

May 10, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Case: 24-168

Dear Parties:

Maryland State Department of Education (MSDE), Division of Early Intervention and 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 March 12, 2024, MSDE received a complaint from Ms. [REDACTED], 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 has not ensured that the Individualized Education Program (IEP) addressed the student's identified behavioral and Occupational Therapy (OT) needs since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .324.
2. The PGCPS has not ensured that the student is being provided with the special education classroom instruction, accommodations, supplementary aids and services, required by the IEP since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323.
3. The PGCPS has not ensured that the complainant was provided with a report of the student's progress toward achieving the annual IEP goals since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .320.
4. The PGCPS has not ensured that the student's progress reported towards the achievement of the annual IEP academic goals has been consistent with the data since March 2023, in accordance with 34 CFR §§300.101 and .324.

5. The PGCPS did not follow proper procedures when disciplinarily removing the student from the classroom since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.530-.536 and COMAR 13A.08.01.11 and 13A.08.03.

BACKGROUND:

The student is seven years old and is identified as a student with Development Delay under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1 and #2: IEP ADDRESSES IDENTIFIED BEHAVIORAL AND OT NEEDS and PROVISION OF SPECIAL EDUCATION INSTRUCTION, ACCOMMODATIONS AND SUPPLEMENTARY AIDS AND SERVICES

FINDINGS OF FACT:

1. The IEP in effect at the beginning of the 2023-2024 school year, was developed on May 30, 2023. The IEP reflects the following areas affected by the student's disability: speech and language articulation, self-management, and social-emotional/behavioral. The IEP requires thirty minutes per week of classroom instruction inside the general education setting provided by the special education classroom teacher and instructional assistant. The IEP requires thirty minutes per week of classroom instruction outside of the general education setting. The IEP requires extended time (1.5X) as an instruction and assessment accommodation during instruction and assessments. The IEP reflects that the report of progress towards the achievement of the annual IEP goals will be provided to the parents quarterly. The IEP also requires the following Supplementary Aids, Services, Program and Supports:
 - Daily: frequent and/or immediate feedback, break down units into smaller units, whole class picture, advance preparation for schedule changes, frequent reminder of rules, use of positive/concrete reinforces, and preferential seating,
 - Weekly – social skills training, home-to-school communication system,
 - Other – as needed – use of flash or break pass, use of timer, calming/fidget choice box.
2. On May 30, 2023, the IEP team convened to discuss the student's behavioral and academic progress in the general education setting. The prior written notice (PWN) developed on June 6, 2023, reflects that the parents raised concerns regarding pencil grip and grasp of utensils at home. The IEP team shared that the student currently demonstrates age-appropriate pencil grasp. The IEP team proposed, and agreed to, a colleague consult for Occupational Therapy (OT) in September 2023; and discussed that "a Functional Behavioral Assessment (FBA) is beneficial to see if a behavior intervention is necessary." There is no documentation that the IEP team agreed to conduct an FBA at this time. The PWN further reflects that after the one-time OT colleague consult, the IEP team will reconvene to discuss strategies. The IEP team developed three goals to address the student's self-management needs. The IEP team proposed and agreed that the student requires thirty-minutes of specialized instruction in the general education setting to monitor behavior and a thirty-minute session outside of the general education setting to work on social skills each week.

3. On March 12, 2024, consent for the FBA was obtained.
4. On April 16, 2024, the one-time OT colleague consultation was completed. The OT consultation proposed strategies, but did not include a recommendation for additional testing or inclusion of services on the student's IEP.
5. There is no documentation that the following supplementary aids and services were provided: break down units into smaller units, systems of flash or break pass, or use of timer as required by the IEP since the beginning of the 2023-2024 school year.
6. There is documentation that the following supplementary aids and services were provided: frequent and/or immediate feedback, whole class picture, advance preparation for schedule changes, frequent reminder of rules, use of positive/concrete reinforcers, preferential seating, social skills training, calming/fidget choice box, and home-to-school communication, as required by the IEP since the beginning of the 2023-2024 school year.
7. There is documentation of the provision of special education instruction, as required by the IEP since the beginning of the 2023-2024 school year.
8. There is no documentation of the provision of the extended time accommodation as required by the IEP since the beginning of the 2023-2024 school year.

CONCLUSIONS:

IEP Addresses Identified Behavior

Based upon the Finding of Fact #1, MSDE finds PGCPs has ensured that the IEP addressed the student's identified behavioral needs since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that a violation did not occur concerning the allegation.

IEP Addresses Identified OT Needs

Based upon the Finding of Fact #1, MSDE finds the IEP did not require OT support via supplementary aids and services, or as a related service since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that a violation did not occur concerning the allegation.

Supplementary Aids and Services

Based upon the Findings of Facts #1 and #5, MSDE finds PGCPs has not ensured that the student is being provided with the following supplementary aids and services: break down units into smaller units, systems of flash or break pass, or use of timer, as required by the IEP, since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

Based upon the Findings of Fact #1 and #6, MSDE finds that the PGCPs has ensured that the student is being provided with the supplementary aids and services: frequent and or immediate feedback, whole class picture, advance preparation for schedule changes, frequent reminder of rules, use of positive/concrete reinforces, preferential seating, social skills training, calming/fidget choice box, and home-to-school communication, required by the IEP, since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

Specialized Instruction

Based upon the Findings of Fact #1 and #7, MSDE finds that the PGCPs has ensured that the student is being provided with the special education classroom instruction, required by the IEP, since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has not occurred concerning the allegation.

Accommodations

Based upon the Findings of Fact #1 and #8, MSDE finds that the PGCPs has not ensured that the student is being provided with the accommodations required by the IEP, since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3 and #4: PROVISION OF PROGRESS REPORTS, MEASUREMENT OF PROGRESS CONSISTENT WITH DATA

FINDINGS OF FACT:

9. There is no documentation to demonstrate that the reports on the student's progress towards achieving the annual speech and language articulation, self-management, and social-emotional/behavioral goals on March 31, 2023, contain data to support the conclusion that the student was making sufficient progress to achieve the goal within a year.
10. The report of progress developed on June 13, 2023, reflects the goals were new to the student and the goals were not yet introduced.
11. Reports on the student's progress towards achieving the annual speech and language articulation, self-management, and social-emotional/behavioral goals on November 2023, January 19, 2024, and March 8, 2024, contain data to support the conclusion that the student is making sufficient progress to achieve the goal within a year.
12. There is no documentation that the complainants were provided with a report of progress on November 2023, and January 19, 2024, as required by the IEP.
13. On March 8, 2024, the IEP team emailed a report of progress for the third quarter of the 2023-2024 school year to the complainant.

CONCLUSIONS:

Provision Of Progress Reports

Based upon the Findings of Fact #2 and #12, MSDE finds the PGCPs has not ensured that the complainant was provided with a report of the student's progress toward achieving the annual IEP goals as required by the IEP for the first and second quarters of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .320. Therefore, this office finds that a violation occurred concerning the allegation.

Based upon the Finding of Fact #13, MSDE finds that the PGCPs has ensured that the complainant was provided with a report of the student's progress toward achieving the annual IEP goals as required by the IEP for the third quarter of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .320. Therefore, this office finds that a violation did not occur concerning the allegation.

Data Consistent With The Report Of Progress

Based upon the Finding of Fact #9, MSDE finds the PGCPs did not ensure that the progress reported towards the achievement of the annual academic goals was consistent with the data reported in March 2023, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

Notwithstanding, based on the Finding of Fact #2, on May 30, 2023, MSDE finds that the PGCPs met to review and revise the IEP. The PGCPs discussed the student's progress both academically and behaviorally in general education. Therefore, no further student specific corrective action is required.

Based upon the Finding of Fact #11, MSDE finds the PGCPs has ensured that the progress reported towards the achievement of the annual academic goals has been consistent with the data since June 2023, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

ALLEGATION #5: PROPER PROCEDURES DISCIPLINARY REMOVALS

FINDING OF FACT

14. There is no documentation that the student has been disciplinarily removed from the educational setting since the beginning of the 2023-2024 school year.

CONCLUSION:

Based on the Findings of Fact #14, MSDE finds that the student has not been disciplinarily removed from school since the beginning of the 2023-2024 school year, in accordance with 34 CFR §300.530, COMAR 13A.08.02, and COMAR 13A.08.03. Therefore, this office finds that violation has not occurred 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.

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.² Ms. Barmat can be reached at (410) 767-7770 or by email at alison.barmat@maryland.gov.

Student Specific

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

- a. Provide and document that the student with supplementary aids and services and accommodations as required by the IEP;
- b. Provide the parents with the reports of progress from the first and second quarters of the 2023-2024 school year;
- c. Convene an IEP team meeting to determine if the violations identified in this Letter of Finding had a negative impact on the student's ability to benefit from the education program. If the IEP 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.

¹ 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.

² MSDE will notify the public Agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

School-based

MSDE requires the PGCPs to provide documentation by August 15, 2024, of the steps taken to ensure that the [REDACTED] School staff properly implements the requirements for the consistent implementation of accommodations, supplementary aids and supports, measuring and reporting quarterly progress, and sending progress reports to parents. These steps must include staff development, as well as tools developed to document IEP implementation and to monitor compliance. [REDACTED] School must monitor 5 randomly selected students for the implementation of IEP services and supplementary aids, services, program modifications and supports and accommodations, measuring and reporting quarterly progress, and sending progress reports to parents, over two reporting periods. The reports of the monitoring must be provided to MSDE by November 15, 2024, and January 15, 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
[REDACTED], Principal, [REDACTED]
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Tracy Givens, Section Chief, Dispute Resolution MSDE
Rabiatu Akinlolu, Complaint Investigator, MSDE