



Mohammed Choudhury
State Superintendent of Schools

June 22, 2023

Ms. Debra Martin
1300 Mercantile Ln
Suite 139-W
Largo, Maryland 20774

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

RE: [REDACTED]
Reference: #23-211

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.

ALLEGATION:

On May 1, 2023, MSDE received a complaint from Ms. 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) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The PGCPS did not provide the student with the Extended School Year (ESY) services, including transportation, as required by the IEP during the summer of 2022, in accordance with 34 CFR §300.101.
2. The PGCPS did not ensure that the student was provided with the special education instruction and related services, specifically counseling, 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.
3. The PGCPS has not ensured that the student's IEP contains a clear statement of the delivery of special education instruction since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.320.

4. The PGCPs did not follow proper procedures when disciplinarily removing the student from school on March 13, 2023, in accordance with 34 CFR §§300.530 and .531, COMAR 13A.08.03, and COMAR 13A.05.01.10
5. The PGCPs has not provided the student's parent with access to the student's education record, specifically the counseling service logs and intervention data from Lexia and IReady, since March 13, 2023, in accordance with 34 CFR §§300.501 and .613.
6. The PGCPs has not developed an IEP that addressed the student's identified behavioral needs since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .324.

BACKGROUND:

The student is eleven years old and is identified as a student with other health impairment under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: EXTENDED SCHOOL YEAR SERVICES

FINDINGS OF FACTS:

1. The student's IEP, developed on May 10, 2022, reflects that the nature and severity of the student's disability warranted ESY 2022 services. It further reflects that the student required transportation services for ESY 2022.
2. There is email documentation, dated June 8, 2022, from the PGCPs staff to the PGCPs staff that the student's "ES Boundary 7 Packet" was submitted for ESY 2022.
3. There is no documentation of the student attending ESY 2022 or being provided transportation for ESY 2022 as required by the student's IEP. There is documentation dated July 7, 2022, July 13, 2022, and July 25, 2022, that the ESY teacher attempted to contact the student's parent.

CONCLUSIONS:

Based upon Findings of Facts #1- #3, MSDE finds that the PGCPs did not provide the student with the ESY services, including transportation, as required by the IEP during the summer of 2022, in accordance with 34 CFR §300.101. Therefore, this office finds a violation occurred with respect to allegation #1.

ALLEGATION #2, #3, and #6: SPECIAL EDUCATION INSTRUCTION AND RELATED SERVICES, CLEAR STATEMENT OF SPECIAL EDUCATION DELIVERY AND IEP THAT ADDRESSES THE STUDENT'S BEHAVIORAL NEEDS

FINDINGS OF FACTS:

4. The student's IEPs, developed on May 10, 2022, September 29, 2022, December 5, 2022, and March 13, 2023, require the student to be provided with four, thirty-minute sessions weekly of special education instruction in the general education classroom provided by the special education teacher or the general education teacher. In addition, they require the student to be provided with five thirty-minute sessions weekly of classroom special education instruction outside of the general education classroom provided

by the special education teacher or the IEP team.

5. The student's IEPs, developed on May 10, 2022, and September 29, 2022, reflect behavior self-management as an area affected by the student's disability as the student has difficulties sustaining attention within the general education classroom. They require that the student be provided with frequent breaks, visual cues, and directions during classes. In addition, it reflects that the student requires accommodations to address behavior self-management needs: small group, frequent breaks, reduce distractions to self/others, extended time (1.5X), and encouragement to ask for assistance when needed. It further reflects that the student has a goal in the area of behavior self-management: "By May 2023, when assigned an academic task to complete during whole group instruction (e.g., solve math problem during teacher-led guided practice), the student will independently remain on-task (i.e., actively working on the task, minimal disruption to self/others, asking relevant questions of peers/teacher), for (15) minutes or until the task is completed as directed, in (4 out of 5) academic tasks."
6. The student's IEP, developed on December 5, 2022, requires supplementary aids and services, including the student to be provided with weekly counseling by the school counselor.
7. The student's IEPs, developed on December 5, 2022, and March 13, 2023, reflect behavior self-management as an area affected by the student's disability as the student has difficulties sustaining attention within the general education classroom. They require that the student be provided with frequent breaks, visual cues, and directions during classes. In addition, it reflects that the student requires accommodations to address behavior self-management needs: small group, frequent breaks, reduce distractions to self/others, extended time (1.5X), movement breaks, encouragement to ask for assistance when needed, and weekly counseling with the school counselor. It further reflects that the student has a goal in the area of behavior self-management: "By May 2023, when assigned an academic task to complete during whole group instruction (e.g., solve math problem during teacher-led guided practice), the student will independently remain on-task (i.e., actively working on the task, minimal disruption to self/others, asking relevant questions of peers/teacher), for (15) minutes or until the task is completed as directed, in (4 out of 5) academic tasks."
8. There is documentation of IReady reading diagnostic test being administered on January 9, 2023, and an IReady math diagnostic test being administered on January 13, 2023.
9. The student's IEP, developed on March 13, 2023, requires the student to be provided with one twenty-minute session weekly of counseling services outside the general education classroom provided by the school counselor, psychologist, or special education classroom teacher.
10. The PWN generated after the IEP team meeting on March 13, 2023, reflects that the student's parent and advocate proposed conducting a Functional Behavior Assessment (FBA) in order to address the student's behavioral needs. The IEP team rejected this proposal due to the school staff's "failure to implement the student's IEP" with fidelity. It further reflects that a behavior consult was made with the Comprehensive Coordinated Early Intervening Services (CCEIS), and representatives from CCEIS attended the March 13, 2023, IEP team meeting. "CCEIS conducted the intake but have not yet done face-to-face support." There is no documentation that face-to-face support has been provided.
11. The "Related Service Log Notes" for the school counselor reflect that the student was provided with counseling services on March 21, 2023, March 29, 2023, April 4, 2023, April 11, 2023, and April 19, 2023.
12. There is no documentation that the student was consistently provided the special education instruction

and related services, specifically counseling, in the amount and manner required by the IEP during the 2022- 2023 school year. The progress report dated November 17, 2022, reflects that “due to staff shortage and vacancies of special education teachers and substitute teachers, your child has not received consistent specialized instruction to determine progress on the IEP goals and objectives. Once staffing is secured, an IEP meeting will be held within 30 business days to determine the educational impact and the need for compensatory education recovery services. In the meantime, the general education teachers will continue to provide accommodations.”

13. The Prior Written Notice (PWN) generated after the May 1, 2023, IEP team meeting reflects that the IEP team agreed to “mitigate the lack of special education services due to the special education vacancy, compensatory services are being offered for Reading and Math. For Reading, 80 hours of the Lindamood Bell program is being offered.”
14. There is email documentation dated June 7, 2023, from PGCPs staff to the student’s parent reflecting that the IEP team agreed to provide the student with compensatory services in mathematics for a total of 72 hours.

CONCLUSIONS:

Allegation #2: Special Education Instruction and Related Services:

Based upon Findings of Facts #4, #6, #8, #9, #11- #14, MSDE finds that the PGCPs did not ensure that the student was provided with the special education instruction and related services, specifically counseling, as required by the IEP since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds a violation occurred with respect to allegation #2.

ALLEGATION #3: Clear Statement of Special Education Delivery:

Based upon Findings of Fact #4, MSDE finds that the PGCPs did ensure that the student’s IEP contains a clear statement of the delivery of special education instruction since the start of the 2022- 2023 school year, in accordance with 34 CFR §300.320. Therefore, this office does not find a violation occurred with respect to allegation #3.

ALLEGATION #6: IEP That Addresses the Student’s Behavioral Needs:

Based upon the Findings of Facts #5- #7, #9, and #10, MSDE finds that the PGCPs has not developed an IEP that addressed the student’s identified behavioral needs since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation occurred with respect to allegation #6.

ALLEGATION #4: DISCIPLINARY REMOVAL OF STUDENT

FINDINGS OF FACTS:

15. The Notice of Student’s Suspension, dated January 5, 2023, reflects that the student was suspended for one day following an incident that took place on January 5, 2023.
16. The Notice of Student’s Suspension, dated January 12, 2023, reflects that the student was suspended for one day following an incident that took place on January 12, 2023.

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 Specific

MSDE requires the PGCPs to provide documentation by August 31, 2023, that the IEP team has convened and determined the amount and nature of compensatory services or other remedies to redress the violations regarding the lack of ESY 2022 services, consistent counseling services, and developing an IEP that addresses the student's behavioral needs, and developed a plan for the provision of those services within a year of the date of this Letter of Findings.

MSDE acknowledges the compensatory services agreement between PGCPs and the student's parent to remedy the lack of special education instruction for the 2022- 2023 school. However, MSDE requires that the IEP team convene and determine additional compensatory service hours for the other violations listed above. MSDE further requires the PGCPs to provide documentation by September 29, 2023, that the student is receiving the special education instruction and supports, as required by his IEP.

School Based

MSDE requires the PGCPs to provide documentation by November 1, 2023, of the steps taken to ensure that the violations regarding the lack of the provision of ESY services, lack of special education instruction and supports, lack of counseling services, and failure to develop an IEP that address behavior, do not recur at [REDACTED]. Those steps must include staff development, as well as tools created to document and monitor the implementation of special education instruction and supports. A monitoring report of 10 randomly selected students reflecting the implementation of special education and related services must be submitted to MSDE by November 1, 2023, January 31, 2024, March 31, 2024, and May 31, 2024.

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.

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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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: sd

c: Monica Goldson
Trinell Bowman
Darnell Henderson
Keith Marston
[REDACTED]
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