

June 25, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Ms. 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: #24-208

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 April 26, 2024, MSDE received a complaint from [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 data regarding the student's elopement behavior has been collected, analyzed, and processed as required by his Behavior Intervention Plan (BIP) and his Individualized Education Program (IEP) from November 1, 2023, through December 22, 2023, in accordance with 34 CFR §300.101.
2. The PGCPS has not ensured that the parents were informed of the participants who would be in attendance within at least 10 days of the Individualized Education Program (IEP) team meeting convened on April 18, 2024, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
3. The PGCPS has not ensured that the parents were provided with explanations and interpretations of the student's education records pursuant to her request on March 6, 2024, in accordance with 34 CFR §300.613 and COMAR 13A.05.01.11.

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 [REDACTED], a nonpublic, separate, special education school.

ALLEGATION #1: ELOPEMENT DATA

FINDINGS OF FACT:

1. The student's IEP in effect on February 21 and 26, 2024, is dated May 10, 2023, and was amended on November 30, 2023.
2. The student's IEP includes the implementation of a BIP. The student's current BIP is dated March 10, 2023. It was last reviewed on February 14, 2024. The target behaviors are: physical aggression, elopement, and inappropriate fecal behavior.
3. The student's parents were sent a daily log, including a section entitled behavior data. Included in the behavior data section was frequency data for each physical aggression, elopement, and inappropriate fecal behavior.
4. There is documentation that data reflecting the frequency of the target behaviors noted on the student's BIP were graphed and provided to the student's parents on a regular basis, pursuant to the student's BIP and IEP. However, some of the data charts reflected that the data summaries were for disruption and some reflected they were for elopement, in addition to physical aggression and inappropriate fecal behavior.

CONCLUSIONS

There are two different copies of the student's BIP, both dated March 2023. One copy includes the target behavior of elopement, one includes the target behavior of disruption. The daily report that is sent to the parents on a daily basis reports on the target behaviors of physical aggression, elopement, and inappropriate fecal behavior. The data that is summarized and sent to the parents on a weekly basis has different headings. Some data is entitled "elopement", and some is entitled "disruption." While the data is collected and analyzed as required, it is difficult for a parent to understand exactly what is being reported.

Based on Finding of Fact #2 through #4, MSDE finds that the PGCPs has not ensured that data regarding the student's elopement behavior has been collected, analyzed and processed, as required by his BIP and his IEP between November 1, 2023, and December 22, 2023, in accordance with 34 CFR §300.101. Therefore, this office finds a violation with respect to this allegation.

ALLEGATION #2: PARTICIPANTS AT APRIL 18, 2024, IEP TEAM MEETING

5. An invitation to an IEP team meeting scheduled for April 18, 2024, was dated January 18, 2024. The purpose of this meeting was: "To review and discuss a doctor's note dated December 21, 2023, regarding the counting of the student's bowel movements." The student's parents requested this meeting.

6. The invited participants included the student's parents; [REDACTED], special education teacher; [REDACTED], school nurse; [REDACTED], other participant; [REDACTED], IEP Chair; [REDACTED], principal/designee; the student; [REDACTED], other participant; and Behavior Specialist, to be determined.
7. There is documentation that the complainant shared concerns that the name of the Behavior Specialist was not shared with him at least 10 days prior to the date the meeting was scheduled.

CONCLUSIONS

A district must ensure that parents are given an opportunity to attend and/or are otherwise afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and provision of a Free Appropriate Public Education (FAPE) for their child. This includes notifying parents of the meeting early enough to ensure they can attend and scheduling the meeting at a mutually agreed on time and place. 34 CFR §300.322.

The IEP invitation should include the purpose, time, and location of the meeting, indicate who will be in attendance, and inform the parents of the provisions relating to participation by other individuals on the IEP team who have knowledge or special expertise about the student. 34 CFR §300.322.

Under IDEA, the LEA must inform the parent who will be in attendance at the IEP team meeting. 34 C.F.R. § 300.322(b)(1)(i). The LEA's notice to parents is not required to identify individuals who will be attending the IEP Team meeting by name, as long as the notice identifies the individuals by position. See *Letter to Livingston*, 21 IDELR 1060, OSEP (August 29, 1994).

Based on Findings of Fact #5 through #7, MSDE finds that the PGCPs has ensured that the parents were informed of the participants who would be in attendance within at least 10 days of the IEP team meeting convened on April 18, 2024, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office finds there was no violation regarding this allegation.

ALLEGATION #3: MSDE DID NOT INVESTIGATE THIS ALLEGATION AS IT WAS INVESTIGATED IN CASE #24-204

CORRECTIVE ACTIONS AND 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. 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.

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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

By August 1, 2024, MSDE requires the PGCPs to correct the student's record to ensure the proper copy of his BIP is included. Additionally, PGCPs must ensure that the parents are provided with summaries of the student's elopement behavior, as required by his BIP and IEP, with the correct headings, to ensure that they are being provided with the correct data.

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 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/abb

c: Millard House, II, Superintendent, PGCPs
Trinell Bowman, Associate Superintendent, Special Education, PGCPs
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