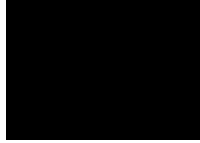




July 7, 2023



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

RE: [REDACTED]
Reference: #23-238

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 May 9, 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. PGCPS did not provide a copy of the IEP document within five business days after the IEP team meetings held since March 15, 2023, in accordance with COMAR 13A.05.01.07.
2. PGCPS did not ensure that the Individualized Education Program (IEP) includes present levels of academic achievement and functional performance in order to properly identify and address all of the needs that arise from the disability since March 15, 2023, in accordance with 34 CFR 300.303-311, .320 and .323.

BACKGROUND:

The student is 5 years old and attends [REDACTED] School. He is identified as a student with Autism under the IDEA and has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. On March 15, 2023, the IEP team met to review and revise the student's IEP.
2. On March 24, 2023, the parent emailed the PGCPs requesting information on when the IEP would be ready for review in order to be finalized. The parent also requested a copy of the Prior Written Notice (PWN) for the meeting on March 15, 2023.
3. On March 28, 2023, the parent emailed the PGCPs requesting a copy of the PWN and finalized IEP.
4. On April 18, 2023, the PGCPs emailed the student's finalized IEP to the parent. The IEP reflects additional information collected by the school staff in April 2023, during the time period following the date of the IEP team meeting.
5. There is no documentation that the IEP team met to agree to include the updated information or that the parent agreed with the changes made by the school staff following the IEP team meeting.

ALLEGATION #1 PROVISION OF COMPLETED IEP DOCUMENT WITHIN FIVE DAYS

Consistent with Education Article, §8-405(c), Annotated Code of Maryland, appropriate school personnel shall provide the parent of a student with a disability an accessible copy of the completed IEP not later than 5 business days after a scheduled IEP or other multidisciplinary team meeting (COMAR 13A.05.01.07).

Based on Findings of Facts #1 and #4, PGCPs did not provide a copy of the IEP document within five (5) business days after the IEP team meetings held since March 15, 2023, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #2 DEVELOPMENT OF AN IEP THAT INCLUDES PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE IN ORDER TO PROPERLY IDENTIFY AND ADDRESS ALL OF THE NEEDS

The IEP developed for each student must include a statement of the student's Present Levels of Academic Achievement & Functional Performance (PLAAPFs) in each area of suspected need. With few exceptions, these statements must be developed as part of an IEP team meeting convened for the student. The statements must include a description of how the student's disability affects the child's involvement and progress in the general education curriculum. (34 CFR §300.320)

Based on Finding of Facts #1 through #5, MSDE finds that the PGCPs did not ensure that the IEP includes information developed by the IEP team that describes the student's Present Levels of Academic Achievement and Functional Performance, when it included information in the student's IEP that was collected after the IEP team meeting without the agreement of the parent, since March 15, 2023, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation has 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 15, 2023, that the IEP team has taken the following action:

- a. Convened an IEP team meeting to review the data entered into the student's IEP on April 18, 2023; and
- b. That the IEP team has met to determine whether the delay in providing the completed IEP to the parents following the IEP team meeting on March 15, 2023, had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The PGCPS must also ensure that the IEP team considers the difference between the student's present and expected levels of performance when determining the services needed to remediate the violations.

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.

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.

[REDACTED]
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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 Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC:ra

c: Millard House
Keith Marston
Darnell Henderson
[REDACTED]
Alison Barmat
Diane Eisenstadt
Gerald Loiacono
Rabiatu Akinlolu