

February 2, 2024

Ms. Christie Mandeville
Special Education Consultant
Weinfeld Education Group
5919 Westridge Court
Alexandria, Virginia 22310

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: #24-096

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 November 20, 2023, MSDE received a complaint from Ms. Christie Mandeville, 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 the student has been provided with the special education instruction required by the Individualized Education Program (IEP) from a certified special education teacher from May 2023 - June 2023, in accordance with 34 CFR §300.156 and COMAR 13A.12.02.20.
2. The PGCPS did not develop an Individualized Education Program (IEP) that addresses the student's identified academic needs from December 2022- November 2023, in accordance with 34 CFR §300.324.
3. The PGCPS did not ensure that the student has been consistently provided with a dedicated aide as required by the Individualized Education Program (IEP) since August 2023, in accordance with 34 CFR §300.101.

4. The PGCPs did not follow proper procedures when the IEP team determined the placement in which the student would receive special education instruction since October 26, 2023, in accordance with 34 CFR §§300.114 and .116.

BACKGROUND:

The student is 7 years old and attends [REDACTED]. He is identified as a student with Multiple Disabilities (Autism and Intellectual Disability) under the IDEA and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The IEP in effect in December 2022 was developed on August 12, 2022. The IEP reflects that the student's disability impacts the following areas: Speech and Language Receptive Language, Speech and Language Expressive Language, Early Math Literacy, Pre-Academics, Social Emotional/Behavioral, Social Interaction Skills, Self-Management, and Behavioral- Adaptive.
 - a. The IEP requires classroom instruction outside of the general education setting for twenty-three hours and twenty minutes per week. Instruction is provided by the Special Education classroom teacher, Speech/Language Pathologist, and IEP team. The IEP requires Speech/Language (SLP) as a related service outside of the general education setting for two hours per month. The SLP services are provided by the Speech Language Pathologist, IEP team, and Special Education classroom teacher. The IEP required transportation as a related service. The IEP required daily additional adult support (the additional adult support dedicated aide was to provide one on one (1:1) assistance daily for the entire day) and close adult proximity (across all content areas for redirection and safety during both indoor and outdoor).
 - b. The present level discussion reflects the student was assessed using Developmental Assessment of Young Children- 2 (DAYC-2), Test of Early Mathematics Ability - 3rd Edition (TEMA), Test of Early Reading Ability - 3rd Edition (TERA-3), Woodcock- Johnson IV Test of Achievement (WJ-IV ACH), Developmental Profile (DP-4), Adaptive Behavior Assessment System (ABAS-3), and Behavior Assessment System for Children (BASC-3).
 - c. The IEP includes supplementary aids, services and program modifications to address instructional supports, program modifications, social/behavioral supports and physical/environmental supports.
 - d. The IEP includes goals in the following areas: Early Math literacy, Pre-Academics, Speech and Language Expressive Language, Speech and Language Receptive Language, Social Emotional/Behavioral, Social interaction Skills, Self-Management, and Adaptive.
2. On April 27, 2023, PGCPs sent an email to the parents informing them that the Special Educator assigned to the student's classroom was on leave. Instruction would be provided by a long-term substitute, with the support of the special education case manager. The substitute was a Special Education Paraprofessional on staff at the [REDACTED].

3. There is documentation of an amendment to the case manager's schedule April 2023- June 2023. The case manager's schedule reflects weekly collaboration on developing lesson plans, review student work and grades, discussion of accommodations, pushing into classrooms to support Kindergarten self-contained and general education classes. The Case Manager was also a Special Educator.
4. There is documentation that while the student's teacher was out, a special educator provided lesson plans for the substitute from May 1, 2023, through June 13, 2023.
5. An IEP team meeting was convened on May 18, 2023. The Prior Written Notice (PWN) generated as a result of this meeting reflects the team planned for evaluation/re-evaluation assessments and obtained consent for a Functional Behavior Assessment (FBA). The parent provided consent on May 18, 2023.
6. On May 31, 2023, the IEP team met to hold the annual review. The IEP reflects the student's disability impacted the following areas: reading phonics, reading comprehension, math calculation, speech and language receptive language, speech and language expressive language, social emotional behavioral, self-management, adaptive, and fine motor.
 - a. The IEP requires classroom instruction for twenty-three hours and twenty minutes per week outside of the general education setting and Speech/Language as a related service outside of the general education setting for two hours per month. The IEP also required transportation, daily additional adult support (the additional adult support/dedicated aide will provide one on one (1:1) assistance for the entire day), and close adult proximity (across all content areas for redirection and safety during both indoor and outdoor).
 - b. 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 Math Calculation, and Adaptive¹ domains.
 - c. The IEP requires assistive technology services and devices to assist with technology needs. The IEP requires supplementary aids, services and program modifications to address: instructional supports, program modifications, social/behavioral supports, physical/environmental supports, and school personnel/parental supports.
 - d. The IEP requires goals in Speech and Language Expressive Language, Speech and Language Receptive Language, Reading Phonics, Reading Comprehension, Social Emotional/Behavioral, Self-management, Math Calculation, and Behavior - Adaptive areas.
7. The May 31, 2023, IEP reflects the following:

¹ Although the Adaptive domain does not include a statement of how the child's disability affects the child's involvement in progress in the general education curriculum, it mirrors the discussion in the social emotional/behavioral and self-management domains. The discussion includes communication, social skills, and practical skills considerations.

- a. Additions to the IEP: Fine motor goal and objectives, additional data to the Math Calculation present levels discussion, classroom instruction inside the general education setting for eight hours and twenty minutes per week., and Occupational therapy as a related service outside of the general education setting four – thirty-minute sessions per month;
 - b. Edit to List ALL placement options considered by the team: “Environment A indicates that Alexander would receive 6 hours or less of special education services outside of the general education setting per week. When placed in environment A [student] participates in the general education setting at least 80% of the week. Environment B indicates that [student] would receive 6 hours 15 minutes to 15 hours of special education services outside of the general education setting per week. When placed in environment B, [student] accesses the general education setting at least 40% to 79% of the week. Environment C indicates that [student] receives special education services outside of the general education setting 15 hours and 15 minutes up to 30 hours per week”; and
 - c. Edit to indicate the placement option selected: “Due to the nature [of the student’s] Autism Spectrum Disorder, the IEP team determined that [the student] would receive services in an environment C. This setting would provide [the student] access to the general education setting for 23.24% of the day.”
8. There is no documentation of additional areas of concern to be addressed by the IEP.
 9. On August 22, 2023, the IEP team met for the purpose of review/revising the IEP and reviewing the BIP. The team proposed and agreed to implement a micro schedule. The IEP team proposed to revise the adaptive, self-management, reading comprehension, and reading phonics goals upon completion of academic assessments and review of baseline data. The IEP team also proposed and agreed to reconvene to review the assessments (academic and Autism Spectrum Rating Scales).
 10. The student’s classroom at the beginning of the 2023-2024 school year had five adults. The classroom includes one teacher, one paraprofessional, and three Itinerant Special Education Assistants.
 11. On September 18, 2023, the complainant emailed PGCPs requesting an immediate change in placement from [REDACTED] to a PGCPs regional center or private placement. The request was made due to concerns regarding safety and implementation of the IEP resulting from the lack of a dedicated aide as required by the IEP.
 12. On September 19, 2023, PGCPs acknowledged the receipt of the request from the complainant.
 13. On September 20, 2023, PGCPs emailed the complainant and the parent informing them that:
 - a. an additional adult support will be provided to the student;
 - b. the Office of School Health should be contacted regarding requests for a copy of notes about a visit to the school nurse on September 12, 2023; and
 - c. the PGCPs proposed to meet on September 28, 2023, to address concerns and a meeting notice was attached to the email.

14. The parent informed the PGCPS that she is unavailable to meet on September 28, 2023.
15. On September 20, 2023, the PGCPS informed the parent that the additional adult support will be provided as required by the IEP, and another IEP team meeting date will be proposed.
16. On September 23, 2023, and September 24, 2023, the complainant and parent confirmed their availability to meet on October 3, 2023, and October 5, 2023.
17. On September 27, 2023, the PGCPS confirmed with the complainant and the parent that an IEP team meeting will occur on October 5, 2023 at 11am.
18. On October 10, 2023, the IEP team met for the purpose of reviewing evaluation/re-evaluation assessments and holding the requested team meeting. The IEP team proposed and agreed:
 - a. the student continues to qualify as a student with a disability with Multiple Disabilities (Autism, and Intellectual Disability);
 - b. to revise the IEP to include new information presented and support needed and reconvene to review the updated IEP;
 - c. after review of the Appendix A criteria, the student met criteria for participation in the Alternate Framework;
 - d. to determine LRE at a future IEP team meeting; however, the Community Referenced Instruction (CRI) program will provide access to smaller class size;
 - e. the parent will complete a release of records allowing private medical providers to share information with the IEP team regarding usage of helmet protocols and implementation;
 - f. to discontinue usage of helmet until receipt of letter from private provider allowing the team to use the helmet. Parent agreed to provide the IEP team with a letter; and
 - g. to update the BIP to address self-injurious behaviors. Use of helmet will be added to the crisis plan section of the BIP.
19. On October 26, 2023, the IEP team met for the purpose of reviewing/revising the IEP, discussion of BIP, and discussion of the LRE. The PWN reflects the IEP team proposed and agreed the student requires placement at a regional center. The regional center for the student's residential area was identified as [REDACTED]. The student was to receive a thirty day review following his enrollment.
20. On October 26, 2023, the IEP was amended and reflects:
 - a. the student requires the use of a safety harness when being transported to and from school;
 - b. the service school is [REDACTED];
 - c. multiple disabilities (Autism and Intellectual Disabilities);
 - d. updates to the present levels for reading phonics, reading comprehension, math calculation; and
 - e. amended reading comprehension and self-management goals.
21. On November 21, 2023, and November 27, 2023, [REDACTED] contacted the complainant for the purpose of scheduling a tour.

21. On November 30, 2023, PGCPs ([REDACTED]) emailed the parent inquiring if she has visited [REDACTED] following the IEP team meeting on October 26, 2023. The PGCPs informed the parent that the student will be withdrawn from [REDACTED] the following day, so that the student can be enrolled at the new school. The complainant responded to the PGCPs informing them of the following:
 - a. Concerns with lack of teaching staff;
 - b. No dedicated aide and no chance that one will be in place by next week;
 - c. No special education coordinator; and
 - d. At this time, the parent is no longer interested in moving the student. The complainant would like the student to remain at [REDACTED] while discussing other options.
23. On December 4, 2023, the complainant informed the PGCPs that she would like the student to remain at [REDACTED] pending the outcome of MSDE state complaint.
24. On December 5, 2023, PGCPs informed the complainant that the teacher and coordinator have returned from leave and a dedicated aide is in the process of being hired at [REDACTED]. The complainant was informed that the withdrawal packet can be picked up from [REDACTED] on December 5, 2023, and the student can be enrolled at [REDACTED] on December 6, 2024. At that time, the transportation process can be completed.
25. On January 3, 2024, the complainant emailed the PGCPs and requested placement at [REDACTED]. The complainant expressed that the parent is concerned that the PGCPs determined placement based on location, not based on what the IEP requires. The PGCPs informed the complainant that consideration must be given to programs (placement) that can provide FAPE, which are closest to the student's home.

DISCUSSION/CONCLUSIONS:

Allegation #1: Instruction by a certified teacher from May 20023-June 2023

Under State policy, teachers certified in special education, in collaboration with general educators, can deliver specially designed instruction (SDI). SDI can also be delivered by teachers certified in elementary, secondary, or subject areas, in collaboration with special educators and related service providers with specialization in the area of the student's need. Substitute plans should include information about SDI, and long-term substitutes are engaged in the collaborative development, implementation, and evaluation processes. MSDE TAB 19-01

A paraprofessional cannot serve as the sole provider of SDI. They can assist in providing SDI if they are trained in the specific specially designed instruction and are supporting or reinforcing instruction that was delivered by a qualified educator. Paraprofessionals must be under the direct supervision of a qualified teacher. This supervision is reflected in schedules, lesson plans, notes, and other documentation. MSDE TAB 19-01

Based on the Findings of Facts #1 through #4, MSDE finds that the PGCPs has not ensured that the student was provided with the special education instruction by a certified teacher, as required by the

Individualized Education Program (IEP) from May 2023 - June 2023, in accordance with 34 CFR §300.156 and COMAR 13A.12.02.20. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #2: Development of IEP that address the student's identified needs

Based on Findings of Facts #1, #6, #7, #9, and #18 - #20, MSDE finds that the PGCPs developed an Individualized Education Program (IEP) that addresses the student's identified academic needs from December 2022- November 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did not occur with respect to the violation.

Allegation #3: Provision of dedicated aide

Based on Findings of Facts #1, #6, #7, #9, and #18 through #20, MSDE finds that the PGCPs has not ensured that the student has been provided with the IEP required daily additional adult support, as required by the Individualized Education Program (IEP) since August 2023, in accordance with 34 CFR §300.101. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #4: Placement determination

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. The child's placement must also be determined at least annually, be based on the child's IEP, and be as close as possible to the child's home. 34 CFR §300.116.

Based on the Findings of Facts #11, #12, and #19 through #22, and #25, MSDE finds that the PGCPs followed proper procedures when the IEP team determined the placement in which the student would receive special education instruction since October 26, 2023, in accordance with 34 CFR §§300.114 and .116. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Additional violations identified during the course of the investigation provision of special education and related services in the placement required by the IEP

Based on the Findings of Facts #20 through #25, MSDE finds that the PGCPs did not ensure the student was enrolled in the LRE and placement as required by the IEP since October 26, 2023, in accordance with 34 CFR §§300.114 and .116. While the PGCPs followed proper procedures in determining the student's placement, they failed to follow through on ensuring the student received a free appropriate public education in the least restrictive environment (LRE) and placement determined appropriate by the IEP team. Therefore, this office finds that a violation occurred with respect to this aspect of the 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.² 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. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.³ Ms. Barmat can be reached at (410) 767-7770 or by email at alison.barmat@maryland.gov.

Student- Based

MSDE requires the PGCPs to provide documentation by May 1, 2024, of the steps taken to ensure that the IEP team has taken the following action:

- a. Ensured that the student is provided with special education and related services in the placement required by the IEP;
- b. Ensured that the student is being provided with adult support required by the Individualized Education Program (IEP); and
- c. Convene an IEP meeting for the purpose of determining the impact of the violations. The IEP team must discuss if the violations related to not receiving instruction by a Special Educator from May 2023 through June 2023, not being enrolled in the LRE and placement identified as providing a free appropriate public education by the IEP team, and the provision of adult support in the manner required by the IEP, had a negative impact on the student's ability to benefit from the educational 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 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.

² 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.

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

Ms. Christie Mandeville
Ms. Trinell Bowman
February 2, 2024
Page 9

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 and Special Education Services

ALH/ra

c: Mr. Millard House III, Chief Executive Officer, PGCPS
Ms. Trinell Bowman, Associate Superintendent, Special Education, PGCPS
Mr. Keith Marston, Compliance Instructional Supervisor, PGCPS
Ms. Lois Jones Smith, Compliance Liaison, PGCPS
Mr. Darnell Henderson, Deputy General Counsel, PGCPS
[REDACTED], Principal, [REDACTED]
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Ms. Rabiātu Akinlolu, Complaint Investigator, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE