




Mohammed Choudhury
State Superintendent of Schools

June 20, 2023




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

RE: 
Reference: #23-203

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 April 21, 2023, MSDE received a complaint from Mr. , 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 proper procedures were followed when developing the student's Individualized Education Program (IEP) on April 21, 2022, in accordance with 34 CFR §300.324;
2. The PGCPS has not provided Prior Written Notice of the IEP team's April 21, 2022, decisions, in accordance with 34 CFR §300.503.

BACKGROUND:

The student is seventeen years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services. The student is placed by the PGCPS at the 
, a nonpublic, separate, special education school.

FINDINGS OF FACTS:

1. On April 21, 2022, the IEP team met to review and revise, as appropriate, the student's IEP. The student's IEP includes the provision and implementation of a Behavior Intervention Plan (BIP).
2. During the IEP team meeting, the team discussed the student's food seeking behaviors. The parent and school team proposed and accepted strategies to address the student's behavior, including keeping trash cans from the student, keeping staff in proximity to the student when he was eating, using social stories to ensure that the student does not eat the food of others, cleaning up spaces where the student would eat prior to him entering, and providing an alternative place for the student to eat. The strategies were included in the student's BIP and the parent was given prior written notice that the strategies would be added to the BIP. The IEP team also agreed to address the student's BIP when the team reconvened in a few weeks and noted this decision in the prior written notice as well.
3. The IEP team also discussed the student's toileting behaviors, including touching, smearing, and eating his feces. The IEP team discussed information regarding the student's fecal touching and smearing behaviors provided by the parents, including feedback from the student's doctors, and the pattern of behaviors exhibited at home and during breaks from school. The IEP team agreed to include more specific information in the student's data collection regarding these behaviors. While these decisions were documented in the prior written notice provided to the student's parents, the student's IEP was not revised to reflect these decisions.
4. Also, during the April 21, 2022, IEP team meeting, the IEP team agreed to incorporate the "Bus Plan" developed for the student into the student's BIP. This decision was reflected in the prior written notice provided to the student's parents.
5. During the IEP team meeting, the IEP team proposed and discussed changes to the use of the student's safety vest and singlet during transportation. This option was rejected by the IEP team because the parents had not yet had the opportunity to view requested videos of the student on the bus during transportation and could not provide input. This decision was reflected in the prior written notice provided to the parents following the IEP team meeting.
6. During the IEP team meeting, the complainant raised concerns related to the transportation staff assigned to the student using foul language. The IEP team responded that the matter with specific staff had been addressed administratively and that the student would not be assigned staff who use foul language. The decision was reflected in the prior written notice provided to the parents following the IEP team meeting.
7. During the IEP team meeting, the student's mother proposed that the IEP team collect data to determine if the student's inappropriate toileting behaviors and seizures were related to his exposure to WIFI and other radiation. She also proposed that the school measure radiation levels and maximize the use of wired connections instead of WIFI. The complainant explained that many of these proposals were not reasonable and that the proposals "sounded like a joke". The IEP team noted the parent's concerns and said that WIFI was used in the student's school, but they had not noticed a connection between its use and the student's behaviors or seizures.
8. While discussing the student's behavior, the IEP team discussed that the format of the behavior log to be provided to the student's parent would include a particular format that better represents the time period in which the student's behaviors occurred. The IEP team agreed to consider the parent's proposed format when it was submitted to them.

DISCUSSION/CONCLUSIONS:

Allegation #1: Development of the Student's IEP

Based on the Findings of Facts #1 to #3, #6, #7 and #8, MSDE finds that the PGCPs ensured that the IEP team generally addressed the student's behaviors, considered the proposals and information provided by the student's parents, and that the decisions of the IEP team were generally incorporated into the IEP developed for the student following the April 21, 2022, IEP team meeting. However, based on Finding of Fact #3, MSDE finds that the student's IEP was not revised to reflect the detailed data collection regarding the student's inappropriate toileting behaviors and that this information would be provided to the parents, following the April 21, 2022, IEP team meeting, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2: Prior Written Notice

Based on the Findings of Facts #1 to #6, MSDE finds that the parents were provided with prior written notice of the IEP team's decisions made during the April 21, 2022, IEP team meeting, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation occurred with respect to this 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.

MSDE requires the PGCPs to provide documentation by September 1, 2023, that the IEP team has convened to ensure that the student's IEP includes a description of the IEP team decision made with respect to the manner in which the student's toileting behavior will be collected and communicated to the student's parents.

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.

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/gl

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