



Karen B. Salmon, Ph.D.
State Superintendent of Schools

May 20, 2021




Ms. Trinell Bowman
Associate Superintendent – Special Education
Prince Georges County Public Schools
1400 Nalley Terrace
Landover, Maryland 20785

RE: 
Reference: #21-073

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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.


ALLEGATION:

On March 25, 2021, the MSDE received a complaint from Ms.  hereafter, “the complainant,” on behalf of her son, 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 her son.

The MSDE investigated the allegation that the PGCPS has not ensured that the student was provided with the supports and special education classroom instruction required by the Individualized Education Program (IEP), since August 2020, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is eleven (11) years old and is identified as a student with an Emotional Disability under the IDEA. He has an IEP that requires the provision of special education instruction.

The student attended  School from the start of the 2019-2020 school year until the March 16, 2020 Statewide closure of school buildings and initiation of virtual learning as a result of the COVID-19 pandemic.

FINDINGS OF FACTS:

1. The IEP in effect in August 2020 required twenty-three (23) hours and forty-five (45) minutes of special education instruction weekly in the general education classroom to be provided by the special education teacher and general education teacher in all content areas.
2. The IEP and Behavior Intervention Plan (BIP) required the following supports:
 - a. Additional adult support for behavior management, self-regulation, transitioning from class to class, remaining on task, and organization,
 - b. Counseling services every other week;
 - c. Small group during instruction and assessment to reduce distractions;
 - d. Frequent breaks;
 - e. Reduce distractions to self and others;
 - f. Calculation device;
 - g. Monitor test responses;
 - h. Extended time for assigned tasks and assessments;
 - i. Use of manipulatives;
 - j. Peer tutoring/paired work;
 - k. Monitoring independent work;
 - l. Frequent and immediate feedback;
 - m. Altered/modified assignments;
 - n. Break down assignments;
 - o. Anger management training;
 - p. Home-school communication;
 - q. Frequent eye-contact/proximity;
 - r. Implementation of behavior contract;
 - s. Reinforce positive behavior;
 - t. Physical supports related to asthma and allergies; and,
 - u. Preferential seating.
3. On October 21, 2020, an IEP team meeting was held to consider the student's progress during his transition to middle school since the start of the 2020-2021 school year. The team decided that no changes, alterations or amendments to the IEP would occur. At that meeting, the IEP team discussed that they were actively recruiting for a dedicated aide, but no candidates had applied for the position to date.
4. On January 6, 2021, the IEP team conducted the annual review. The IEP was revised to require eleven (11) hours and forty (40) minutes per week of special education instruction in the general education classroom for reading and math from a special and general education teacher, and twelve (12) hours and five (5) minutes per week in the general education classroom from the general education teacher, with additional adult support from either a special education teacher, paraprofessional or Itinerant Special Education Assistant (ISEA) in science and social studies. The student's counseling service time was

increased from every other week to weekly group sessions. At that meeting, it was noted that the student “is set to receive a dedicated aide additional adult support per his previous IEP. The school system is in the process of hiring the aid.”

5. The reports of the student’s progress towards achieving his annual goals, dated February 1, 2021, indicate that the student was not making sufficient progress in the areas of self-management, reading comprehension, and math calculation, but was making sufficient progress on the remaining goals.
6. On February 12, 2021, the complainant received a letter from the school notifying her that the student was in “jeopardy of being retained,” in the area of reading/language arts.
7. There is documentation that, while the student’s teachers have been providing additional assistance to the student, and other adult support has been provided, it has not been provided on a consistent basis and has not been provided by staff dedicated to work exclusively with the student. An email dated March 14, 2021, from school staff to the complainant, indicated that even with the additional adult support that has been provided, the student was not meeting with success.
8. While there is evidence that some of the student’s supports are being provided, such as paired work and small groups, there is no documentation that the student has been consistently provided with the all of the supports required by the IEP.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts #1 - #8, the MSDE finds that the PGCPS has not ensured that the student was provided with the supports and special education classroom instruction required by the IEP, since August 2020, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has occurred with respect to the 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 below¹

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must 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.

This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures. If the public agency anticipates that the timeframe below may not be met, or if any of the parties seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770 or by email at nancy.birenbaum@maryland.gov.

Student-Specific

The MSDE requires the PGCPS to provide documentation of the following:

1. The IEP team has convened to determine how to address the student's needs pending the hiring of a dedicated aid;
2. Ensured that all of the supports required by the IEP are being provided to the student; and
3. Determined the amount and nature of compensatory services or other remedy to redress the violation, and develop a plan for the provision of those services.

School-Based

The MSDE also requires the PGCPS to provide documentation of the steps taken to ensure that supports required by the IEP are being provided to students at Thomas Johnson Middle School. The documentation must include a description of the action that will be taken to monitor the effectiveness of the steps taken.

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 guardian and the school system 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

² The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

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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:dee

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