

May 17, 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]  
Reference: #24-174

Dear Parties:

The 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 18, 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 student has consistently been provided with special education instruction, speech-language services, and counseling services, as required by the Individualized Education Program (IEP) since March 2023, in accordance with 34 CFR §§300.101 and .323.
2. The PGCPS did not follow proper procedures in responding to a request for an evaluation in March 2023, in accordance with 34 CFR §§300.303 - .311 and .503.
3. The PGCPS has not ensured that the decisions regarding recovery services made since June 2023, were consistent with needs of the student, in accordance 34 CFR §300.324.

**BACKGROUND:**

The student is 18 years old and attends [REDACTED] School. She is currently identified as a student with autism under the IDEA and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATION #1: PROVISION OF SPECIAL EDUCATION INSTRUCTION AND RELATED SERVICES**

**FINDINGS OF FACT:**

1. The IEP in effect in March 2023, was developed on May 24, 2022. The IEP reflects the student's disability impacts math problem solving, speech-language pragmatics, written-language expression, psychological processing, and social emotional/behavioral. The IEP requires 40 hours per month of specialized instruction inside the general education classroom. The IEP further requires 30 minutes per week of speech-language services in the general education classroom. There is no documentation that the IEP requires counseling services.
2. There is no documentation that the student was provided with special education instruction and speech-language services from March 2023 to June 2023 as required by the IEP.
3. On June 9, 2023, the IEP team convened to review and revise the IEP as part of the annual review. The IEP reflects that the student requires three hours daily of special education instruction inside of the general education classroom, 15 hours monthly of special education instruction outside of the general education setting, and 30 minutes per week of counseling services outside of the general education setting. The IEP continues to require 30 minutes per week of speech- language services in the general education classroom. The IEP requires 16 hours per week of special education instruction inside of the general education setting for Extended School Year (ESY) services.
4. The student was not enrolled in ESY during the summer of 2023.
5. While there is some documentation that the student was provided with the special education instruction and counseling services as required by the IEP from August 29, 2023, through October 19, 2023, it does not demonstrate that it was consistently provided as required by the IEP.
6. There is documentation that the student was provided with speech-language services as required by the IEP from August 29, 2023, through October 17, 2023.
7. On October 20, 2023, the complainant emailed the PGCPs staff that the student would be absent "for some period of time" because "the student will be admitted to a residential program on Monday, October 23, 2023, at 10:00am." The complainant shared that an update regarding next steps would be provided.
8. On October 30, 2023, the PGCPs staff emailed the complainant inquiring if there was a doctor's note/admittance paperwork for attendance purposes. In her response, the complainant informed the PGCPs staff that she "will get paperwork back to [them] by tomorrow for the absences." The PGCPs staff also asked if the student was able to do some work or if the complainant would like to wait and address schoolwork when the student returns.
9. On November 9, 2023, the PGCPs staff emailed the complainant and inquired if she had "submitted any paperwork to properly excuse [student] from school?"
10. On November 20, 2023, the PGCPs central office staff emailed the complainant requesting to speak by phone. The purpose of the call was to discuss the speech-language compensatory services.

11. On December 6, 2023, the PGCPs school staff contacted the complainant by phone and informed her that the Home and Hospital Teaching (HHT) application was not received. The complainant shared that she was unsure if she wanted to start HHT services, inquired as to when compensatory services would begin, and expressed concern regarding a letter she received that referenced the student's attendance. The PGCPs school staff also left a voice message for the parent sharing that the school had not received the required documentation to excuse the student's absences, the student's IEP re-evaluation would be on hold due to the student's attendance, and central office staff would be in contact to address compensatory services.
12. On January 9, 2024, the complainant emailed the PGCPs a copy of the physician verification statement and documentation that the student was placed in a residential facility on October 23, 2023.
13. On January 10, 2024, the PGCPs staff emailed the complainant informing her that the PGCPs was in receipt of the physician verification statement. The PGCPs staff informed the complainant that additional information was needed to update the records and for the HHT request.
14. On January 11, 2024, the special education program director at the diagnostic residential treatment facility provided the PGCPs a letter that reflects that the student has been enrolled at the treatment facility since October 23, 2023, and the tentative discharge date was January 26, 2024.
15. On February 1, 2024, a letter was generated by the PGCPs Office of HHT to the complainant. The letter reflects that the application was incomplete, services could not be provided, and the student must attend school immediately or submit documentation of a lawful absence.
16. On February 23, 2024, the PGCPs staff informed the complainant that the HHT application was re-submitted on February 22, 2023.
17. On February 28, 2024, a letter was provided by the private outpatient treatment facility reflecting that the student was admitted on January 29, 2024, and certifying the student's attendance from February 15, 2024, through February 28, 2024. The letter further reflects that the student participated in "an abbreviated academic schedule with the support of [private] healthcare staff. Programming also provides the opportunity to earn credit or partial credit in fine arts, health, and physical education."
18. On March 12, 2024, the IEP team convened to conduct the annual review meeting. The prior written notice (PWN) generated after the meeting reflects that the IEP team proposed and agreed:
  - to hold a parent teacher conference to review assignments and discuss grades;
  - to update the student's attendance once the school receives the HHT approval letter; and
  - that HHT was approved on March 8, 2024.
19. On March 13, 2024, a letter was provided by the private outpatient treatment facility certifying the student's attendance from February 28, 2024, through March 13, 2024. The letter further reflects that the student participates in "an abbreviated academic schedule with the support of [private] healthcare staff. Programming also provides the opportunity to earn credit or partial credit in fine arts, health, and physical education."

20. There is no documentation that the IEP was amended to reflect the HHT services that the student requires.

### **DISCUSSIONS AND CONCLUSIONS:**

#### **Special Education Instruction, Speech and Language Services, and Counseling**

##### **MARCH 2023- JUNE 2023**

Based on the Findings of Fact #1 and #2, MSDE finds that the PGCPs did not ensure that the student was consistently provided with special education instruction and speech-language services as required by the IEP from March 2023 through June 2023 in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

Based on the Findings of Fact #1, MSDE finds that the IEP did not require counseling services between March 2023 through June 2023. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

##### **ESY 2023**

Based on the Findings of Fact #3 and #4, MSDE finds that the student was not enrolled in ESY 2023; therefore, the PGCPs was not required to ensure that the student was provided with special education instruction during ESY 2023. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

Based on the Findings of Fact #3, MSDE finds that the IEP did not require speech-language and counseling services during ESY 2023. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

##### **2023-2024 School Year**

Based on the Findings of Fact #3 and #5, MSDE finds that the PGCPs did not ensure that the student was consistently provided with special education instruction and counseling services as required by the IEP from August 29, 2023, through October 19, 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

Notwithstanding the violation, based on the Findings of Fact #20, #22, #24, and #25 below, the IEP team met and addressed compensatory services for missed special education instruction and counseling services for the first quarter of the 2023-2024 school year. Therefore, no additional corrective action is required for this time period.

Based on the Findings of Fact #3 and #6, MSDE finds that the PGCPs did ensure that the student was consistently provided with speech-language services as required by the IEP from August 29, 2023, through October 19, 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

In this case, the student was temporarily placed in a treatment facility on October 23, 2023. There is no indication that services would have been unavailable had the student been attending school.

Based on the Findings of Fact #7 through #15, MSDE finds that the PGCPs was not required to provide the student with special education instruction, speech-language and counseling services, as required by the IEP from October 23, 2023, through February 23, 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

### **ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

#### **HHT Services**

The local school system shall determine the need for Home and Hospital Teaching (HHT) service and begin instruction as soon as possible, but not later than 10 school calendar days following the: notification to the local school system of the inability of the student to attend the school of enrollment; and receipt of the verification of the need for services. COMAR 13A.03.05.03D(4).

If a student with a disability is unable to participate in the student's school of enrollment and is provided instruction at home because of a physical or an emotional condition, consistent with COMAR 13A.03.05.04A, the IEP team shall meet to review and revise the student's IEP. The IEP team shall: determine the instructional services to be provided to the student, as long as the medical restrictions apply; and develop a plan for returning the student to a school-based program. COMAR 13A.05.01.10C(5)(a)-(b).

Based on the Findings of Fact #16 and #18, MSDE finds that the PGCPs did not ensure HHT services began within 10 calendar days of February 23, 2024, in accordance with COMAR 13A.05.01.10. Therefore, this office finds that a violation occurred.

Based on the Findings of Fact #20, MSDE finds that the PGCPs did not ensure an IEP team meeting occurred to revise the student's IEP to reflect HHT services, in accordance with COMAR 13A.05.01.10. Therefore, this office finds that a violation occurred.

#### **ALLEGATIONS #2 and #3:                   RESPONDING TO A REQUEST FOR EVALUATION AND DETERMINATION OF RECOVERY SERVICES**

21. On April 27, 2023, the complainant emailed the PGCPs staff and requested an IEP team meeting. The complainant states the student "needs updated speech and psychoeducational evaluations conducted. [She] would like to move forward during this meeting with a consent to test."
22. On May 19, 2023, the IEP team convened and determined that the student should receive 20 hours of compensatory math tutoring to be provided by a private provider. The IEP team agreed to reconvene the meeting.
23. On June 9, 2023, the IEP team met for the purpose of continuing the annual review meeting convened on May 19, 2023. The PWN reflects the team proposed and agreed to add counseling services to begin at the start of the 2023-2024 school year, convene a re-evaluation meeting in September 2023, and to provide compensatory service for speech-language services beginning in the summer of 2023.
24. On August 24, 2023, the PGCPs central office staff emailed the complainant and requested that she confirm participation in a re-evaluation IEP team meeting scheduled for September 5, 2023. The complainant emailed the PGCPs team informing the team that she needs to reschedule the meeting for the week of September 10, 2024.

25. On September 20, 2023, the PGCPs central office staff emailed the complainant and informed her that PGCPs has secured a vendor to provide make-up speech-language services for the missed services. The email further states the vendor will contact the complainant regarding dates to provide the service.
26. On September 22, 2023, the IEP team convened to conduct the annual review meeting. The PWN generated after the meeting reflects that the IEP team proposed and agreed to the following assessments:
- cognitive;
  - social/emotional;
  - adaptive assessments;
  - an Autism rating scales (ASRS);
  - speech-language assessment to include pragmatics, receptive, expressive and articulation; and
  - academic assessment will be conducted to include reading, math and written language.

The PWN also reflects the student was not enrolled for ESY 2023 and therefore “did not receive the 22 hours of make-up sessions over the summer as was expected”. The complainant requested that a private provider serve as the provider for the makeup speech-language services. The PGCPs agreed to the complaint’s request.

27. On February 14, 2024, the IEP team convened to address parent concerns. The PWN generated after the meeting reflects that the IEP team reviewed reports of progress for the first quarter of the 2023-2024 school year in determining if the student required compensatory services. The IEP team determined that the student would receive nine hours of reading comprehension and nine hours of math recovery services to address the “lack of data or progress reports to show that services were provided or progress that was made during the first quarter of the 2023-2024 school year.”
28. On February 24, 2024, the PGCPs central office staff responded to an email from the complainant’s selected private vendor for the provision of compensatory services agreed to on February 14, 2024. The PGCPs provided a copy of the compensatory service letter and informed the vendor that compensatory services can begin. The letter reflects compensatory services awarded to address educational impact of services for the first quarter of the 2023-2024 school year. The student was awarded:
- nine hours of reading comprehension;
  - nine hours in math calculation and math problem solving; and
  - four and a half hours of counseling services.

## **CONCLUSIONS:**

### **Responding To A Request For Evaluation**

Based on the Findings of Fact, #21 through #26, MSDE finds that the PGCPs followed proper procedures in responding to a request for an evaluation in April 2023<sup>1</sup>, in accordance with 34 CFR §§300.303 - .311 and.503. Therefore, this office finds that a violation did not occur concerning the allegation.

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<sup>1</sup> While the complainant alleges the request was made in March 2023, the documentation reflects it was on April 27, 2023.

## **Determination of Compensatory Services**

While the IDEA regulations do not specifically address the issue of missed special education and related services, courts have regularly awarded compensatory services as an equitable remedy for violations of the public agency's obligation to provide a free appropriate public education (FAPE). The purpose of compensatory services is to remediate the negative impact experienced by the student due to the denial of FAPE. When a public agency determines there were missed services, the public agency must consider the impact of the missed services on the student's progress and performance. They must also determine how to ensure the continued provision of FAPE in order for the student to continue making progress and ultimately meet the annual goals of the IEP. Therefore, decisions should be made on a case-by-case basis. See DEI/SES Technical Assistance Bulletin #19-03: Missed IEP Services (August 2019).

Based on Findings of Fact #22, #24, #25, #27, and #28, MSDE finds that the PGCPs has ensured that the decisions regarding compensatory services made since June 2023, were consistent with needs of the student, in accordance with 34 CFR §300.324. Therefore, this office finds that a 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.<sup>[2]</sup> 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.<sup>[3]</sup> Ms. Barmat can be reached at (410) 767-7770 or by email at [alison.barmat@maryland.gov](mailto:alison.barmat@maryland.gov).

### **Student- Specific**

MSDE requires the PGCPs to provide documentation by August 1, 2024, that the IEP team has convened and determined the amount and nature of compensatory services, or other remedy, to address the violations identified in this Letter of Finding and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

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<sup>2</sup>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.

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

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.

### **School-based**

The PGCPs must provide professional development to the staff at [REDACTED] School on the proper implementation of Home and Hospital Teaching procedures by September 3, 2024.

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/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  
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