

March 14, 2024

AMENDED ON MARCH 20, 2024

Ms. Lynette Hinton
5424 Addison Road
Fairmont Heights, Maryland 20742

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

RE: Micah Hinton
Reference: #24-109

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 December 27, 2023, MSDE received a complaint from Ms. Lynette Hinton, 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 follow proper procedures when responding to a request for an Individualized Education Program (IEP) team meeting since December 2022, in accordance with 34 CFR §300.322.
2. The PGCPS has not ensured that the student has been consistently provided with counseling related services required by the IEP since December 2022, in accordance with 34 CFR §§300.101 and .323.
3. The PGCPS has not ensured that the student's progress towards achievement of the annual goals was measured as described in the IEP, since December 2022, in accordance with 34 CFR §§300.101 and .324.¹
4. The PGCPS has not ensured that an IDEA evaluation was completed in May 2023, in accordance with 34 CFR §§300.101 and .111 and COMAR 13A.05.01.04 - 06.
5. The PGCPS did not provide the parent with a copy of the IEP document within five (5) business days after the IEP team meetings since February 2023, in accordance with Md. Code, Ann., Educ. §8-405(d) and COMAR 13A.05.01.07.

¹ The complainant informed the Investigator that she has not received IEP progress reports since December 2022.

6. The PGCPSS did not provide prior written notice of the IEP team's decisions from the IEP team meeting held on May 30, 2023, in accordance with 34 CFR §300.503.²
7. The PGCPSS did not ensure the opportunity for parent participation when revising the IEP on December 12, 2023, in accordance with 34 CFR §300.322.

BACKGROUND

The student is 15 years old and attends Largo High School. He is currently 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.

Allegation #1: Response to request for IEP team meeting

FINDINGS OF FACTS:

1. The IEP in effect in December 2022 reflects an annual review meeting that occurred on February 23, 2022.
2. On December 6, 2022, the complainant emailed staff at Largo High School requesting an "IEP goal meeting" and a review of "graduation requirements."
3. There is documentation of parent participation in an IEP team meeting on December 20, 2022.
4. The prior written notice (PWN) developed on December 20, 2022, reflects that the IEP team met for the purpose of "progress updates". The PWN reflects this was a parent requested meeting in order to check in with the student's teachers. The PWN also reflects:
 - a. The team reviewed the student's transition from middle to high school and shared that the student was on honor roll for the first quarter;
 - b. The team shared that the student's goals and objectives will be discussed during the annual review meeting in February 2023;
 - c. The team proposed and agreed that the student will continue to be placed in his academic setting;
 - d. Progress will be tracked;
 - e. The team believes that the student continues to benefit from the support provided in the current classroom setting; and
 - f. The team reviewed grade reports, current IEP work samples, and anecdotal notes.
5. On January 18, 2023, the complaint emailed PGCPSS and asked when the student's IEP review meeting would be scheduled.
6. There is documentation of an IEP annual review meeting held on February 8, 2023.
7. There is documentation of an IEP team meeting on May 30, 2023. The PWN developed as result of the meeting on May 30, 2023, reflects that the student did not require additional testing to update

² After reviewing her correspondence with PGCPSS, the complainant informed the Investigator that documents were not provided following the February 2023 and May 30, 2023, IEP team meetings.

the student’s “Present Levels of Performance in the areas on academic skills Social-Emotional/Behavior, Social Interactions, and self-management and cognitive/intellectual functioning in order to inform a decision as to his continued eligibility to receive special education services and supports as a student with a primary disability classification of Autism. [student] continues to qualify for the provision and receipt of special education services and supports as a student with a primary disability classification of Autism. Also, it was determined that no additional data are needed to inform educational (including transitional) planning and decision-making for [student] at this point in time.”

8. On December 12, 2023, the IEP team met for the purpose of addressing parental concerns. The PWN from that meeting was developed on December 14, 2023, and reflects:
 - a. The IEP team proposed and agreed to amend the counseling services from inside the general education classroom to outside the general education classroom;
 - b. Agreed to the decision on May 30, 2023, that the student did not require additional testing; and
 - c. The parent requested copies of the following: the active IEP, paperwork from the meeting on May 30, 2023, and the parent sent notification to request additional testing on December 14, 2023.
9. On December 12, 2023, PGCPs emailed the following documents to the parent: Parent’s Guide to Habilitative Services, Maryland Procedural Safeguards, IEP, PWN from the meeting in May 2023, and Maryland Career Clusters Booklet.
10. On December 22, 2023, PGCPs emailed the following documents to the complainant following the IEP team meeting on December 12, 2023: the amended IEP, PWN, and a copy of IEP in effect prior to the December 12, 2023, amendment.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Fact #1 through #10, MSDE finds that the PGCPs followed proper procedures when responding to a request for an IEP team meeting since December 2022, in accordance with 34 CFR §§300.322. Therefore, this office finds that a violation did not occur with respect to his allegation.

Allegation #2: Provision of counseling as a related service since December 2022

FINDINGS OF FACTS:

11. The IEP in effect in December 2022, reflects that the student required one thirty-minute session of counseling per week, inside the general education classroom. The service was to be provided by the School Counselor, Psychologist, or Guidance Counselor.
12. On December 14, 2023, the IEP was amended to reflect the student will receive one thirty-minute session of counseling service per week outside of the general education setting.
13. The PGCPs acknowledges the student did not receive counseling as a related service as required by the IEP.

sharing his/her own opinion using an i-statement (e.g. Student says "I disagree when you said..."), provided with no more than (2) nonverbal cueing prompts (e.g. Teacher uses a hand signal to wait for the other student to finish speaking), without demonstrating negative language or actions towards his peer (e.g. using negative personal statements or profane language, pushing a peer), in (3 of 4) peer-disagreement role-playing opportunities."

18. The Social Interaction Skills goal reflects "By 02/22/2023, when role-playing a disagreement with another student at school, [student] will demonstrate attentive listening (e.g. make eye contact, sitting up, turning his body towards the other student) while his/her peer shares their feelings regarding the situation, and then verbally express his own feelings using I-messages (e.g. "I think..". "I feel..."), while refraining from negative behaviors (e.g. yelling, making inappropriate comments, making noises, leaving the room) for (3 out of 3) peer role-played disagreements." The method of measurement is observation record with 3 out of 3 trials.
 - a. The progress report developed on January 31, 2023 reflects, [Student] is making sufficient progress towards demonstrating attentive listening (e.g. making eye contact, sitting up, turning his/her body towards the other student) while his peer shares their feelings regarding the situation, and then verbally express his own feelings using I-messages (e.g. "I think..". "I feel...") in a pre-written script while refraining from negative behaviors (e.g. yelling, making inappropriate comments, making noises, leaving the room) for (2 out of 3) peer role-played disagreements.
19. There is no documentation that progress report was provided to the complainant during the second quarter of the 2022-2023 school year.
20. The IEP developed on February 8, 2023, reflects progress reports towards achieving annual IEP goals will be issued quarterly.
21. The Written Language Content goals reflects "by February 7, 2024, given a grade level text and the prompts that requires the writer to take a position, student will write a (250 -word) essay, including one specific claim that properly addresses the prompt; (3) valid citations of textual evidence that supports the claim and analysis of each; and (1) reference and response to a logical counter argument, for (2 out of 3) topics or texts with 80% accuracy in (3 of 5) texts, as measured by teacher observation, student work samples and classroom based assessments." The method of measurement is classroom-based assessment: RELA teacher created assignments with 3 out of 5 trials.
 - a. The progress report developed on April 13, 2023 reflects "given a grade-level text and the prompts that requires the writer to take a position and a writing checklist, [student] is making sufficient progress in writing a (250-word) essay, including one specific claim that properly addresses the prompt; (3) valid citations of textual evidence that supports the claim and analysis of each; and (1) reference and response to a logical counter argument, for (2 out of 3) topics or texts with 83% accuracy in (3 of 5) texts, as measured by teacher observation, student work samples and classroom based assessments."
 - b. The progress report developed on June 1, 2023, reads: "Given a grade-level text and the prompts that requires the writer to take a position and a writing checklist, [student] is making sufficient progress in writing a (250-word) essay, including one specific claim that properly addresses the prompt; (3) valid citations of textual evidence that supports the claim and analysis of each; and (1) reference and response to a logical counter argument, for (2 out of 3) topics or

- texts with 79% accuracy in (3 of 5) texts, as measured by teacher observation, student work samples and classroom based assessments.”
- c. The progress report developed on November 21, 2023, reads: “[Student] is still working towards responding correctly to an inferential question about the text (e.g., “What is one characteristic of Lennie in *Of Mice and Men*?”) and will point to or explain the evidence to support his/her answer for (2 out of 3) topics or text, as measured by teacher observation with 80% accuracy in (3 of 5) texts, as measured by teacher observation, student work examples, and classroom-based assessments.”
22. The self-management goal reflects “By February 7, 2024, when verbally responding to an opposing opinion expressed by a peer during conversation on a nonacademic topic (e.g. sports, personal lives, hobbies/interests), students will exhibit (3) non-confrontational communication skills: remaining seated, waiting for the speaker to complete their thought before responding and expressing disagreement by sharing his/her own opinion without using negative personal statements or profane language (e.g. “I disagree with you because _____”) in (5 of 5) opportunities.” The method of measurement is observation record with 5 out of 5 trials.
- a. The progress report developed on April 13, 2023, reflects “When verbally responding to an opposing opinion expressed by a peer during conversation on a non- academic topic (e.g. sports, personal lives, hobbies/interests), with no more than (2) nonverbal cueing prompts (e.g. hand signals, eye contact) given by the teacher, [student] is making sufficient progress in exhibiting (3) non-confrontational communication skills: remaining seated, avoiding interrupting the speaker and using appropriate language (e.g. avoiding negative statements and profane language) in (4 out of 5) opportunities.”
- b. The progress report developed on June 01, 2023, reflects “when verbally responding to an opposing opinion expressed by a peer during conversation on a non- academic topic (e.g. sports, personal lives, hobbies/interests), with no more than (2) nonverbal cueing prompts (e.g. hand signals, eye contact) given by the teacher, [student] is making sufficient progress in exhibiting (3) non-confrontational communication skills: remaining seated, avoiding interrupting the speaker and using appropriate language (e.g. avoiding negative statements and profane language) in (4 out of 5) opportunities.”
- c. There is no documentation that a report on progress was developed for this goal during the first quarter of the 2023-2024 school year.
23. The social interaction skill goal reflects “by February 7 2024, when joining a peers conversation on a nonacademic topic (e.g. sports, personal lives, hobbies interest), [student] will engage in the conversation for at least (5) minutes by asking at least (1) on topic question (e.g. “how do you feel about . . .”) and at least (1) on topic comments (e.g. “that is interesting”) during the course of the conversation in (5 of 5) opportunities.” The method of measurement is observation record with 5 out of 5 trials.
- a. The progress report developed on April 13, 2023, reflects, “after pre teaching examples of on topic questions and comments, when joining a peer’s conversation on a non-academic topic (e.g. sports, personal lives, hobbies interest), student is making sufficient progress in engaging in the conversation for at least (5) minutes by asking at least (1) on topic question (e.g. “how do you feel about . . .”) and at least (1) on topic comments (e.g. “that is interesting”) during the course of the conversation in (4 of 5) opportunities.”

- b. The progress report developed on June 1, 2023, reflects, “after pre teaching examples of on topic questions and comments, when joining a pairs conversation on a non-academic topic (e.g. sports, personal lives, hobbies interest), student is making sufficient progress in engaging in the conversation for at least (5) minutes by asking at least (1) on topic question (e.g. “how do you feel about . . .”) and at least (1) on topic comments (e.g. “that is interesting”) during the course of the conversation in (4 of 5) opportunities.”
 - c. The progress report developed on November 21, 2023, reflects, “[student] is working towards participation in a teacher-directed, peer-to-peer conversation for at least (3) minutes by asking at least (1) on topic question (from script or original, e.g., “that is interesting”) during the course of the conversation in (4 of 5) opportunities.”
24. There is no documentation that progress reports were provided to the complainant during the third quarter of the 2022-2023 school year.
25. There is no documentation that progress reports were provided to the complainant during the fourth quarter of the 2022-2023 school year.
26. There is no documentation that progress reports were provided to the complainant during the first quarter of the 2023-2024 school year.

DISCUSSION/CONCLUSION:

The IEP must include a description of how the child’s progress toward meeting the annual goals will be measured, and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided. 34 CFR § 300.320.

Based on the Findings of Fact, #16 through #18, MSDE finds that the PGCPs has ensured that the student’s progress towards achievement of the annual goals was measured as described in the IEP, on January 31, 2023, in accordance with 34 CFR §§300.101 and .324. Therefore, a violation did not occur with respect to this aspect of the allegation.

Based on the Findings of Fact #15 and #19, MSDE finds that the PGCPs did not ensure that the IEP progress report, developed on January 31, 2023, was provided to the complainant as required by the IEP. Therefore, MSDE finds a violation did occur with respect to this aspect of the allegation.

Based on the Findings of Fact, #20, #21, #22(a), #22(b), and #23, MSDE finds that the PGCPs has ensured that the student’s progress towards achievement of the annual goals was measured (with the exception stated below), as described in the IEP, on April 30, 2023, June 1, 2023, and November 21, 2023, in accordance with 34 CFR §§300.101 and .324. Therefore, MSDE finds a violation did not occur with respect to this aspect of the allegation.

Based on the Findings of Fact #22(c), MSDE finds that the PGCPs has not ensured that the student’s progress towards obtaining mastery of annual self-management goal was measured in the manner required by the IEP on November 21, 2023, in accordance with 34 CFR §§300.320 and .323. Therefore, MSDE finds a violation did occur with respect to this aspect of the allegation.

Based on the Findings of Fact #24, #25, and #26, MSDE finds that the PGCPs did not ensure that the IEP progress reports developed on April 30, 2023, June 1, 2023, and November 21, 2023, were provided to the complainant as required by the IEP. Therefore, MSDE finds a violation did occur with respect to this aspect of the allegation.

Notwithstanding, the IEP team met on December 12, 2023, for the purpose of reviewing the student's progress. There is documentation that the student's progress during these quarters was discussed. Therefore, no additional corrective action is needed to address the provision of progress reports during the first quarter of the 2023-2024 school year.

Allegation #4: Completion of IDEA evaluation completion in May 2023

FINDINGS OF FACTS:

27. The PWN developed on May 30, 2023, states the IEP team met for the purpose of discussing if the student continues to require special education services. The PWN reflects the IEP team proposed and agreed that the student continues to meet eligibility requirements and will receive services and support as a student with a disability of Autism. The IEP team determined that no additional data was required to make this decision.

DISCUSSION/CONCLUSION:

As part of an initial evaluation (if appropriate) and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate, must review existing evaluation data on the child, including evaluations and information provided by the parents of the child; current classroom-based, local, or State assessments, and classroom-based observations; and observations by teachers and related services providers. The IEP team on the basis of that review, and input from the child's parents, must identify what additional data, if any, are needed to determine whether the child is a child with a disability, as defined in 34 CFR § 300.8, and the educational needs of the child. 34 CFR §300.305.

Based on the Findings of Fact #27, MSDE finds that the PGCPs has ensured that an IDEA re-evaluation was completed in May 2023, in accordance with 34 CFR §§300.101 and .111 and COMAR 13A.05.01.04 - .06. The IEP team proposed and agreed that additional assessments were not needed in order to determine if the student continues to require special education instruction and services. Therefore, MSDE finds that a violation did not occur with respect to this allegation.

Allegations #5 and #6: Provision of IEP documents and PWN following IEP team meetings since February 2023

FINDINGS OF FACTS:

28. The PWN developed on February 8, 2023, reflects the IEP team met for the purpose of holding the student's annual review meeting. There is no documentation that the complainant was provided with the PWN following the IEP team meeting in February 2023.
29. There is no documentation that the complainant was provided with the IEP five days after the IEP team meeting on February 8, 2023.

30. The PWN developed on May 30, 2023, reflects the IEP team met for the purpose of holding the student re-evaluation determination meeting. There is no documentation that the complainant was provided with the PWN following the meeting on May 30, 2023, in a timely manner.

DISCUSSION/CONCLUSION:

Based on the Findings of Fact #28 and #29, MSDE finds that the PGCPs did not provide the complainant with the IEP and the PWN within the required time frame following a meeting in February 2023. Therefore, MSDE finds a violation occurred with this aspect of the violation.

Notwithstanding, based on the Findings of Fact #8 and #9, MSDE finds that the PGCPs has provided the complainant with the IEP developed on February 8, 2023. Therefore, no student specific corrective action is required.

Based on the Findings of Fact #22, MSDE finds that the PGCPs did not provide timely PWNs following the IEP team meeting on May 30, 2023. Therefore, MSDE finds a violation occurred with respect to this aspect of the allegation.

Notwithstanding, based on the Findings of Fact #8 and #9, on December 12, 2023, PGCPs provided the complainant with the PWN developed on May 30, 2023. The meeting on May 30, 2023, did not result in programming changes to the IEP. The IEP was amended to reflect the new re-evaluation date. Therefore, no student specific corrective action is required.

Allegation #7: Parent participation in IEP team meeting on December 12, 2023

FINDINGS OF FACTS:

31. There is documentation that the parent participated in an IEP team meeting on December 12, 2023.
32. On December 22, 2023, PGCPs emailed the amended IEP and the PWN that was developed as a result of an IEP team meeting on December 12, 2023. The email also reflects, the PGCPs received the complainant's written request for testing.
33. On December 22, 2023, the complainant informed PGCPs that she would like to receive copies of the documents by mail.

DISCUSSION/CONCLUSION:

Based on the Findings of Facts #31 through #33, MSDE finds that the PGCPs has ensured the opportunity for parent participation when revising the Individualized Education Program (IEP) on December 12, 2023, in accordance with 34 CFR §300.322. Therefore, this office finds that a violation did not occur with respect to this 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.³ 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 Branch, MSDE, to ensure the effective implementation of the action.⁴ Ms. Barmat can be reached at (410) 767-7770 or by email at alison.barmat@maryland.gov.

Student-Based

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

- a. provide the complainant with the PWN developed on February 8, 2023;
- b. provide the complainant with report of progress from December 2022 through June 2023; and
- c. convene an IEP team meeting for the purpose of determining the impact of the violations. The IEP team must discuss whether the violations related to not providing the complaint with the PWN developed on February 8, 2023, and the provision of progress reports, from December 2022 through June 2023, 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.

PGPCS must ensure that the parents are provided with prior 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 PGPCS to provide documentation by June 1, 2024, of the steps taken to ensure that the IEP team has taken the following actions:

- a. Provided professional development to the staff at Largo High School addressing the violations found in this complaint. Specifically, the provision of PWN and progress reports to parents, ensuring the progress reporting is aligned with the requirements of the goals, completion of progress reporting, sending documentation to be considered at IEP team meetings to families 5 days in advance of the meeting and 5 days following the meeting.

³ 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, the 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.

⁴ MSDE will notify the public Agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

- b. Provide MSDE with monitoring reports including documentation from 15 randomly selected students reflecting that parents were provided with quarterly progress reports, PWN following IEP team meetings, documents 5 days prior to IEP team meetings, and 5 days following IEP team meetings, and that quarterly progress reports are aligned with the student's goals. Monitoring reports should be sent to MSDE by June 31, 2024, December 1, 2024, and March 31, 2025.

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: Millard House II, Superintendent, PGCPS
Lois Jones Smith, Compliance Liaison, PGCPS
Keith Marston, Compliance Coordinator, PGCPS
Darnell Henderson, General Counsel, PGCPS
William Fields, Associate General Counsel, PGCPS
Albert Lewis, Principal, Largo High School
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Rabiatu Akinlolu, Complaint Investigator, MSDE
Dr. Paige Bradford, Section Chief, Programmatic Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE