




Mohammed Choudhury
State Superintendent of Schools

August 7, 2023



Ms. Trinell Bowman
Associate Superintendent Special Education
Prince George's County Public School
John Carroll Center
1400 Nalley Terrace
Landover, Maryland 20785

RE: 
Reference: #23- 259

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/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.

ALLEGATIONS:

On June 9, 2023, MSDE received a complaint from Ms. Debra Martin, 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 did not follow proper procedures when responding to requests for an Individualized Education Program (IEP) team meeting since January 3, 2023, in accordance with 34 CFR §300.503.
2. The PGCPS did not ensure that the IEP team convened to review the student's IEP before March 16, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
3. The PGCPS has not developed an IEP and Behavior Intervention Plan (BIP) that addresses the student's identified behavioral needs and math problem-solving needs since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .324.
4. The PGCPS has not ensured that the student's IEP contains clear and accurate statements of her present levels of performance and the services to be provided to her since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.320.

5. The PGCPs has not ensured that the parent was provided with quarterly progress reports toward achieving the annual IEP goals, specifically the math calculation goal, since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.320 and .323.
6. The PGCPs has not ensured that the student was provided with the supplementary aids, services, and accommodations required by the IEP, since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .323.
7. The PGCPs did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the March 16, 2023, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
8. The PGCPs did not provide the parents with a completed copy of the IEP document within five business days following IEP team meetings held on March 16, 2023, and May 2, 2023, in accordance with COMAR 13A.05.01.07.
9. The PGCPs has not provided the student's parent with access to the student's education record since January 3, 2023, specifically, the ABC data, behavior chart data, modifications¹, and accommodation logs, in accordance with 34 CFR §§300.501 and .613.
10. The PGCPs did not ensure that the IEP developed for the student reflected the decision of the IEP team to provide the student with accommodations, including: noise-canceling headphones, line order, daily check-ins, ability to complete computer work on paper, and allow the student to provide input into the IEP and BIP, since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is nine years old and is identified as a student with Other Health Impairment under the IDEA. She attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATIONS #1 and #9:

RESPONSE TO A REQUEST FOR AN IEP TEAM MEETING SINCE JANUARY 3, 2023, AND ACCESS TO THE STUDENT'S EDUCATIONAL RECORD SINCE JANUARY 3, 2023

FINDINGS OF FACTS:

1. There is email documentation dated January 3, 2023, January 17, 2023, January 31, 2023, February 9, 2023, February 17, 2023, February 23, 2023, and March 3, 2023, from the student's parents to the PGCPs staff regarding requests for behavioral data (ABC), modifications and accommodation tracking data, request to shadow the student, behavioral concerns and behavioral consequence concerns, and requests for parent-teacher conferences with all of the student's teachers. However, there is no documentation of a request for an IEP team meeting.
2. There is documentation that IEP team meetings were held on March 16, 2023, May 2, 2023, and June 12, 2023.
3. There is no documentation that the student's parents were provided with the data and logs they

¹ The June 21, 2023, Letter of Initiation contained a typo, "medication". It should have read "modification."

requested on and after January 3, 2023.

CONCLUSIONS:

Allegation #1:

**RESPONSE TO A REQUEST FOR AN IEP TEAM MEETING SINCE
JANUARY 3, 2023**

Because there is no documentation of any request for an IEP team meeting, based upon Findings of Facts #1 and #2, the PGCPs did follow proper procedures when responding to requests for an IEP team meeting since January 3, 2023, in accordance with 34 CFR §300.503. Therefore, this office does not find a violation occurred with respect to allegation #1.

Allegation #9:

**ACCESS TO THE STUDENT'S EDUCATIONAL RECORD SINCE
JANUARY 3, 2023**

Based upon Findings of Facts #1 and #3, the PGCPs has not provided the student's parent with access to the student's education record since January 3, 2023, specifically, the ABC data, behavior chart data, modifications, and accommodation logs, in accordance with 34 CFR §§300.501 and .613. Therefore, this office finds a violation occurred with respect to allegation #9.

ALLEGATION #2:

ANNUAL REVIEW OF THE STUDENT'S IEP

FINDINGS OF FACTS:

4. The student's IEP developed on March 16, 2022, reflects that the student's projected annual IEP review date was March 15, 2023.
5. On March 16, 2023, the IEP team met for the purpose of reviewing/revising the IEP and discussing the need for a Functional Behavioral Assessment (FBA). The Prior Written Notice (PWN) generated after this IEP team meeting reflects that "the previous FBA is a year old and some of the behaviors the student is displaying have changed since the last FBA was written so the team felt it was important to update it to the new information." In addition, it reflects that "the data was outdated for the areas that the student has accomplished as they were from 2021 so the team felt that the categories should remain in the IEP and just be updated." Furthermore, the PWN reflects that "due to some outdated information within present levels, the team decided not to approve the draft IEP as stands."
6. On May 2, 2023, the IEP team met with the purpose of reviewing/revising the IEP and reviewing the FBA and Behavior Intervention Plan (BIP). The PWN generated after this IEP team meeting reflects that "the team refused to update the FBA and BIP at this time until there was more ABC (Antecedent, Behavior, Consequence) data collected." It further reflects that "the IEP team agreed that the student's parents would review the IEP and inform the team if they disagree with any parts."
7. On June 12, 2023, the IEP team met with the purpose of reviewing/revising the IEP. The student's current IEP was put into effect on June 12, 2023.

CONCLUSION:

The PGCPs is responsible for reviewing the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved and revise the IEP, as appropriate, to address: any lack of expected progress toward the annual goals and in the general education curriculum; the results of any

reevaluations; information about the child provided to, or by, the parent; the child's anticipated needs; or other matters.

Based upon Findings of Facts #3- #7, the PGCPs did not ensure that the IEP team convened to review the student's IEP before March 16, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. Therefore, this office finds a violation occurred with respect to allegation #2.

ALLEGATIONS #3 and #4:

IEP AND BIP THAT ADDRESS THE STUDENT'S BEHAVIORAL AND MATH PROBLEM SOLVING NEEDS AND A CLEAR STATEMENT AND ACCURATE STATEMENT OF PRESENT LEVELS OF PERFORMANCE

FINDINGS OF FACTS:

8. The student's IEP, developed on March 16, 2022, reflects the Present Levels of Academic Achievement and Functional Performance (PLAAFP). Reading comprehension is reflected as an area that does not impact the student's academic achievement and/or functional performance. This was based on the administration of the Wechsler Individual Achievement Test (WIAT-III). The PLAAFP further reflects that math calculation and math problem-solving are areas that impact the student's academic achievement and/or functional performance; this was based on the administration of the Wechsler Individual Achievement Test, curriculum-based assessment (EasyCBM), and I-Ready diagnostic assessment data. In addition, the PLAAFP further reflects that behavioral: self-management and behavioral: social-emotional/behavioral are areas that impact the student's academic achievement and/or functional performance; this was based on the administration of the Test of Everyday Attention for Children (TEA-Ch), clinical interview, parent and teacher reports, diagnostic assessment, examiner observations, and the Behavior Assessment System for Children (BASC-3). The student struggles significantly with attention control. "The findings from measures of social, emotional, and behavioral functioning suggest that the student presents with aggressive behaviors, conduct problems, and symptoms of anxiety at home and at school."
9. The student's IEP, developed on March 16, 2022, requires that the student to be provided five thirty-minutes sessions weekly of special education instruction in the general education classroom provided by the special education teacher or the IEP team, one thirty-minute session weekly of special education instruction outside the general education classroom provided by the special education teacher or the IEP team, and one thirty minute session weekly of counseling services provided by the IEP team, psychologist, or guidance counselor. The IEP further requires special considerations, accommodations, and services to support the student's identified math problem-solving and behavioral needs: extra time to complete assignments, evidence-based intervention in the area of mathematics, provide frequent changes in activities or opportunities for movement, noise-canceling headphones, strategies to initiate and sustain attention, advance preparation for schedule change, and a behavior chart. In addition, the IEP reflects two goals in the area of behavioral: self-management. The student was either making progress on or achieved these goals during the timeframe of the IEP. The student's IEP also requires a BIP to address the student's behaviors. The student's BIP was put into effect on March 16, 2022.
10. The student's IEP, developed on June 12, 2023, reflects the PLAAFP. Reading comprehension and math calculation are reflected as areas that do not impact the student's academic achievement and/or functional performance; this was based on classwork and benchmarks. Behavioral: self-management and behavioral: social-emotional/behavioral are reflected as areas that impact the student's academic achievement and/or functional performance. The behavioral: self-management was based on morning check-ins, daily reports, parent and teacher reports, and examiner observations. The behavioral: social-

emotional/behavioral was based on Social-Emotional Learning (SEL) classes.

11. The student's IEP, developed on June 12, 2023, does not reflect math problem-solving as an area affected by the student's disability. Therefore, it is not reflected on the PLAAFP page.
12. The student's IEP, developed on June 12, 2023, requires the student to be provided five fifteen-minutes sessions weekly of special education instruction in the general education classroom provided by the special education teacher or the IEP team, one thirty-minute session weekly of special education instruction outside the general education classroom provided by the special education teacher or the IEP team, and one thirty minute session weekly of counseling services provided by the IEP team or guidance counselor. The IEP further requires special considerations, accommodations, and services to support the student's identified behavioral needs: daily reinforce positive behavior through non-verbal/verbal communication, leadership opportunities in the classroom, morning and after lunch check-ins, choice alternative chart, appropriate language or behavioral intervention, flash pass with timer, ask, allow time to talk, ask- don't tell, allow time for processing thoughts, provide frequent changes in activities or opportunities for movement, noise-canceling headphones, strategies to initiate and sustain attention, advance preparation for schedule changes, and a behavior chart. In addition, the IEP reflects three goals in the area of behavioral: self-management. The student's IEP also requires a BIP to address the student's behaviors. The student's BIP was put into effect on March 16, 2022.

CONCLUSIONS:

Allegation #3:

IEP AND BIP THAT ADDRESS THE STUDENT'S BEHAVIORAL NEEDS AND MATH PROBLEM-SOLVING NEEDS

Because formal and informal assessments reflected that the student no longer had needs in mathematics problem solving, based upon Findings of Facts #8- #12, #14- #15, the PGCPs has developed an IEP and BIP that addresses the student's identified behavioral needs and math problem-solving needs since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .324. Therefore, this office does not find a violation occurred with respect to allegation #3.

Allegation #4:

CLEAR AND ACCURATE STATEMENT OF PRESENT LEVELS OF PERFORMANCE

Based upon Findings of Facts #8 and #10, the PGCPs has ensured that the student's IEP contains clear and accurate statements of her present levels of performance and the services to be provided to her since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.320. Therefore, this office does not find a violation occurred with respect to allegation #4.

ALLEGATION #5:

PROVISION OF THE QUARTERLY PROGRESS REPORTS, SPECIFICALLY THE MATH CALCULATION GOAL

FINDING OF FACT:

13. The student's IEPs developed on March 16, 2022, and June 12, 2023, do not reflect the student requiring a math calculation goal.

CONCLUSION:

Based upon the Finding of Fact #13, the student did not have a math calculation goal. Accordingly, the PGCPs was not required to provide the parent with quarterly progress reports toward achieving the annual IEP goals, specifically the math calculation goal, since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.320 and .323. Therefore, this office does not find a violation occurred with respect to allegation #5.

ALLEGATION #6:

PROVISION OF THE SUPPLEMENTARY AIDS, SERVICES, AND ACCOMMODATIONS

FINDINGS OF FACTS:

14. The student's IEP, developed on March 16, 2022, requires the student to be provided with supplementary aids, services, and accommodations: "headphones or noise buffers, small group, time of day, frequent breaks, reduced distractions to self, extended time (1.5x), as needed extra time to complete assignments, weekly evidence based instruction in mathematics, as needed changes in activities or opportunities for movement, as needed noise canceling headphones, as needed strategies to initiate and sustain attention, as needed advance preparation for schedule changes, daily behavior chart, daily preferential seating, weekly classroom instruction consult (for mathematics), as student requests counselor, one thirty-minute session per week of special education instruction inside the general education classroom provided by the special educator or the IEP team, one thirty-minute session per week of special education instruction outside the general education classroom provided by the special education classroom teacher or the IEP team, and one thirty-minute per month session of counseling services outside the general education classroom provided by the IEP team, psychologist, or the guidance counselor."
15. The student's IEP, developed on June 12, 2023, requires the student to be provided with supplementary aids, services, and accommodations: "headphones or noise buffers, small group, time of day, frequent breaks, reduced distractions to self, extended time (1.5x), daily extra time to complete assignments, daily option to do computer work on paper, daily reinforce positive behavior through non-verbal/verbal communication, weekly leadership opportunities in the classroom, daily lunch check-ins, daily choice alternatives chart, weekly appropriate language or behavioral interventions, daily flash pass with timer, daily allow time to talk, daily ask don't tell, daily allow for processing thoughts, daily frequent changes in activities or opportunities for movement, as needed noise canceling headphones, weekly strategies to initiate and sustain attention, any time there is a schedule change from the ordinary advance preparation for schedule changes, daily behavior chart, daily manage space around the student, daily radio for teachers when on the playground, daily preferential seating, weekly classroom instruction consult (for mathematics), monthly counselor consults, five fifteen-minutes sessions weekly of special education instructional in the general education classroom provided by the special education classroom teacher or the IEP team, one thirty-minute session weekly of special education instruction outside the general education classroom provided by the special education teacher or the IEP team, and one thirty-minute per month session of counseling services outside the general education classroom provided by the IEP team or the guidance counselor."
16. There is no documentation that the student was provided with the supplementary aids, services, and accommodations in the manner required by the IEP, since the start of the 2022- 2023 school year.

17. There is documentation that on March 16, 2022, the IEP team agreed to provide the student with noise-canceling headphones, line order, daily check-ins, ability to complete computer work on paper, and allow the student to provide input into the BIP.

CONCLUSIONS:

Allegation #6: PROVISION OF THE SUPPLEMENTARY AIDS, SERVICES, AND ACCOMMODATIONS

Based upon the Findings of Facts #14- #16, the PGCPs has not ensured that the student was provided with the supplementary aids, services, and accommodations required by the IEP, since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds a violation occurred with respect to allegation #6.

Allegation #10: IEP DEVELOPED FOR THE STUDENT REFLECTS THE DECISION OF THE IEP TEAM

Based upon the Findings of Facts #14- #15, and #17, the PGCPs did ensure that the IEP developed for the student reflected the decision of the IEP team to provide the student with accommodations including: noise-canceling headphones, daily check-ins, and the ability to complete computer work on paper since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.324. Therefore, this office does not find a violation occurred with respect to this aspect of allegation #10.

Based upon the Findings of Facts #14- #15, and #17, the PGCPs did not ensure that the IEP developed for the student reflected the decision of the IEP team to provide the student with accommodations including: line order and allow the student to provide input into the BIP, since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.324. Therefore, this office finds a violation occurred with respect to this aspect of allegation #10.

ALLEGATION #7: PROVISION OF IEP DOCUMENTS FIVE DAYS PRIOR TO THE MARCH 16, 2023, IEP TEAM MEETING

FINDINGS OF FACT:

18. While there is documentation that an IEP team meeting was held on March 16, 2023, there is no documentation that the student's parents were provided with accessible copies of each document the IEP team planned to discuss prior to that meeting.

CONCLUSION:

Based upon the Findings of Fact #18, the PGCPs did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the March 16, 2023, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds a violation occurred with respect to allegation #7.

ALLEGATION #8: PROVISION OF COMPLETED IEP DOCUMENTS WITHIN FIVE DAYS AFTER THE MARCH 16, 2023, AND MAY 2, 2023, IEP TEAM MEETINGS

FINDINGS OF FACT:

19. While there is documentation that IEP team meetings were held on March 16, 2023, and May 2, 2023, there is no documentation that the student's parents were provided with a copy of the completed IEP documents within five days after the IEP team meetings.

CONCLUSION:

Based upon the Findings of Fact #19, the PGCPs did not provide the parents with a completed copy of the IEP document within five business days following IEP team meetings held on March 16, 2023, and May 2, 2023, in accordance with COMAR 13A.05.01.07. Therefore, this office finds a violation occurred with respect to allegation #8.

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 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.

Student-Specific

MSDE requires the PGCPs to provide documentation by October 6, 2023, that the IEP team has convened and determined the amount and nature of compensatory services or other remedies to redress the violations regarding the lack of parental access to the student's records, timely annual review of the student's IEP, provision of supplementary aids, services, and accommodations, ensuring the IEP reflects the IEP team's decision to include line order as an accommodation and allow the student to provide input into the BIP, provision of IEP documents five days prior to an IEP team meeting, and provision of completed IEP documents within five days of an IEP team meeting and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

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.

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.

School-Based

MSDE requires the PGCPs to provide documentation by November 1, 2023, of the steps taken to ensure that the violations regarding the lack of parental access to the student's records, timely annual review of the student's IEP, provision of supplementary aids, services, and accommodations, ensuring the IEP reflects the IEP team's decision to include line order as an accommodation and allow the student to provide input into the BIP, provision of IEP documents five days prior to an IEP team meeting, and provision of completed IEP documents within five days of an IEP team meeting do not recur at [REDACTED] School. Those steps must include staff development, as well as tools created to document and monitor the implementation of supplementary aids, services, and accommodations, as well as the provision of IEP documents before and after IEP team meetings. A monitoring report of 15 randomly selected students receiving supplementary aids, services, and accommodations at [REDACTED] School reflecting the implementation of supplementary aids, services, and accommodations must be submitted to MSDE by November 1, 2023, January 31, March 31, and May 31. Full compliance is required.

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: sd

c: Monica Goldson
Keith Marston
Darnell Henderson
[REDACTED]
Alison Barbat
Gerald Loiacono
Diane Eisenstadt
Sarah Denney
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