

May 21, 2024



Trinell Bowman
Associate Superintendent-Special Education
Prince George's County Public Schools
John Carroll Center
1400 Nalley Terrace
Landover, MD 20785

RE: [REDACTED]
Reference: #24-183

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.

ALLEGATION:

On March 26, 2024, MSDE received a complaint from Mr. [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 allegation that the PGCPS did not follow proper procedures when addressing the student's needs for compensatory services since January 2024, in accordance with 34 CFR §300.101.

BACKGROUND:

The student is 11 years old and is identified as a student with a Specific Learning Disability (SLD) under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On January 29, 2024, the IEP team convened to assess the student's educational progress, address the impact of COVID-19, and discuss appropriate compensatory services. The Prior Written Notice (PWN) generated after the IEP team meeting reflects that the IEP team reviewed previous and current:
 - report cards;
 - reading, English, and language arts diagnostic data;
 - math diagnostic data;
 - IEP goals and objectives; and
 - IEP progress reports.

The IEP team also reviewed previous extended school year (ESY) performance information, school attendance, the student's response to direct and explicit Instruction in Reading and Math, and the use of supplementary aids in reading and math, and parent feedback. The IEP team determined there was an educational impact as a result of COVID 19 school closures and proposed an award of 120 hours of intensive intervention instruction in SpellRead to address the student's educational weaknesses in reading.

The IEP team discussed the parent's concerns regarding consistent implementation of the student's IEP at the start of the 2023-2024 school year due to a staff vacancy. The IEP team determined the student's goals were repeated over a period of years, the progress reported did not align with the data, and there was inconsistent provision of reading and math interventions and delivery of special education instruction. The IEP team agreed that there was an educational impact that requires compensatory education services. The PGCPs IEP team proposed 142.5 hours of compensatory education services for reading and math. The amount was derived from the student's IEP requiring 7.5 hours per week of missed special education instruction for 19 weeks.

In preparation for the student's re-evaluation due at the start of the 2024-2025 school year, the IEP team determined that additional assessments were required in the area of educational, cognitive, speech and language, and behavior. The IEP team proposed meeting in March 2024 to review the assessments and prepare for the student's transition to middle school.

The PGCPs awarded 262.5 hours of compensatory services to address the student's educational impact resulting from COVID 19 school closures and the inconsistent implementation of the student's IEP. The complainant rejected the compensatory services proposal, sharing that close to \$30,000.00 was spent on tutoring from a private provider. He also shared concerns with the number of hours that the student would be required to attend in person tutoring in a location not near the home. The complainant further shared that he preferred to be reimbursed the monetary amount spent on tutoring services from a private provider. The PWN reflects that on January 21, 2024, the information concerning reimbursement was provided to the complainant. The PGCPs required a release of information to obtain copies of the paid itemized bills for the relevant instructional time period, details of the educational services, assessments, and progress reports from the private provider.

2. On April 4, 2024, the PGCPs central office staff sent a letter to the complainant. The letter reflects that the PGCPs agreed to reimburse the complainant for a portion of the compensatory services awarded at the January 29, 2024, IEP team meeting. The remaining hours would be provided as agreed upon by the parties.

CONCLUSION:

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, individualized decisions should be made on a case-by-case basis. See DEI/SES Technical Assistance Bulletin #19-03: Missed IEP Services (August 2019).

In the present case, the IEP team reviewed multiple data sources to determine the impact of the COVID 19 school closures and inconsistent implementation of the student's IEP on the student's progress. Using the data, the IEP team made a compensatory services offer aligned with the student's documented needs. The PGCPs further worked with the complainant to provide partial reimbursement of the private tutoring services based on itemized bills for the relevant instructional time period, details of the educational services, assessments, and progress reports from the private provider.

Based upon the Findings of Fact #1 and #2, MSDE finds that the PGCPs did follow proper procedures when addressing the student's needs for compensatory services since January 2024, in accordance with 34 CFR §300.101. Therefore, this office finds that a violation did not occur concerning the allegation.

TIMELINES:

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/tg

c: Millard House II, Superintendent, PGCPs
Keith Martson, Compliance Instructional Supervisor, PGCPs
Darnell Henderson, General Counsel, PGCPs
William Fields, Associate General Counsel, PGCPs
Lois Jones-Smith, Special Education Compliance Liaison, PGCPs
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