, in accordance with 34 CFR §300.503.
2. The PGCPS did not ensure that the IEP team addressed the parent's concerns, considered information provided by the parents, and addressed the student's needs on May 18, 2022, in accordance with 34 CFR §300.324.
3. The PGCPS did not ensure that the IEP developed for the student reflected IEP team decisions on May 18, 2022, in accordance with 34 CFR §300.324;
4. The PGCPS has not ensured that the student has been provided services from a therapeutic behavioral aide, as required by his IEP from May 18, 2022, to May 20, 2022, in accordance with 34 CFR §§300.101 and 323.¹

¹ An identical allegation was addressed in the Letter of Findings for State complaint #23-224, therefore, this Letter of Findings will not address this allegation.

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 the [REDACTED] a nonpublic, separate, special education school.

FINDINGS OF FACTS:

1. On May 18, 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's goals would be updated, that the student would receive an academic assessment, and that he would be prompted to wear a mask. The IEP team rejected proposals that the student's IEP contain a goal related to comparing two numbers, that the team determine a grade level for his speech skills, and that he be provided with a "chewy" to address his sensory needs. On May 25, 2023, the parents received prior written notice of the IEP team decisions. The parents were not provided with prior written notice of the decision not to include a math goal related to comparing two numbers and that the student's IEP would not contain a grade level equivalent for his speech skills.
2. During the IEP team meeting, the parents shared concerns related to the student's abilities to solve math problems. The IEP team discussed that not every specific skill would be addressed in the IEP and that the student would be instructed on many specific skills with a variety of strategies.
3. During the IEP team meeting the parent shared various concerns related to the student's ability to communicate, specifically related to the student's ability to communicate basic needs. While the parents did not make a specific proposal in this regard, the IEP developed for the student included a goal that targeted the student's ability to communicate basic needs.
4. During the IEP team meeting, the complainant raised concerns related to the student's difficulties with pronouns. The IEP team members responded that pronouns can be challenging for students, but that the need would continue to be addressed during classroom instruction.
5. During the IEP team meeting, the complainant raised concerns related to the student's self management needs, including toileting. In response, the IEP team explained that the student receives staff support when using the bathroom including with handwashing and utilizes a toileting schedule.
6. During the IEP team meeting, the complainant raised concerns related to the student's ability to wear a mask and the use of masks by staff working with the student. In response, the IEP stated that the student would be encouraged to wear a mask and that the staff working with him would follow all applicable masking protocols.
7. During the IEP team meeting, the IEP team proposed that the student be provided with the use of a "chewy" to address the student's sensory needs. Following discussion with the student's parents, the IEP team decided that the "chewy" would not be utilized with the student, but that other strategies would be trialed by the student's occupational therapist.
8. During the IEP team meeting, the parent proposed revisions to the student's emergency protocol to respond to his seizure disorder. The IEP team indicated that the plan in place was effective for the student and invited the parent to share additional information, when available.

9. During the IEP team meeting, the team discussed the student's transition plan. While the parent's input was not received in time for the school staff to incorporate the information into the draft IEP, the team discussed the various measures used to develop the plan and discussed the parent's concerns and proposals for the student's transition.
10. The student's IEP developed following the May 18, 2022, IEP team meeting includes provisions for implementing the student's IEP during emergency closures, including the use of a therapeutic behavioral aide. There is no documentation that these decisions were made by the IEP team at the meeting convened on May 18, 2022.

DISCUSSION/CONCLUSIONS:

Allegation #1: Prior Written Notice

Based on Findings of Fact #1, MSDE finds that the PGPCS did not ensure that the complainant was provided with prior written notice of each of the IEP team's decisions made during the May 18, 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: Addressing the Student's Needs and Consideration of the Parent's Concerns

Based on Findings of Facts #2 to #9, MSDE finds that the PGPCS has ensured that the IEP team addressed the student's needs and considered the concerns raised by the student's parents during the May 18, 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 #3: Developing an IEP Consistent with the Decisions of the IEP Team

Based on Finding of Fact #10, MSDE finds that the PGPCS has not ensured that the IEP developed for the student at the May 18, 2022, IEP team meeting was consistent with the decisions of the IEP team, in accordance with 34 CFR §300.324. 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, 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.² This office will follow up with the public agency to ensure that it completes the required actions

² 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.

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.³ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

MSDE requires the PGCPS to provide documentation by October 1, 2022, of the following actions:

- a. That the student's parents have been provided with prior written notice of each of the decisions made at the May 18, 2022, IEP team meeting; and
- b. Convened an IEP team and determined the student's need for the services of a TBA during emergency school closures. 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
Lois Jones Smith
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Darnell Henderson
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Gerald Loiacono

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.