


March 5, 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: #24-119

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 20, 2023, MSDE received a complaint from , 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 destroying certain documents from the student's files, including the student logs and behavioral data, at the conclusion of July 2023, without parental request or notice, in accordance with 34 CFR §300.624(a).
2. The PGCPS did not follow proper procedures when destroying certain documents from the student's files, including the student logs and behavioral data, at the conclusion of July 2023, when the documents in question included components of outstanding requests for access to the student's files that had not yet been complied with, in accordance with 34 CFR §99.10(e).

BACKGROUND:

The student is 18 years old, is identified as a student with Autism under the IDEA and has an IEP that requires the provision of special education and related services. The student is placed by the PGCPS at , a nonpublic, separate, special education school.

FINDINGS OF FACT:

1. The student's May 18, 2022, IEP requires the implementation of a Home-School Communication System. Clarification of the manner in which it will be implemented states, "school staff will provide school to home communication via [the student's] communication book which is provided daily and are available via email for parent questions or concerns. Additionally, behavior data is collected daily and sent weekly."
2. The student's May 10, 2023, IEP requires that there be a Home School Communication System. The clarification of the communication states, "School staff will provide school to home communication via [the student's] communication book which is provided daily and are available via email for parent questions or concerns."
3. The student's daily communication log includes the following information: special activities, what the student worked on, what he did well on, behavior data including aggression, elopement, and inappropriate fecal behavior.
4. In addition, the PGCPs summarizes the behavior data from the student's behavior intervention plan (BIP) addressing disruption and physical aggression into a form titled "Daily Behavior Totals".
5. On May 4, 2023, the complainant wrote to the student's school requesting information regarding the student's behavior data and mental health consultations.
6. On May 9, 2023, the complainant requested information from the student's school regarding fecal behavior data contained in the student's daily log. The complainant requested whether there were reports used to create the log and requested copies and access to any reports.
7. On July 11, 2023, the complainant emailed the student's school requesting information about fecal behavior data contained in the student's daily log. The complainant requested whether there were reports used to create the log and requested copies and access to any reports.
8. On July 24, 2023, the student's mother emailed the student's school acknowledging receipt of data, stating she had not reviewed it all yet, but questioning discrepancies regarding fecal behavior data during the month of June 2023, and asking why it was not the same as was received in the daily logs.
9. On December 22, 2023, the student's mother received the following email from the student's school: "This email is in response to your inquiry dated July 24, 2023. As of the conclusion of July, we no longer possess his daily log sheets since they are not retained beyond the conclusion of the year."

DISCUSSION/CONCLUSIONS:

The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child. 34 CFR §300.624.

The educational agency shall not destroy any education records if there is an outstanding request to inspect 34 CFR §99.10(e).

Based on Finding of Fact #1 through #9, MSDE finds that the PGCPs did not follow proper procedures when destroying certain documents from the student's files, including the student logs and behavioral data, at the conclusion of July 2023, without parental request or notice, in accordance with 34 CFR §300.624(a). Therefore, this office finds a violation with respect to this allegation.

Based on Finding of Fact #9, MSDE finds that the PGCPs did not respond to the complainant's request for information and potential access to student records (if there were any) on a timely basis before being informed that they were destroyed. Accordingly, the PGCPs did not follow proper procedures when destroying certain documents from the student's files, including the student logs and behavioral data, at the conclusion of July 2023, when the documents in question included components of outstanding requests for access to the student's files that had not yet been complied with, in accordance with 34 CFR §99.10(e) and 34 CFR §300.613, by failing to respond to the complainant's request in a timely manner prior to the destruction of records that may have been responsive to his request. Therefore, this office finds a violation with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner. 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. Sarah Denney, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action. Ms. Denney can be reached at (410) 767-7770 or by email at sarah.denney@maryland.gov.

Student-Specific

The PGCPs must ensure that the student's personally identifiable information is maintained for the 2023-2024 school year, that the student's parents are informed if and when personally identifiable information will be destroyed, that student's parents' requests for access to student's records are responded to within the required timelines and no documents are destroyed if they are part of a request for access to records. The PGCPs must also convene an IEP team meeting by May 1, 2024, to determine whether the failure to provide the complainant with the requested records deprived the student of a Free Appropriate Public Education (FAPE) and determine an appropriate remedy if the team determines there was a loss of FAPE as a result of the violations.

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

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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 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 Hickman, Ed.D.

Assistant State Superintendent

Division of Early Intervention and Special Education Services

ALH/abb

c: Millard House, II, Superintendent, PGCP
Keith Marston, Supervisor Special Education Compliance, PGCP
Lois Smith Jones, Liaison, Special Education Compliance, PGCP
Darnell Henderson, Deputy General Counsel, PGCP
William Fields, Assistant General Counsel, PGCP
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicol Elliott, Section Chief, Policy and Accountability, MSDE
Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Sarah Denney, Complaint Investigator, MSDE