



May 15, 2023



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

RE: [REDACTED]
Reference: #23-174

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 March 16, 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) 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 ensure that the student's placement determination for school year 2021-2022 was based on the student's Individualized Education Program (IEP) and was made by the IEP team since March 22, 2022, in accordance with 34 CFR §§300.115 and .116.
2. The PGCPS has not provided the student with special education and related services in the placement required by the IEP since March 22, 2022, in accordance with 34 CFR §§300.101, 300.114, and .116.
3. The PGCPS has not developed and implemented an IEP that addressed the student's identified needs since March 22, 2022, in accordance with 34 CFR §§300.101 and .324. Specifically, it is alleged

that the IEP team did not address the student's needs arising from her diagnosis of Obsessive Compulsive Disorder (OCD) and Post Traumatic Stress Disorder (PTSD).

BACKGROUND:

The student is 13 years old and is identified as a student with Multiple Disabilities related to Autism, Emotional Disability, Specific Learning Disability, and Other Health Impairment under the IDEA. The student was previously placed at [REDACTED] a non-public special education school in [REDACTED] County. The student has withdrawn as of March 23, 2023. The student is currently enrolled in a school in [REDACTED]. She has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. On January 10, 2022, the student was involved in a physical restraint that was implemented to maintain the safety of the student who was engaged in self-injurious behavior. The parent requested a new school that did not utilize the use of restraints. The student did not attend school from January 11, 2022, to March 31, 2022.
2. The IEP in effect in March 2022, developed on March 17, 2022, states that the student requires support in the areas of Math Problem Solving, Math Calculation, Written Expression, Social Interaction Skills, Self-management, Behavioral - Social Emotional/Behavioral, Physical- Fine Motor and Visual Motor. The IEP notes that the student requires support due to a variety of mental health needs that impact her ability to access the school curriculum. The student has a difficult time employing self-regulation strategies when she is faced with frustrations which result in behaviors (i.e., aggression, self-injurious behavior (SIB), elopement, inappropriate vocalizations, noncompliance, and behavioral episodes) that interfere with learning and directly impact her ability to access the curriculum. She has difficulty communicating and advocating for what she needs when presented with a challenging situation.
3. The IEP requires that the student receive 28 hours and 45 minutes of special education instruction weekly, 1 hour per month of direct occupational therapy, and 1 hour of counseling services a week in a private separate day program to have the support and services needed to access the general education curriculum. The IEP further requires that the student receive support from a 1:1 aide due to her need for a high, consistent rate of reinforcement; to maintain safety in the school/community environments; and to maintain the reduction in the occurrence of problem behaviors.
4. On March 3, 2023, the IEP team met to develop a "short term reentry plan" for the student. The plan provides the student with extensive choices in how she spends her time at school and allows her to opt out of activities. The plan was developed to support the transition back to school and lessen the likelihood for challenging behavior and potential escalations.
5. On March 29, 2022, the IEP team met to review and revise the IEP as appropriate and discuss potential ways to support the student in returning to school after an extended absence due to the style of behavioral intervention used with the student, an increase in SIB, and the use of crisis management procedures (physical restraint) used with the student resulting in the student being diagnosed with PTSD. The parent again requested a change in placement to a location where restraint was not utilized and informed the team that she would keep the student home pending the placement change.
6. During the March 29, 2022, meeting, the team reviewed and revised the short term reentry plan originally created on March 3, 2022. The team shared that the plan was developed to support the student in the event that alternative school options are not identified. The school team shared that

the "Modified Plan" was temporary in nature, and that a function-based treatment plan would need to be developed following the transitional period. The "Modified Plan" focuses heavily on "Antecedent Modifications" designed to lessen the likelihood that the student will escalate, and states that her behavior will necessitate the use of crisis management procedures.

7. On March 31, 2022, the student received a denial Letter for Acceptance from [REDACTED]
8. The student returned to her placement on March 31, 2022, on a partial day schedule and began attending half days on April 4, 2022, with the implementation of the Modified Plan. The student spent the majority of her time outside of the classroom engaging in moderately preferred activities (e.g., coloring, drawing) or laying down/resting when she returned to school. The student exhibited challenging behaviors that occurred at low rates across 19 days of school (April 4, 2022-May 20, 2022) with the implementation of the Modified Plan. The student completed minimal graded work.
9. On May 18, 2022, the parent declined a "tour" at [REDACTED] due to the student returning to her current school for half days and the fact that [REDACTED] also utilizes restraints.
10. On June 9, 2022, the student received a denial Letter for Acceptance from [REDACTED]
11. On June 14, 2022, the IEP team met to review and revise the IEP as appropriate and provide an update on the student's progress since her return to school. The school team reported the student made "limited progress since returning to school," as well as making "no progress" on her IEP goals. Team members requested that a referral packet be submitted to the Central IEP (CIEP) Office for consideration of additional assistance identifying additional schools that would be appropriate for the student due to the student's significant medical and educational needs. The team agreed the student would remain at the current school until a new school had been identified. The parent shared that the student had been rejected from two schools, that she thought one school was too far from the student's home and that she disagreed with the fourth school's willingness to use restraint with the student, and felt it would be "detrimental to the student."
12. On October 13, 2022, the CIEP team met to update the annual IEP and discuss the student's placement. The team reviewed data from the present levels of performance, attendance records, grades, staff input, parental input, and functioning levels to update the student's present level of performance, accommodations, and supplementary aids and services. In the area of academics, the team agreed to maintain similar goals due to a lack of meaningful instructional time with the student. The team determined that the "main goal" for the school team was to help the student "work her way back in the classroom." In the area of social emotional behavior, it was noted the student "continues to have challenges managing her behavior related to her OCD, resulting in difficulties with participating throughout the school day (e.g., being in the classroom for extended periods of time, completing academic work, working with non-preferred peers, transitioning to and from classes). The IEP team created goals to help the student "gain greater awareness towards her OCD" and help her practice previously identified strategies to respond to her obsessive thoughts, feelings, and/or physical sensations, and target behaviors that most impact her engagement and participation academically and socially.
13. During the meeting, the IEP team discussed how the support from the parent and new schedule has helped to significantly decrease SIB, but the student is missing large parts of instruction due to "demand avoidance behaviors." Data reviewed by the team indicated that the student is out of the classroom 69% of the time and inside of the classroom 31% of the time. The team agreed the student requires 1:1 support to be successful and that she required a high level of flexibility with the

presentation of instruction.

14. The CIEP team agreed that the student continues to require a private separate day setting to implement her IEP and agreed to make additional referrals. However, the parent expressed concern that “another program that is similarly structured may not be a good fit”, so the team agreed to explore other school options. During the CIEP meeting, the parent requested tutoring due to the student’s lack of progress. The team rejected the parent’s request by noting “tutoring would not provide the student with the specially designed instruction and therapeutic services she requires.” The parent also requested consideration for 1:1 instruction, shorter school day, collaborative approach, and a location closer to home.
15. On November 9, 2022, the student received another denial Letter for Acceptance from [REDACTED]
16. On December 1, 2022, the student received a denial Letter for Acceptance from [REDACTED]
17. There is documentation that the student was provided with counseling services during the days the student was present in an individual setting as prescribed by her IEP, but due to chronic absenteeism, the student has not received special education or related services since December 16, 2022, as that was the last day the student was present for the 2022- 2023 school year.
18. On January 3, 2023, the student received another denial letter for acceptance from [REDACTED]
19. On January 5, 2023, the parent received an email from PGCPSS staff stating that the IEP team needed to reconvene due to three schools declining the student and the team needed to meet to make revisions to the student’s IEP to “target the areas of greatest need.” It was stated in the email that “given the students strengths and needs, they are not able to identify another private separate day school location that would be appropriate.”
20. On February 6, 2023, the IEP team met to review and revise, as appropriate, the student’s IEP and review the progress towards her IEP goals. The student has not made progress towards her IEP goals due to her resistance when there is an increased demand placed on her. The student is compliant when she receives preferred tasks and the school team “does not push her if there is any resistance in order to avoid any meltdowns.” The school team deems it difficult to target goals because the student has a modified plan which was developed to avoid escalation. The IEP team agreed to amend her IEP to reflect her current needs by adding new behavioral goals, increasing her counseling services hours, adding supports to her supplementary aids and services, and amending her occupational therapy goals.
21. During the meeting, the team addressed the student’s lack of attendance and created a “reintegration plan” that focused on getting the student slowly reengaged with learning. The parent requested for the student to attend one of the MSDE approved online schools, receive 1:1 tutoring and services in the home provided by a behavior specialist due to the student refusing to come into the school building. The school team rejected the parents request stating “the IEP cannot be implemented in a 1:1 setting as the IEP focuses on the student’s needs in the social skills domain and on learning social skills in a group setting” and the MSDE approved online schools are private preparatory schools that do not have the resources and are unable to implement the student’s IEP. The team discussed the three previous referrals submitted for the student and the school the parent denied. The school team agreed to resubmit the applications.

22. Following an application by the parent, on March 20, 2023, the student was approved for HHT by the Office of Home and Hospital Teaching.
23. On March 24, 2023, the IEP team met to review and revise, as appropriate, the student's IEP and discuss the provision of Home and Hospital Teaching (HHT). The student received HHT due to a verified emotional condition: mixed obsessional thoughts and acts. The student was approved for six hours a week of academic support in the core subject area with services not to exceed beyond 60 days. Instruction was provided by a "home teacher" using an online platform. The student was not provided with direct counseling services while on HHT. The team agreed to reconvene at a later date to "discuss the student's re-entry plan."
24. There is documentation that the student was enrolled in HHT and received services from April 12, 2023 - April 27, 2023.
25. On April 28, 2023, the IEP team met to review and revise, as appropriate, the student's IEP. During the meeting, the team discussed the upcoming discontinuation of HHT as the application would expire on May 5, 2023. The IEP team declined to extend the HHT due to the lack of sufficient required documentation from the student's treating psychiatrist. The IEP team discussed an interim assignment to another nonpublic school that may be able to provide the services on the student's IEP and assist the parent with mental health support and help the parent with community-based issues. The school team stated they would resubmit referrals to schools that had previously rejected the student for the 2023-2024 school year. The parent disagreed with the interim placement option as well as the recommended placement options for 2023-2024 school year as the schools "restrain kids."
26. The reports of the student's progress dated March 16, 2022, June 8, 2022, for school year 2021-2022, and September 20, 2022, December 16, 2022, March 15, 2023 reflect that the student was "not making sufficient progress to meet any of her IEP goals" due lack of attendance and being placed on a modified plan to decrease challenging behaviors. During the modified plan, the student spends the majority of her days outside of the classroom engaging in moderately preferred activities (e.g., coloring, drawing) or laying down/resting.

DISCUSSION AND CONCLUSIONS:

ALLEGATION #1: DETERMINATION OF EDUCATIONAL PLACEMENT

Each student's educational placement must be made by the IEP team in conformity with the requirement that to the maximum extent appropriate, students with disabilities, including those in public or private institutions or other care facilities, are educated with nondisabled students. (34 CFR §§300.114 - .116 and COMAR 13A.05.01.10).

In this case, the complainant alleges that the PGCPs did not ensure that the student's placement was appropriate.

However, the PGCPs, while agreeing that the student required a change in school assignment, frequently convened IEP team meetings to ensure that the student's educational program at her current school met her needs to the extent possible while submitting applications on the student's behalf to other schools. Therefore, based on the Findings of Facts #1 to #26, MSDE finds the PGCPs did ensure that the student's placement determination for school year 2021- 2022 was based on the student's Individualized Education Program (IEP), and was made by the IEP team since March 22, 2022, in accordance with 34 CFR §§300.115 and .116. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #2: PROVISION OF EDUCATIONAL SERVICES

In this case, the complainant alleges that the student did not receive the instruction required by her IEP. When the student did attend school, she was frequently out of the classroom due to interfering behaviors. This resulted in the student not receiving the instruction in the classroom for long periods of time. There is documentation that the school staff consistently implemented behavioral strategies designed to prepare and encourage the student to participate in classroom instruction.

Based on the Findings of Facts #4, #6, #8, #11- #13, #17, #21 to #25, MSDE finds the PGCPs has provided the student with special education and related services in the placement required by the IEP since March 22, 2022, in accordance with 34 CFR §§300.101, 300.114, and .116. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #3: AN IEP THAT ADDRESSES THE STUDENT'S MENTAL HEALTH NEEDS

The IEP team recognized the student's diagnosis of PTSD and OCD and developed an IEP that addressed the student's mental health needs exhibited in the educational setting.

Based on the Findings of Facts #2, #3, #5, #20, MSDE finds the PGCPs has developed and implemented an IEP that addressed the student's identified needs since March 22, 2022, in accordance with 34 CFR §§300.101 and .324. Specifically, an IEP that addresses the student's needs arising from her diagnosis of OCD and PTSD. Therefore, this office does not find that a violation occurred with respect to the allegation.

ADDITIONAL VIOLATION:

Lack of Counseling Services During HHT

The student in this case has significant counseling and mental health needs. While she was receiving HHT services, there is documentation she was having some difficulty completing schoolwork and maintaining availability for instruction, as well as demonstrating significant behavioral challenges. There is no documentation of any consultation with a school psychologist or any data the IEP team relied on to change direct services from the provider to consultative services during HHT. The rationale to change direct services to consultative services was the "reduced workload," rather than the student's needs. Based on the Findings of Facts #23 and #24, there is no indication of how the student's counseling goals will be implemented during HHT or who will be implementing them, and there are no progress reports or data reported on those goals for that time period in accordance with COMAR 13A.05.01.10C(5). Accordingly, MSDE finds a violation with respect to this issue.

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.¹ This office will follow up with the public agency to ensure that it completes the required actions

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

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-Specific

MSDE requires the PGCPs to convene an IEP team meeting prior to July 1, 2023, to determine the compensatory services or other remedy to address the violations in this Letter of Finding regarding the provision of counseling services during HHT, and to develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The PGCPs must ensure that the parent is provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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

DC/sj

c:	Monica Goldson	Nicol Elliott
	Trinell Bowman	Paige Bradford
	Keith Marston	Karla Marty
	Darnell Henderson	Diane Eisenstadt
		Stephanie James
	Gerald Loiacono	

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.