


April 26, 2024



Ms. Trinell Bowman
Associate Superintendent for Special Education
Prince George's County Public Schools
John Carroll Center
1400 Nalley Terrace
Landover, Maryland 20785


Mr. John A. Serrano
Superintendent
Maryland School for the Deaf
101 Clarke Place
Frederick, Maryland 21705

RE: 
Reference: #24-152

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), 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 February 26, 2024, MSDE received a complaint from Ms. , hereafter, "the complainant," on behalf of her son. In that correspondence, the complainant alleged that the Prince George's County Public Schools (PGCPS) and Maryland School for the Deaf 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 has not ensured that the student has been provided with the transportation services required by his Individualized Education Program (IEP) since August 2023, in accordance with 34 CFR §§300.101 and 323.
2. The PGCPS has not ensured that the IEP team addressed the parent's concerns since December 2023, in accordance with 34 CFR §300.324.

3. The PGCPs has not ensured that the student has been provided with the special education instruction and related services required by the IEP since December 2023, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is 11 years old and is identified as a student with Multiple Disabilities (Deaf and Other Health Impairment) under the IDEA. He attends The Maryland School for the Deaf (MSD), [REDACTED], and has an IEP that requires the provision of special education instruction and related services. Transportation for the student is provided by PGCPs.

ALLEGATION #1: PROVISION OF TRANSPORTATION

FINDINGS OF FACTS:

1. The IEP in effect in August 2023 was developed on July 28, 2023. The IEP requires transportation as a related service from July 28, 2023, through December 18, 2023. The student's current IEP is dated December 1, 2023. The IEP requires transportation as a related service from December 1, 2023, through November 30, 2024.
2. On December 1, 2023, the MSD IEP team convened to review and revise the student's IEP, and to determine the need for Extended School Year (ESY) services. The Prior Written Notice (PWN) generated after that meeting reflects that the IEP requires four, three-hour sessions of special education instruction outside of general education weekly, 30 minutes per week of speech/language therapy, and a weekly American Sign Language (ASL) teacher/specialist consult to work on his speech and language goals and ensure student engagement. The MSD staff proposed the following changes to the student's supplementary aids and services:
 - Speech-Language Pathologist (SLP) consults were removed, and
 - ASL consults were added to allow for collaborative teaching between the ASL teacher and the SLP.

The PWN reflects that the IEP team considered providing an SLP who is a native ASL speaker. This option was rejected by the MSD because the student's speech and language services were being met with the current non-native ASL speaker, and the current SLP's communication skills were sufficient. The complainant requested that the school incorporate a bilingual grammar curriculum to enhance the student's learning and acquisition of English writing and reading. The complainant also requested that the SLP's language and communication be supplemented with a native ASL speaker during services by establishing a co-teaching plan. This would occur either by having the ASL teacher in the elementary school, or the ASL specialist who serves all grade levels join with the SLP during required sessions. The MSD staff stated that it will incorporate bilingual grammar into the current writing goals to support the student's growth.

2. On December 10, 2023, the complainant emailed the MSD staff and the PGCPs Transportation Department requesting a closer bus stop to be provided for her son on half-days of school, and to receive contact numbers for the morning bus driver and bus aide to improve communication on days when the student will be absent or pick-up times will vary.

3. On December 11, 2023, MSD staff responded to the complainant's email offering assistance to the complainant while she waited to hear back from PGCPs.
4. On December 11, 2023, the complainant emailed the MSD staff and shared that the student was prevented from eating snacks on the bus and expressed that she wanted him to be given an accommodation on his IEP to do so.
5. On December 13, 2023, the PGCPs Transportation Department staff responded to the complainant stating that PGCPs Department of Transportation policies and procedures allow parents one morning pickup location and one afternoon drop off location for school buses. The email provided:
 - Instructions for alternate location pick up and drop off changes;
 - Instructions for sporadic requests;
 - The time frame for half-day afternoon drop-offs;
 - The policy regarding PGCPs employees not sharing personal numbers with families and not using telephones except in the case of an emergency;
 - The number for the Transportation Phone Bank and the email addresses for the morning bus foreman and assistant foreman and instructions on how to report a late bus or student absence; and
 - The PGCPs policy regarding the consumption of food or drinks on the bus; specifically, "If [the child] has a medical need that should be considered by the IEP team for impact due to the time/distance, you may submit the documentation to the school and they will facilitate an IEP team meeting to discuss solutions and invite the school nurse and a representative from PGCPs transportation."
6. On December 21, 2023, the complainant emailed the PGCPs Transportation Department and MSD staff and acknowledged receipt of the PGCPs Transportation Department's December 13, 2024, email. In her email, she confirmed the pickup location for her son on every half-day and full day of school "until further notice." She also stated that she would provide the documentation to show that the student needs food and drink on the bus as soon as possible. The complainant also stated she would like to discuss how to improve the communication process between deaf families and the school and requested that text messaging be used as a better means of communication.
7. On December 21, 2023, the PGCPs Transportation Department staff emailed the complainant sharing that MSD staff could determine what type of communication would be sufficient to make transportation changes on half days and any other changes outside of the regular week bus schedule. The email reflects that MSD would be responsible for ensuring the afternoon bus driver knew where the student would be dropped off on half days. The email also said that the PGCPs Transportation Department staff looked forward to any documentation regarding the student's food or drink needs while riding the bus, and again suggested that the student be provided a snack before boarding the bus. The email reflects that the complainant's communication concerns would be shared with the PGCPs transportation leadership team for follow-up.
8. On February 21, 2024, the complainant emailed MSD staff and requested a meeting regarding the student's vocabulary acquisition activities and assessments.

9. On March 8, 2024, the IEP team convened to review and revise the student's IEP and to consider evaluation/reevaluation assessments. The PWN reflects that the IEP team re-discussed the complainant's December 1, 2023, proposal to add ASL services to the student's IEP by combining the services provided by an ASL provider and the current SLP. The complainant expressed her concerns that the student needed ASL services to work with the SLP because the SLP's first language is English and not ASL, and sometimes the student refuses to attend speech or does not retain the information. The MSD IEP team rejected the proposal due to the lack of supporting data. The MSD team also shared concerns about the student's vocabulary acquisition. The PWN reflects that the IEP team proposed, and accepted, that the ASL specialist complete an updated ASL assessment and review information from an independent educational evaluation, conduct a vocabulary assessment and a private ASL assessment. The IEP team agreed to reconvene to review the new data to determine if ASL services were warranted.
10. There is documentation that the student did not receive speech and language services on October 17, 2023; February 12, 2024; March 11, 2024; and April 15, 2024.
11. While there is some documentation that the student was provided ASL services, it does not demonstrate that the student was consistently provided ASL services as required by the IEP.
12. On March 6, 2024, the complainant emailed MSD and the PGCPs Transportation Department staff sharing that since the fall of 2023, she expressed concerns about transportation difficulties, but the requests were denied. The denials have caused "significant logistical challenges" to the family. The complainant provided the requested pick-up location for the student for the week, and this pickup location should be included as part of the student's Monday-Thursday route.
13. On March 6, 2024, the PGCPs Transportation Department staff emailed the complainant. The email reflects the student's bus only went to one location on Fridays. Additionally, since the complainant was unable to pick the student up from the designated location, arrangements should be made to pick the student up from the school to ensure his safety.
14. The complainant requested that the student ride the bus and arrangements should be made to pick him up from the Friday bus drop-off location.
15. On March 8, 2024, the IEP team at MSD including the PGCPs transportation and special education leadership convened to review and revise the student's IEP, and to consider evaluation/reevaluation assessments. The PWN generated after the meeting reflects that the PGCPs transportation team reiterated its policies and procedures regarding bus no-shows, and morning and afternoon pickup, and provided contact information for PGCPs' transportation leadership. The PGCPs transportation team addressed the complainant's concerns regarding late arrivals and indicated that "...the bus [had] not met the criteria for late arrivals [because] there [had] only been three times [to date] the bus was recorded as [being] officially late for SY24. PGCPs late arrival criteria for consideration of educational impact is beyond 15 minutes from the school's instructional start time, for over 10 times per quarter." The food and drink policy was discussed, and it was reiterated that if there is a medical need, documentation should be provided for review by the IEP team, the school nurse, and PGCPs transportation. The complainant disagreed with these suggestions.

There is documentation that the student's bus was late on four occasions between August 2023 and April 2024. On one of those days, September 11, 2023, the bus arrived to school 43 minutes late, well beyond the 15 minute threshold established by PGCPs Transportation Department policy.

16. There is no documentation that the complainant has provided the MSD IEP team with medical documentation of the student's need to eat and drink on the school bus during transportation.
17. There is documentation that the student received special education instruction as required by the IEP since December 2023.

CONCLUSIONS:

ALLEGATION #1: PROVISION OF TRANSPORTATION SERVICES

The IEP team documented that the student was late to school four times due to delays in transportation provided by PGCPs. The IEP team relied on PGCPs policy that states only late arrivals beyond 15 minutes from the start of instructional time for over 10 times per quarter will be considered for educational impact. However, this approach fails to consider the individualized needs of the student and whether the late arrivals impacted the ability of the student to access a free appropriate public education (FAPE).

Based on the Findings of Facts #1 and #16, MSDE finds the PGCPs has not ensured that the student has been provided with the transportation services required by his Individualized Education Program (IEP) since August 2023, in accordance with 34 CFR §§300.101 and 323. Therefore, this office finds that violation occurred concerning the allegation.

ALLEGATION #2 : ADDRESSING PARENT CONCERNS

Based on the Findings of Fact #2 to #10, and #13 to #20 MSDE finds that the MSD and the PGCPs have ensured that the IEP team addressed the parent's concerns since December 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did not occur concerning the allegation.

ALLEGATION #3: PROVISION OF SPECIAL EDUCATION INSTRUCTION AND RELATED SERVICES

Special Education Instruction

Based on the Findings of Fact #2 and #19, MSDE finds that the MSD has ensured that the student has been provided with the special education instruction required by the IEP since December 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur concerning the allegation.

Related Services

Based on the Findings of Fact #2, #3, #11, and #12, MSDE finds that the MSD has not ensured that the student has been provided with the related services required by the IEP since December 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did occur concerning 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. 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.¹ 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. Ms. Barmat can be reached at (410) 767-7770 or by email at alison.barmat@maryland.gov.

Student-Specific

MSDE requires the MSD and the PGCPs to provide documentation of the following actions by August 1, 2024:

- Provide the student with speech and language services and ASL services as required by the IEP;
- Convene an IEP team meeting to determine the amount and nature of compensatory services or other remedy to redress (1) the failure to provide speech and language services and ASL services and (2) to determine the educational impact of the late bus arrivals on the provision of FAPE to the student; and
- Develop a plan for the provision of those services within one year of the date of this Letter of Findings.

The MSD and the PGCPs must ensure that the parent is provided with prior written notice of the team's decisions. The parent maintains 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 MSD to provide documentation of the steps it has taken to ensure that the staff at the Maryland School for the Deaf properly executes the requirements for the implementation of related

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

[REDACTED]
Ms. Trinell Bowman
Mr. John Serrano
April 26, 2024
Page 7

services. The steps must include staff development, as well as tools developed to monitor compliance. Monitoring must include a review of at least 10 randomly selected student records to review for the provision of related services. The monitoring report must be submitted to MSDE on or before October 1, 2024. Full compliance is required. If the monitoring sample does not reflect 100% compliance, an additional sample will be required with a report due on November 1, 2024. Additional samples will be required monthly until 100% compliance is reached.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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/ebh

c: Millard House II, Chief Executive Officer, PGPCS
Keith Marston, Compliance Instructional Supervisor, PGPCS
Darnell Henderson, Deputy General Counsel, PGPCS
William Fields, Associate General Counsel, PGPCS
[REDACTED], Principal, [REDACTED], MSD
Charlene Ward-Marr, Director, Student Support Services, MSD
Dr. Latasha Bacote-Owens, Director of Compliance, MSD
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE