



Mohammed Choudhury
State Superintendent of Schools

January 13, 2023

Ms. Debrah Martin
1300 Mercantile Lane
Suite 139-W
Largo, Maryland 20774

Ms. Trinell Bowman
Associate Superintendent-Special Education
John Carroll Center
1400 Nalley Terrace
Landover, Maryland 20785

RE: [REDACTED]
Reference: #23-092

Dear Parties:

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 November 16, 2022, 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) and related requirements with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The PGCPS did not develop and implement an Individualized Education Program (IEP) that addressed the student’s identified needs since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .323.
2. The PGCPS did not follow proper procedures when reviewing and revising, as appropriate, the student’s Individualized Education Program (IEP) since the start of the 2022 - 2023 school year, in accordance with 34 CFR §§300.301-.305 and .324.

BACKGROUND:

The student is thirteen (13) years old and attends [REDACTED] School. Prior to the 2022-2023 school year, he was a homeschooled student. He is identified as a student with Autism 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 from the PGCPS, developed on December 16, 2020, required that the students receive instruction in a "small self-contained classroom" for the majority of his day in a regional specialized program. The student's IEP reflects identified needs in math problem solving, reading comprehension, speech and language, receptive language, written language mechanics, and self-management. The student received 20 hours and 15 minutes per week outside of the general education classroom and 10 hours and 35 minutes per week inside of the general education classroom. The student received Speech/Language service as a related service for a total of one hour and 30 minutes per month. The IEP also requires that the student be provided with transportation services to his assigned school.
2. Following the 2021-2022 school year, the student withdrew from the PGCPS and received instruction as a homeschooled student.
3. On August 27, 2022, the parent emailed the PGCPS staff requesting support regarding re-enrollment. On August 29, 2022, the parent sent an email to staff at the student's neighborhood school requesting an IEP team meeting to determine the student's special education eligibility and placement. On August 29, 2022, the parent also expressed that the student will not attend [REDACTED] School for any period of time, due to concerns about the availability of services.
4. On September 6, 2022, the student was re-enrolled in the PGCPS and was assigned to his neighborhood comprehensive school.
5. On September 14, 2022, the IEP team at the student's neighborhood comprehensive school met to review and, if appropriate, revise the IEP. During the IEP team meeting, the IEP team reviewed the student's IEP prior to the student unenrolling. The team revised the IEP to include a transition section.
6. According to the prior written notice developed on September 20, 2022, during the September 14, 2022, IEP team meeting, the team recommended evaluations for instructional purposes. The IEP team ordered a Psychological assessment, Speech and Language assessment, and an Educational/Academic assessment.
7. The IEP team documented the determination that "all team members were in agreement that [the student] needs more support than is available at his current boundary middle school. All team members were in agreement that he requires a smaller class size and Autism resource supports. Given his difficulty with transitions and managing his behavior in larger group settings, the IEP team members recommended a smaller school environment that has these supports." The IEP team recommended that a reevaluation be completed for the student while in his current placement and proposed a "modified" schedule pending the results of the evaluation.
8. There is documentation that on October 7, October 12, and October 14, 2022, the PGCPS staff contacted the parent via telephone to inform her that the student could enroll at the regional program at [REDACTED] School.

9. Attendance records reflect that the student did not attend school from the start of the 2022-2023 school year until October 17, 2022.
10. On October 19, 2022, the IEP team met to review assessment data for the student. The team noted that the speech assessment had not been completed for the student due to his “unavailability” for observation in a classroom setting. The IEP team determined that the student would “continue receiving services based off of the presented IEP[.]” There is documentation that the team confirmed the student’s continued eligibility as a student with autism, but they did not update the student’s IEP to reflect the re-evaluation date. The assessment information was not used to update the student’s IEP.
11. The parent was informed that transportation services would begin on October 20, 2022. On November 10, 2022, an email was sent to the PGCPs from the parent, informing the PGCPs that transportation services had not started.
12. On December 9, 2022, the IEP team met to “develop the IEP, initial IEP.” During the December 9, 2022, IEP team meeting, the team discussed possible revisions to the student’s IEP; however, there is no documentation that the IEP team has reviewed or revised the student’s September 14, 2022, IEP, which was already in effect.

DISCUSSION/CONCLUSIONS:

Each public agency must ensure that as soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP (34 CFR §§300.101 and 323).

Allegation # 1

Development and Implementation of the IEP

Based on Findings of Facts #1-12, MSDE finds the PGCPs has not ensured that the student was provided with the specialized instruction in the placement required by his IEP, since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and 323. Therefore, this office finds that a violation occurred with respect to this component of the allegation.

Allegation # 2

Review and Revision of the IEP

In developing each student’s IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student (34 CFR §300.324).

Based on the Findings of Facts #1-#12, MSDE finds that the PGCPs has not ensured that proper procedures were followed when reviewing and revising the student’s IEP, since the start of the 2022-2023 school year, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this component of 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, 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 be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Based

MSDE requires the PGCPs to provide documentation by February 1, 2023 that the student is provided with the specialized instruction and related services, as required by his IEP. MSDE further requires the PGCPs to provide documentation by March 1, 2023, that the IEP team has convened to complete the evaluation of the student started on September 9, 2022, completed their review of the student's IEP, determined the amount and nature of compensatory services or other remedy to redress the violations identified in this Letter of Findings, and developed a plan for the provision of those services within a year of the date of this Letter.

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.

School-Based

MSDE requires the PGCPs to provide documentation by April 30, 2023, of the steps taken to ensure that the violation does not reoccur at both [REDACTED] and [REDACTED] Schools.

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

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.

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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 Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC:ra

c: Monica Goldson
Keith Marston
Shelly Woodson
Darnell Henderson
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