



Mohammed Choudhury
State Superintendent of Schools

April 6, 2023

[REDACTED]

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

[REDACTED]

Maryland School for the Deaf

[REDACTED]

RE: [REDACTED]
Reference: #23-132

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 January 24, 2023, MSDE received a complaint from Ms. [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) and Maryland School for the Deaf (MSD) 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 has not provided the student with transportation services as required by the Individualized Education Program (IEP) since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323.

2. The MSD has not ensured that the IEP team addressed parental concerns regarding the student's sign language needs, curriculum, reading and writing needs, since the start of the 2022-2023 school year, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is nine years old and resides in Prince George's County. He is eligible to receive special education services pursuant to the Individuals with Disabilities Education Act (IDEA). He is identified as a deaf student under the IDEA and has an IEP that requires the provision of special education instruction and related services. The student attends the Maryland School for the Deaf (MSD), [REDACTED]

FINDINGS OF FACTS:

ALLEGATION #1: TRANSPORTATION SERVICES

1. The student's IEP indicates that he requires daily transportation services, including an adult to assist him getting on and off the bus.
2. The student resides in Prince George's County, but attends MSD, [REDACTED] at parent choice.¹
3. The student has attended MSD, [REDACTED]² since 2014. Prior to 2022, the student did not request transportation from Prince George's County.
4. There is documentation that the complainant requested a "hardship transfer" on or around August 1, 2022, that would allow the student to continue attending the [REDACTED] of the MSD rather than the MSD, [REDACTED]. In making the request, the complainant asserted that she had "work changes" related to her job in [REDACTED] Maryland, but the student's [REDACTED] lives in [REDACTED] and the student's father works in [REDACTED] making both available for emergencies. The complainant also stated her desire to affect the transfer because the student "loves MSD- [REDACTED] too much."
5. MSD granted the complainant's hardship request on or around August 1, 2022. As a result, the student began the 2022-2023 school year at the MSD, [REDACTED]
6. There is documentation that the MSD contacted PGCPs on or around August 9, 2022, to initiate transportation services. MSD informed PGCPs that the complainant had spoken with "someone in PG County who agreed to transportation," but she did not have the name of the individual. On or around the same date, MSD requested that PGCPs discuss the case.

¹ The student was enrolled at the MSD following an application filed by the complainant, on his behalf.

² Students who meet the eligibility criteria to attend MSD are assigned to either the [REDACTED] or [REDACTED] based on their residence county through middle school. The determination of the assigned campus is based on the residence location and grade level of the student. There is a process to request a "hardship" transfer to another campus at parent request. There is no discussion of any change to transportation responsibilities should a parent request and be granted a transfer to a different campus. MSD staff report that their practice for students residing in Prince George's County at the student's age and grade level are typically assigned to attend the [REDACTED] due to the distance from their residence county.

7. On or around August 16, 2022, the MSD requested updates on the student's status for daily transportation from PGCPs. On or around the same date, PGCPs staff responded, "It is my understanding that the parents who are requesting daily transportation are attending the program as a parental choice. Therefore, the parent may choose to self transport daily or utilize the current option of weekly transportation via PGCPs." Further communication from the PGCPs staff indicates that "[h]istorically, it has always been that way." There is documentation that it is PGCPs' practice not to provide daily transportation to MSD for students who live over 50 miles from the respective school campus.
8. According to MSD's website, "Bus assignments from designated counties run routes across the state with a stop in the home area of every child. If your county does not provide bus service, then another county is designated to do so. It is the parent/guardian's responsibility to provide transportation to and from the bus stop." For the 2022-2023 school year, the complainant has transported the student to a midpoint in Montgomery County, where Montgomery County Public Schools (MCPS) transports the student to MSD. This arrangement was facilitated by MSD beginning on or around August 16, 2022.
9. The student's current IEP, developed on December 19, 2022, and amended on March 8, 2023, was developed at MSD, with the participation of the complainant. There is no documentation that PGCPs staff was invited to participate in the meetings where the IEP was developed, or that PGCPs was consulted regarding transportation services for the student when the IEP was developed.
10. The IEP in effect on January 24, 2023, considers the harmful effects of receiving specialized instruction at a location that is not the student's home school, stating "Maryland School for the Deaf is the only program in the state that offers the educational services visually necessary for deaf/hard of hearing students. Enrollment is not contingent on location; Maryland and MSD have a parent application/choice process."
11. There is documentation that PGCPs has agreed to discuss reimbursement for the complainant for her transportation from the student's home to the midpoint in MCPS on Monday through Friday mornings at an IEP team meeting.
12. There is no documentation that PGCPs included MSD on the communication regarding the need for an IEP team meeting to discuss the complainant's request for reimbursement.
13. There is no documentation that with the concerns regarding the student's transportation services for the 2022-2023 school year that either MSD or PGCPs requested to convene an IEP team meeting to discuss the individual needs of the student.

CONCLUSIONS:

Under Md. Code, Educ. §8-3A-03, MSD and the LEA in which a deaf and/or hard-of-hearing student resides are required to work together to provide for the education of the student. Under State law, a parent may elect for their child to attend MSD, regardless of the recommendations of the IEP team, as long as the student meets the eligibility requirements and is accepted by MSD. When a student is enrolled at MSD, MSD and the LEA in which the student resides must work together to ensure the student is provided with a Free Appropriate Public Education (FAPE) for the student.

Determinations about FAPE, including the need for transportation services are made at the IEP team meeting. As in all cases, it is required that the IEP team include individuals with knowledge of the resources of the public agency. 34 CFR §300.321. Under State law, the LEA in which the student resides is responsible for the provision of transportation services, consistent with FAPE, for any student placed at MSD. See Md. Code Ann., Educ., §8-410.

Because the student resides in Prince George's County, the PGCPs is responsible to provide "daily or other reasonable transportation to school" for the student to MSD, in accordance with Md. Code Ann., Educ., §8-410. Further, the PGCPs receives funding pursuant to Md. Code Ann., Educ. §5-218 to offset the transportation costs for students who are residents of Prince George's County attending MSD.

Based on the Findings of Facts #1 through #13, it is clear that there was a lack of collaboration between MSD and PGCPs in scheduling an IEP team meeting to discuss the complainant's request for transportation services from PGCPs from August 2022 through March 2023. PGCPs has not provided transportation services to the student since August 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, MSDE finds a violation with respect to allegation #1.

ALLEGATION #2

DISCUSSION OF PARENTAL CONCERNS

14. The IEP in effect at the start of the 2022-2023 school year was first developed on January 12, 2022, and amended on May 23, 2022. The IEP addressed the following needs: ASL - Morphological Awareness, Reading Comprehension, Expressive Language, Pragmatics, and Written Language Mechanics. The student receives accommodations directly related to his identified disability. He receives supplementary aids and services related to his comprehension and pragmatic language. The student was found eligible for extended school year services based on emergent vocabulary skills. The student was to receive a full day of specialized instruction outside of the general education setting. He was also to receive thirty minutes of speech/language therapy weekly outside of the general education setting. The student was to receive transportation services to and from his home and MSD. ESY services were to be provided twelve hours weekly, and transportation services were to be provided during ESY. Documentation from the meeting reflects the complainant was in agreement with the decisions and requested that all teachers work together in supporting vocabulary learned in school to writing on the student's behalf.
15. The student's annual review was completed on December 19, 2022. It was amended on March 8, 2023. The IEP reflects the areas affected by the student's disability as including: ASL - Morphological Awareness, Math Calculation, Reading Comprehension, Speech and Language Expressive Language, Pragmatics, and Written Language Mechanics. The student's IEP requires that he receive 32 hours and 30 minutes per week of specialized instruction outside of the general education setting, and 30 minutes per week of speech/language therapy as a related service outside of the general education classroom.
16. There is documentation that the complainant requested an independent educational evaluation in ASL, reading, and language, in Black American Sign Language (BASL), in the Parent Input section of the student's December 19, 2022, IEP. The Parent Input Section states that this is to "see reading improves and that will lead to improvement in all areas." The Prior Written Notice from the same meeting notes this request as being "with a qualified user of BASL present and involved to ensure full understanding" by the student and to obtain accurate results." The prior written notice also states that the team considered and agreed that BASL as the student's native language would be appropriate for the

student; however, “MSD is limited to the drop downs on the Maryland On-Line IEP to what native languages can be selected”.

17. There is documentation that MSD agreed to fund this assessment; however, there are limited individuals who are able to complete such an assessment. MSD continues to facilitate locating individuals who will be able to complete it with fidelity.
18. In the Parent Input section of the student’s December 19, 2022, IEP, the complainant expressed concerns about the lack of implementation of “Fingerspelling Your Way to Reading” at MSD in general. The input section from this meeting indicates that the student’s teacher was trained in this methodology and already implements some of the strategies with the student. There is no documentation that the complainant expressly requested that it be included in the student’s IEP, but it was suggested that this methodology has been successful with Deaf and Hard of Hearing students.
19. There was an IEP team meeting on March 8, 2023, to review and revise the student’s IEP. During this meeting, the team discussed the complainant’s comments about Fingerspelling Your Way to Reading, her request for the student to participate in the Achieving Academic Equity and Excellence for Black Boys³ (AAEEBB), revisions to the MSD evaluation, and her request to address Black American Sign Language (BASL) as the student’s first language. The prior written notice also reflects that the team identified the need for daily transportation.
20. The prior written notice from the March 8, 2023, IEP team meeting reflects that the team agreed to incorporate strategies from the Fingerspelling Your Way to Reading program into the student’s goal and agreed to use it as one of several strategies to support the student’s reading. The March 8, 2023, IEP reflects the revisions to the student’s goal to include the strategy of fingerspelling. It also includes references to the student’s use of BASL throughout the IEP and added the wording “daily” into the student’s transportation needs.
21. At the March 8, 2023, IEP team meeting, the IEP team declined to include participation in the AAEEBB program on the student’s IEP. The MSD provided prior written notice of their refusal, stating MSD was not one of the 14 pilot schools selected by MSDE to implement the program.

CONCLUSIONS:

Based on the Findings of Facts #14 through #21, MSDE finds that MSD has ensured that the IEP team addressed parental concerns regarding the student’s sign language needs, curriculum, reading and writing needs, 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 allegation #2.

³ AAEEBB is an MSDE initiative piloted in 14 schools throughout the state dedicated to using evidence-based strategies to improve educational experiences and outcomes for Black young men. The initiative focuses on social/emotional and behavioral supports, recruiting and training skilled teachers and administrators, and curricula and instruction.

CORRECTIVE ACTION/ 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.⁴ 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.⁵ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student Specific:

MSD and PGCPs jointly must provide documentation by May 1, 2023, that they have:

- Convened an IEP team meeting, with both MSD and PGCPs representatives, to discuss whether the student requires transportation in order to receive a FAPE. As a part of that conversation, the team must discuss and document whether the length of the transportation service would result in a denial of FAPE for the student.
- Convened the IEP team, with both MSD and PGCPs representatives, and determined the negative impact of the lack of their respective obligation to collaborate through the IEP process to provide a FAPE for the student, and discuss and determine appropriate transportation services to enable the student to receive a FAPE from MSD. It must also determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services or remedy within a year of the date of this Letter of Findings.

In addition, MSDE requires the PGCPs and MSD to provide prior written notice of the meeting to MSDE by May 19, 2023.

⁴ 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.

⁵ 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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Agency Specific:

MSD must provide documentation of attempts to include LEA participants in IEP team meetings where transportation services are required for the remainder of the 2022-2023 school year. PGCPS must provide documentation of attendance at IEP team meetings for students attending MSD when invited, and of making individualized transportation decisions based on student need, not based on administrative convenience.

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: ra

c: Monica Goldson
Keith Marston
Darnell Henderson
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Alison Barmat
Gerald Loiacono
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