

LINDA A. KOBAN, ESQUIRE

May 23, 2024

Dr. Antoine Hickman, Assistant State Superintendent
Division of Early Intervention and Special Education Services
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Mr. Levi Bradford, Esquire
Public Justice Center
201 N. Charles Street
Suite 1200
Baltimore, Maryland 21201

RE: [REDACTED]
Reference: #24-052

Dear Parties:

This is the report of the Special Investigator in the matter of the above-referenced student. The Maryland State Department of Education (MSDE, the "Department") Division of Early Intervention and Special Education Services (DEI/SES) contracted with Linda Koban on January 24, 2024, to conduct this investigation due to a potential conflict.

ALLEGATION:

On October 10, 2023, MSDE received a complaint from Mr. Levi Bradford, hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant made allegations that MSDE failed to comply with the Individual with Disabilities Education Act (IDEA) with respect to a previously filed complaint (#23-106). This Special Investigator was hired to conduct an independent investigation into the matter. The usual 60-day timeline was extended to accommodate the hiring and investigation of an independent investigator.

In the course of this investigation, the Special Investigator consulted with counsel for the parties; interviewed officials from the Prince George's County Public Schools (PGCPS); and reviewed curricula and attendance sheets for training offered to elementary school professionals in 2023 and 2024, as well as reports of kindergarten through second grade (K -2) suspensions in PGCPS in 2023 and 2024. During a visit to [REDACTED] ([REDACTED]), the school involved in the #23-106 investigation, she spoke with the student's teacher and reviewed the files of special education K-2 students.

The Special Investigator addressed the following allegation:

MSDE did not ensure that the PGCPS completed the school and system based corrective action required in the Letter of Findings for State complaint #23-106 by the timeline specified, in accordance with 34 C.F.R. §§ 300.152 and .600, since May 1, 2023.

FINDINGS OF FACT

1. On February 3, 2023, MSDE issued the Letter of Findings in State complaint #23-106. In this letter, MSDE found that PGCPS failed to comply with proper procedures prior to the disciplinary removal of the student and failed to maintain proper documentation of the student's suspension in accordance with State law.

MSDE ordered the IEP team to convene and determine whether the violation related to the student's disciplinary removal had a negative impact on the student's ability to benefit from the educational program.

MSDE also directed PGCPS to:

- a) Ensure that the PGCPS' administrators have regular and prompt access to a school psychologist or other mental health professional trained on the provisions of the Maryland law, and who can respond to behavior incidents, including those involving students in grades prekindergarten through second grade.
 - b) Provide training for the PGCPS' administrators and related staff on the provisions of Maryland law to prevent any future unlawful suspensions for students in prekindergarten through second grade.
2. On February 8, 2023, the student's parents rejected the findings and services under the IDEA. MSDE informed PGCPS consistently and as recently as January 22, 2024, that since the student was not receiving services under an IEP, he was not eligible for relief under the IDEA; therefore, the parents' rejection of services terminated his eligibility for compensatory services.
 3. The complainant notified the Special Investigator, in an interview on February 9, 2024, that he is withdrawing the student's request for compensatory services, which formed the basis of the student based corrective action at issue in both the initial and follow-up complaints.
 4. The PGCPS informed MSDE that no additional special education students in K-2 had been suspended but requested assistance as to the format of the audit to be submitted. An audit of all special education students enrolled at [REDACTED] during the year of the student's suspension, conducted by the Special Investigator utilizing the data collection instrument designed by DEI/SES, confirmed the results reported to MSDE that, other than the student, there were no suspensions of special education students.

5. MSDE corresponded with PGPCS through January 2024, continuing to advise them on how to achieve compliance with the system based corrective action and reminding them that system wide action included: demonstrated access to a mental health professional by elementary schools, ensuring appropriate documentation of a decision to suspend, and provision of training on K-2 suspension provisions of Maryland law for principals, mental health professionals, and special education resource and chairpersons.
6. Between July 27, 2023, and January 12, 2024, PGPCS conducted six training sessions (virtual and in-person) on *Disciplinary Procedures/Supporting Elementary Students with Challenging Behaviors* and have submitted attendance sheets for over 500 elementary school principals and assistant principals, school psychologists, professional school counselors, elementary special education resource teachers, and pupil personnel workers.
7. The Prince George's County Public schools have developed procedures for accessing the opinion and sign off of a mental health professional before any K-2 student is suspended.
8. A report of district wide K-2 suspensions 2023-2024 to date showed that suspensions remained at the same level as the previous school year; however, the suspensions of the student and the [REDACTED] School were missing from the list of schools suspending K-2 students.

CONCLUSIONS:

COMPENSATORY SERVICES

Based on Findings of Fact #2 and 3, there was a question about whether the student was entitled to student specific compensatory services under 23-106 since the IEP was rejected by the student's parents shortly after the Letter of Findings was issued by MSDE on February 3, 2023. However, the claim for compensatory services under the IDEA was abandoned by the complainant on February 9, 2024.

Therefore, the Special Investigator concludes that MSDE has no obligation to guarantee the provision of student specific compensatory services in this case.

VIOLATION OF STATE K-2 SUSPENSION LAW/SCHOOL BASED

Based on Finding of Fact #4, the Special Investigator confirmed an audit of special education children's files, conducted by PGPCS personnel and proceeding in accord with the guidance of MSDE, discovered no additional suspension violations.

The Special Investigator therefore concludes that no further corrective action is necessary for the cohort of students receiving special education services in the 2022-23 school year, and MSDE was not required to proceed further.

VIOLATION OF STATE K-2 SUSPENSION LAW/SYSTEM BASED

According to Findings of Fact #5 - #7, the PGCPs complied with the MSDE prescribed system based corrective actions by developing training sessions on the Maryland education law K-2 suspension prohibition, including intervention strategies to reduce the need for such suspensions. The PGCPs further introduced written procedures for meeting the law's requirements by accessing approval of a mental health professional to evaluate and document whether a young child poses a threat of serious harm to staff or other students, in those cases where suspension appears to be unavoidable.

The PGCPs has attendance sheets from over 500 school professionals including principals, assistant principals, mental health professionals, special education chairpersons and resource persons, and pupil personnel workers. Presentations were adapted for the roles of the respective attendees.

The training packages and post training communications included a suspension checklist and an illustrated process instructing administrators to contact the Director of Psychological Services for the PGCPs in all cases of proposed K-2 suspensions.

While Finding #8 indicates that the PGCPs should closely monitor the K-2 suspensions, as the expected reduction in the months following the trainings did not occur, the Special Investigator deems that a record review by MSDE at the schools reporting suspensions is beyond the mandate of MSDE under the IDEA.

The Special Investigator therefore concludes that the corrective actions were satisfactorily implemented by the PGCPs and do not justify a violation of MSDE's supervisory authority. MSDE initially conceded that the extension of timelines was justified in light of the complex questions presented in these matters, and the necessity for seeking an independent investigator to complete the report.

The Special Investigator therefore concludes that MSDE and the PGCPs accomplished the required and extensive systemic action in a reasonable period of time.

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 are entitled to recourse and remedies prescribed by law. 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.

Respectfully submitted,

Linda Koban
Independent Investigator

- c: Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
- Tracy Givens, Section Chief, Dispute Resolution, MSDE
- Amanda R. White, Senior Counsel, Office of the Attorney General, MSDE
- Millard House II, Superintendent, PGCPs
- Trinell Bowman, Associate Superintendent, Special Education, PGCPs
- Darnell Henderson, General Counsel, PGCPs
- William Fields, Associate General Counsel, PGCPs