



Mohammed Choudhury
State Superintendent of Schools

July 12, 2022

[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: #22-152

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 13, 2022, the MSDE received a complaint from Mr. [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. The PGCPS has not ensured that the student was provided with the specialized instruction, related services, and supports required by his Individualized Education Program (IEP) since February 2022 in accordance with 34 CFR §§300.101 and .323.
2. The PGCPS has not followed proper procedures when revising the student's IEP, since February 2022, in accordance with 34 CFR §§300.321 and .324.

BACKGROUND:

The student is nine years old and attends [REDACTED] where she has been enrolled since February 2022. Prior to enrolling in the PGCPS, the student was enrolled in the Baltimore County

Public School System. (BCPS) She is identified as a student with Multiple Disabilities under the IDEA and has an IEP that requires the provision of special education instruction and related services

FINDINGS OF FACTS:

1. The Student's IEP, developed by the BCPS on October 27, 2021, required that she be provided with a private duty nurse in order to access education.
2. On February 9, 2022, the PGCPs convened an IEP team to develop an IEP for the student that would be comparable to the services that she received from the BCPS. The IEP team determined that she would receive 30 hours and 50 minutes of specialized instruction outside of the general education setting per week and continued to require a "nurse to accompany her to and from school and throughout the school day".
3. While there is documentation that the PGCPs did arrange for the student to receive some instruction virtually in her home, there is no documentation that the student was consistently provided with the services of a nurse since February 2022 to May 2022, and as a result was not regularly provided with the instruction required by her IEP.

DISCUSSION/CONCLUSIONS:

Allegation #1 Implementation of the IEP

Based on Findings of Facts #1 - #3, the MSDE finds that there is no documentation that the student was consistently provided with the services of a nurse and as a result did not consistently receive the specialized instruction, related services and supports required by her IEP, since February 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2 Revision of the IEP

Based on Findings of Facts #1 and #2, the MSDE finds that the PGCPs properly convened an IEP team upon the student's enrollment in the PGCPs to develop an IEP and determine services that would be comparable to those she received during the time that she was enrolled in the BCPS, from February 2022 to May 2022, in accordance with 34 CFR §§300.321, .323, and .324. Therefore, the MSDE does not find that a violation occurred with respect to the 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.

██████████
Ms. Trinell Bowman

July 12, 2022

Page 3

The 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 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.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

The MSDE requires the PGCPs to provide documentation by October 1, 2022, that the IEP team has convened to determine the compensatory services necessary to remediate the impact of missed instruction, related services and supports identified above. The PGCPs must ensure that the IEP team considers the difference between the student's present and expected levels of performance when determining the services needed to remediate the violations.

The PGCPs must develop a plan for the implementation of the services within one (1) year of the date of this Letter of Findings.

The PGCPs must also 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.

School-Based

The MSDE requires the PGCPs to provide documentation by October 1, 2022, of the steps taken to identify other students affected by the lack of nursing services available to students at ██████████
██████████

Furthermore, the MSDE requires that the PGCPs conduct a review of student records at ██████████
██████████ to identify the students with disabilities for whom similar violations may have occurred. In particular, the PGCPs must identify other students who required the provision of nursing services as part of their IEP and determine whether there has been a lapse in providing nursing services to those students during the 2021-2022 school year.

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, 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.

² 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.

[REDACTED]
Ms. Trinell Bowman

July 12, 2022

Page 4

For each student identified, the PGCPs must ensure that the service is being appropriately provided to the student, and that an IEP team is convened to determine the compensatory services required to remedy the violation related to any lapse in providing the service.

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. 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
Barbara VanDyke
Keith Marston
Darnell Henderson
[REDACTED]
Alison Barmat
Diane Eisenstadt
Gerald Loiacono