


January 4, 2024




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

RE: 
Reference: #24-061

Dear Parties:

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 October 27, 2023¹, MSDE received a complaint from Mrs. , 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 has not ensured that the student is being provided with the speech/language services, audiological services, and special education classroom instruction from a certified special education teacher as required by the Individualized Education Program (IEP) since November 2022, in accordance with 34 CFR §§ 300.156 and .323.
2. PGCPS did not ensure that the student was provided with the supplementary aids and services² required by the Individualized Education Plan (IEP) since November 2022, in accordance

¹ On October 30, 2023, MSDE received a state complaint filed by the complaint on behalf of the above referenced student. On November 9, 2023, MSDE was informed that the complainant has an advocate who has permission to act on behalf of the above referenced student. On November 14, 2023, the complaint signed consent reflecting that the advocate has permission to engage with MSDE on behalf of the above referenced student and the complaint. As a result, the effective date of this investigation was changed to November 15, 2023. As a result, the Letter of Findings is due January 13, 2024.

² The complaint alleges that text to speech; closed caption on multimedia presentations; and academic curriculum base test were not provided to the student as supplementary aid and services. The IEP requires text to speech as an instructional and assessment accessibility for Mathematics, Science, and Government assessment. The IEP requires closed captioning on multimedia passages as instructional and assessment accommodation. Additionally, academic curriculum base test, is not a service, it is a phrase used in the discussion decision regarding small group testing.

with 34 CFR §§ 300.101 and 323. Specifically, the complainant alleges the following were not provided:

- a. altered modified assignments;
 - b. chunking of texts;
 - c. research based interventions;
 - d. text to speech for Math, Science, and Government;
 - e. closed caption on multimedia presentations; and
 - f. academic curriculum-based text.
3. PGCPs has not ensured that the student's progress towards achievement of the annual goals was measured as described in the IEP, since November 2022, in accordance with 34 CFR §§300.320 and .323.
 4. PGCPs has not ensured that the student's IEP contains accurate present levels in the areas of cognitive, reading, written expression, and communication, since November 2022, in accordance with 34 CFR §300.320.
 5. PGCPs has not ensured that the student's IEP contains measurable annual goals in the areas of written language and communication since November 2022, in accordance with 34 CFR §300.320.
 6. PGCPs has not ensured that the student has been provided with the compensatory services determined on September 13, 2023, in accordance with 34 CFR §300.101.

BACKGROUND:

The student is 12 years old and attends [REDACTED] School. She is currently identified as a student with a Hearing Impairment 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. The IEP in effect in November 2022 reflects the student's disability impact in the following areas: cognitive, math calculation, math problem solving, reading comprehension, reading phonics, speech and language articulation, speech and language expressive language, written language expression, and hearing. The IEP required goals to address math calculation, Speech and Language Expressive Language, Math Problem Solving, Reading Comprehension, and Reading Phonics. The IEP required four hours per week of specialized instruction within the general education classroom. The IEP required one hour and thirty minutes of classroom instruction outside of the general education setting per week. The IEP required Speech/Language as a related service for one hour per month outside of the general education setting. The IEP required ESY from July 5, 2023 – July 31, 2023. The IEP required sixty hours per month of specialized instruction.

The IEP in effect required the following supplementary aids, services, program modifications and supports:

- Weekly – research based interventions
- As needed – altered modified assignments
- As needed – chunking of texts
- As needed – school personnel/parental support(s) – Audiologist consult to monitor amplification use, monitor classroom assistive listening device as needed, review audiology records, and consult with parents and educational staff regarding amplification technologies and the impact of child's hearing loss in the educational setting.

The present levels of academic achievement and functional performance did not include a statement of how the child's disability affects the child's involvement and progress in the general education curriculum in the Written Language Expression, Reading Phonics, and Reading Comprehension areas.

2. The IEP in effect in November 2022, includes statements of present levels for cognitive, reading, communication, and written expression domains.
3. On October 24, 2022, the PGCPs Audiologist emailed the complainant, and requested a copy of the most recent audiology report. The complainant provided the report to PGCPs and requested that PGCPs provide her with any recommendations for changes to the hearing aid that should be shared with her provider during an appointment on November 8, 2022. PGCPs confirmed receipt of the report and provided recommendations as requested.
4. The IEP progress report developed on November 17, 2023, reflects goals were not yet introduced for the following areas: Math calculation, Math problem solving, Reading comprehension, and Reading phonics.
5. The IEP progress report developed on November 17, 2023, reflects the Speech and Language expressive language goal was newly introduced. The goal was measured as required by the IEP.
6. The IEP progress report developed on February 6, 2023, reflects goals were not yet introduced for the following areas: Math calculation, Math problem solving, Reading comprehension, and Reading phonics.
7. The IEP progress report developed on February 6, 2023, reflects the Speech and language expressive language goal was measured as required by the IEP.
8. The IEP progress report developed on April 4, 2023, reflects Speech and Language expressive language goal was measured as required by the IEP.
9. There is no documentation of the development of IEP progress reports for the third quarter (April 4, 2023) of the 2022-2023 school year, for the following areas: Math Calculation, Math Problem Solving, Reading Comprehension, and Reading phonics.
10. The fourth quarter IEP progress report was developed on June 15, 2023, indicating the student was making sufficient progress toward achievement of all IEP goals and objectives. The narrative reflects that goals were measured as required by the IEP for the following domains: Reading Phonics, Reading Comprehension, Math Problem Solving, Math Calculation, and Speech and Language expressive.
11. On June 3, 2023, the complainant provided PGCPs with a copy of a hearing evaluation from the private provider. PGCPs confirmed receipt of the evaluation on June 5, 2023.
12. On September 13, 2023, the IEP team met for the purpose of discussing the impact related to staff vacancies on the student's progress. The IEP team determined the student would receive eighteen hours for Reading (decoding and comprehension) and eighteen hours for Math (calculation and problem solving). The PWN reflects the "parent requested that a second assignment teacher that is already working with [student] provide the compensatory services. PGCPs will move forward with

this request.” The IEP team agreed to the proposed compensatory service hours to redress the lack of services.

13. On September 22, 2023, the PGCPs emailed the complainant informing her that PGCPs is in receipt of the receivers for the microphone from the student on September 21, 2023. The PGCPs requested a copy of the hearing results from August 2023. The complainant provided a copy of the hearing results from February 2023 and informed the PGCPs that she will provide the most recent results when she receives them.
14. There is documentation that PGCPs communicated with the complaint on October 12, 2023, to inform her that “a Prince George’s County Public School’s (PGCPs) agreed-upon second assignment teacher will be in contact with you to arrange dates and times for the delivery of services. Services should be completed no later than January 31, 2024.”
15. The IEP progress report for first quarter 2023-2024 shows the math problem solving goal was measured as required by the IEP; the reading comprehension goal was also measured as required by the IEP. The progress report does not address progress for Math Problem Solving, Reading Phonics, and Speech and Language.
16. On October 25, 2023, the IEP was reviewed and revised during an annual review meeting. The IEP reflects the student’s disability impacts the following areas: Math Calculation, Math Problem Solving, Reading Comprehension, Reading Phonics, Speech and Language Expressive Language, Written Language Expression, and Health- Hearing. The IEP required goals to address: Reading Phonics, Speech and Language Expressive Language, Reading Comprehension, Math Problem Solving, and Math Calculation. The team discussed progress across areas impacted by the disability. The IEP requires six hours per week of specialized instruction within the general education classroom. The IEP requires one hour and thirty minutes of classroom instruction outside of the general education setting. The IEP requires Speech/Language as a related service for thirty minutes per month outside of the general education setting. The IEP required ESY from July 1, 2024 – July 31, 2024. The IEP required sixty hours per month of specialized instruction. The IEP requires supplementary aids, services, program modifications and supports:
 - Weekly – research based interventions
 - As needed – altered modified assignments
 - As needed – chunking of texts
 - As needed – school personnel/parental support(s) – Audiologist consult to monitor amplification use, monitor classroom assistive listening device as needed, review audiology records, and consult with parents and educational staff regarding amplification technologies and the impact of child’s hearing loss in the educational setting.

The IEP reflects the present levels of academic achievement and functional performance. It did not include a statement of how the child's disability affects the child's involvement and progress in the general education curriculum in the Written Language Expression, Reading Phonics, and Reading Comprehension areas.

17. There is documentation that the student has been receiving instruction from a certified teacher since March 2023.
18. On November 30, 2023, the complainant emailed the PGCPs informing them that the student’s “hearing aids have been updated with the requested program changes which allow her to lessen noise and volume control.”

19. The Audiology log reflects:
 - direct services on December 8, 2022, July 10, 2023, September 13, 2023, and September 21, 2023; and
 - indirect services on November 30, 2022.

20. The Speech and Language log reflects:
 - November 10, 2022 - direct service to student,
 - December 8, 2022 - direct service to student ,
 - December 15, 2022 - no service school delay,
 - January 19, 2023 - direct service to student ,
 - January 26, 2023 - direct service to student,
 - February 2, 2023 - direct service to student,
 - March 2, 2023 - direct service to student,
 - March 23, 2023 - direct service to student ,
 - April 6, 2023 - no service schools closed,
 - April 20, 2023 - direct service to student,
 - May 4, 2023 - direct service to student,
 - May 11, 2023 - direct service to student,
 - September 8, 2023 - direct service to student,
 - September 29, 2023 - direct service to student,
 - October 6, 2023 - direct service to student,
 - October 27, 2023 - direct service to student ,
 - November 17, 2023 - direct service to student.

21. The log of the Teacher of Deaf and Hard of Hearing log reflects direct services for student on:
 - November 2, 2022,
 - December 7, 2022,
 - December 19, 2022,
 - January 24, 2023,
 - February 28, 2023,
 - April 19, 2023,
 - May 15, 2023,
 - June 8, 2023,
 - September 13, 2023,
 - September 22, 2023,
 - October 4, 2023,
 - October 17, 2023,
 - November 15, 2023,
 - December 7, 2023.

22. The log of the Teacher of Deaf and Hard of Hearing log reflects services for staff on:
 - March 28, 2023,
 - August 31, 2023.

23. The compensatory services log reflects instruction was provided for one hour on:
 - November 9, 2023, November 10, 2023, November 16, 2023, December 1, 2023, and December 7, 2023, to address Math; and
 - November 17, 2023, November 30, 2023, and December 8, 2023, to address Reading.

24. The IEP in effect in November 2022, reflects the following goals were developed to address written expression, speech/language and reading:
 - “By October 2023, [student] will generate well structured argument paragraphs when given grade level passages with 80% accuracy given fading verbal and visual cues.”
 - “By 10/30/23, after reading a grade-level informational text and given a written prompt to form a textual inference, [student] will write an inference based on implied information from the text, for (3 out of 4) prompts, on (3 out of 4) progress monitoring assignments.”
25. The IEP developed on October 25, 2023, reflects the following goal was developed to address written expression and reading:
 - “By 10/24/24 given a short excerpt from a grade-level informational passage and 1 written explicit/implicit claim, [student] will write 2 pieces of supporting evidence, for 3 out of 4, on 3 out of 4 progress monitoring assessment, claims.”
26. There is no documentation of implementation of the following supplementary aids, services, program modifications and supports since November 2022:
 - As needed - altered modified assignments, and
 - As needed - chunking of texts.
27. There is some documentation of the provision of reading and math intervention from November 2022 through June 2023, though not with consistency.
28. There is no documentation of the provision of weekly reading and math intervention during the 2023-2024 school year.
29. On December 13, 2023, a Notice and Consent for assessment was developed. The notice reflects the IEP team proposed and agreed to complete assessments in the following areas: Reading, Mathematics, Written Language, Intellectual/Cognitive Functioning, Emotional/Social/Behavior Development, Hearing and Observation. The notice also reflects the purpose of the assessments is to determine present levels of achievement and developmental needs.
30. The PWN from December 21, 2023, reflects that the IEP team awarded the student an additional eighteen hours of compensatory services, “to remediate the lack of special education service,” during the 2022-2023 school year and provision of accommodations during the 2023-2024 school year in the student’s ELA course. The student will receive nine hours of compensatory services to address Reading comprehension and decoding. The student will receive nine hours of compensatory education to address math calculation and problem solving.

DISCUSSION/CONCLUSIONS:

Allegation #1: Provision of speech/language services, audiological service, and special education classroom instruction from a certified teacher

Based on the Findings of Facts #1, #16, and #20, MSDE finds that PGCPs has ensured that the student is being provided with the speech/language services, as required by the IEP, since November 2022, in accordance with 34 CFR §§ 300.156 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based on the Findings of Facts #1, #16, #19, #21, and #22, MSDE finds that PGCPs has ensured that the student is being provided with the audiological services, as required by the IEP, since November 2022, in accordance with 34 CFR §§ 300.156 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based on the Findings of Facts #1, #16, and #17, MSDE finds that PGCPs did not ensure the student was provided special education classroom instruction from a certified special education teacher as required by the IEP from November 2022 through February 2023, in accordance with 34 CFR §§ 300.156 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding, Based on Findings of Facts #12, #17, #23 and #30, MSDE finds that IEP team meetings occurred on September 13, 2023, and December 13, 2023, for the purpose of addressing the impact resulting from staff vacancies. The IEP team determined the student requires compensatory education and has started providing services. Therefore, no additional corrective action is required.

Allegation #2: Provision of supplementary aids and services, specifically: altered modified assignments, chunking of texts, research based interventions

Based on the Findings of Facts #1, #16, and #27, MSDE finds that PGCPs has not consistently provided altered modified assignments, chunking of texts, and research-based interventions as required by the IEP since November 2022 in accordance with 34 CFR §§ 300.101 and 323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Allegation #3: Measurement of progress towards achievement of goals

Based on the Findings of Facts #4, #5, and #9, MSDE finds that PGCPs did not consistently ensure that the student's progress towards achievement of annual Math Calculation, Math Problem Solving, Reading Comprehension, and Reading phonics goals where measured as described in the IEP, for the first, second, and third quarters of the 2022 - 2023 school year in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding, based on Findings of Facts #12, #17, #23 and #30, MSDE finds that IEP team meetings occurred on September 13, 2023, and December 13, 2023, for the purpose of addressing the impact resulting from staff vacancies. The IEP team discussed student progress and determined the student required compensatory education and has started providing services. Additionally, the IEP team met on October 25, 2023, to hold the student's annual review meeting. The IEP team meetings included a discussion of student progress. Therefore, no additional corrective action is required.

Based on the Findings of Fact #10, MSDE finds that PGCPs ensured that the student's progress towards achievement of the annual goals was measured as described in the IEP, for the fourth quarter of the 2022-2023 school year, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based on the Findings of Facts #5, #7, #8, and #10, MSDE finds that PGCPs did ensure the Speech and language expressive language goal was measured as required by the IEP from November 2022 through June 2023 in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Allegation #4: Present Levels cognitive, reading, written expression, and communication

The public agency must ensure that the student's IEP includes a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children). 34 CFR §300.324

Based on Findings of Facts #1 and #16, MSDE finds that PGCPs has ensured that the student's IEP contains accurate present levels in the areas of Cognitive, Speech and Language Expressive Language, Speech Language Articulation and Written Expression³ from November 2022 through October 2023. Additionally, cognitive impact is discussed in the evaluation eligibility data domain of the IEP. Based on Finding Fact #16, the IEP no longer requires present level discussion for the cognitive domain since October 25, 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based on Findings of Facts #1 and #16, MSDE finds that PGCPs did not ensure that the student's IEP contains a statement of how the child's disability affects the child's involvement and progress in the general education curriculum in the area of Math Calculation, Math problem solving, Reading Phonics, and Reading Comprehension, from November 2022 through October 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based on Findings of Fact #29, MSDE finds that PGCPs has ordered the following assessments: Academic – Reading, Math, Written Language; Intellectual/Cognitive functioning; Hearing; Emotional/Social/Behavioral Development; and an observation on December 12, 2023, in order to determine present level of academic achievement and developmental needs. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Allegation #5: Measurable annual goals in the area of written language and communication

The IEP team must ensure the IEP includes a statement of measurable annual goals, including academic and functional goals designed to: meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and meet each of the child's other educational needs that result from the child's disability. 34 CFR §300.320.

³ The IEP in effect reflects that the student does not have needs in the Speech and Language Receptive, and Written Language Expression domains that impacts the student's ability to access the general education curriculum.

Based on the Findings of Facts #24 and #25, MSDE finds that PGCPs has ensured that the student's IEP contains measurable annual goals in the IEP to address areas of written language and communication since November 2022, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Allegation #6: Provision of compensatory services determined on September 13, 2023

The IDEA regulations do not specifically address the issue of missed special education and related services. So, local school systems/public agencies must consider the impact of a missed service, irrespective of the reason for missing the service, on the student's progress and performance. They must also determine how to ensure the continued provision of FAPE in order for the student to continue making progress and ultimately meet the annual goals of the IEP. Therefore, decisions regarding whether missed IEP services are considered a denial of FAPE and should be made up must be on a case-by-case basis (MSDE Bulletin 19-03).

Based on Findings of Facts #6, #8, #16, and #23, MSDE finds that PGCPs has ensured that the student is being provided with the compensatory services determined on September 13, 2023, in accordance with 34 CFR §300.101. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include 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.^[4] 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.⁵⁵ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

⁴The 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.

⁵ MSDE will notify the public Agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

Student Based:

MSDE requires PGCPs to provide documentation by April 1, 2024, that it has completed the following actions:

- a. PGCPs has met and determined that assessments will be ordered to determine present levels of performance. MSDE appreciates the PGCPs addressing the matter and further requires PGCPs ensures the IEP reflects present levels of performance includes: data from multiple sources, and a discussion of how the child's disability affects the child's involvement and progress in the general education curriculum; and
- b. Ensure that the student is being provided with all Supplementary Aids, Service, Program and Supports as required by the IEP; and
- c. Met for the purpose of reviewing supplementary aids and services data in order to determine what supplementary aids, and services, the student requires, if changes are made to the IEP, ensure that the IEP is amended.

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.

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.

School Based:

MSDE requires the PGCPs to provide documentation by May 1, 2024, of the steps taken to ensure that the violation does not reoccur at [REDACTED] School:

- a. Professional development for all Special Education and General Education teachers for the purpose of developing addressing present levels of performance;
- b. Professional development by April 1, 2024, for all Special Education, General Education teachers and Instructional assistants, for the purpose of ensuring implementation of IEPs, documentation of the provision of accommodations and supplementary aids and supports, and specially designed instruction; and
- c. Develop and implement a monitoring plan for instruction, the provision of supplementary aids, services, program modifications and supports, and accommodations. The monitoring plan must reflect the implementation of IEP services and supplementary aids, services, program modifications and supports and accommodations, for a randomly selected set of (5) students at [REDACTED] School over at least two reporting periods. The results of the monitoring must be provided to MSDE by April 1, 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.

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,

Antoine L. Hickman Ed.D.
Assistant State Superintendent
Division of Early Intervention/Special Education Services

ALH/ra

c: Mr. Millard House II, Superintendent, PGCPs
Ms. Lois Jones Smith, Compliance Liaison, PGCPs
Mr. Keith Marston, Coordinator, Special Education Compliance, PGCPs
Mr. Darnell Henderson, General Counsel, PGCPs
Mr. Henry Johnson, Special Education Compliance, PGCPs
[REDACTED], [REDACTED] School
Ms. Alison Barmat, Branch Chief, Family Dispute Resolution, MSDE
Ms. Diane Eisenstadt, Compliance Specialist, MSDE
Ms. Rabiātu Akinlolu, Compliance Investigator, MSDE
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE