

July 26, 2024

[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: #24-225

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services, 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 May 10, 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 did not follow proper procedures in informing the parents of the participants attending the May 10, 2023, IEP team meeting at least ten days in advance of the meeting, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07.
2. PGCPS did not ensure the parents' concerns were considered when developing the student's IEP on May 10, 2023, in accordance with 34 CFR § 300.324. Specifically regarding:
 - a. The student's responses on assessments;
 - b. The student's strategies for math calculation;
 - c. The student's ability to respond to life skill questions (i.e. birth date, address);
 - d. The student's scripting and echolalia; and
 - e. The student's preference for choosing colorful items as responses.

3. PGCPs did not ensure that the parents were provided prior written notice for the following discussion items during the May 10, 2023, IEP team meeting, in accordance with 34 CFR § 300.503. Specifically:
 - a. Their determination regarding the use of writing frames;
 - b. The use of specific writing implements;
 - c. The decisions made at the May 10, 2023, IEP team meeting regarding conducting an assessment that excludes standardized measures;
 - d. The team's refusal to conduct an assessment based on the parent's questions;
 - e. The decision to conduct a reevaluation in the areas of fine motor and occupational therapy;
 - f. The decision not to include creating and providing the parents with an incident report in case of injury;
 - g. The decision not to contact the parents in case of injury;
 - h. The decision to include additional items in the student's IEP that were not agreed upon by the parents;¹ and
 - i. The decision to remove certain items from the student's IEP that were not agreed upon by the parents.
4. PGCPs did not ensure that the student's May 10, 2023, IEP and/or behavior intervention plan (BIP) addressed all the behaviors that impede the student's learning, specifically, scripting and loud vocalizations, in accordance with 34 CFR § 300.324.
5. PGCPs did not ensure proper procedures were followed with respect to completing the student's reevaluation in a timely manner with respect to the decisions of the IEP team on May 10, 2023, in accordance with 34 CFR § 300.101 and COMAR 13A.05.01.06.
6. PGCPs did not ensure that the IEP team convened to review the student's IEP when the student failed to make progress on his speech-language communication goals since May 10, 2023, in accordance with 34 CFR § 300.324(b)(1)(ii)(A) and COMAR 13A.05.01.08.
7. PGCPs did not ensure that representatives from appropriate Transition Service agencies were invited to the student's May 10, 2023, IEP team meeting, in accordance with 34 CFR § 300.321(b).
8. PGCPs did not ensure that the information from the student's most recent Transition evaluation was included on his May 10, 2023, IEP, in accordance with 34 CFR § 300.101.

¹ The complainant referenced this as 34 CFR 300.324, however, it is permissible to add or remove items from an IEP over a parent's objections provided the parent is provided with PWN. Accordingly, the allegations are being investigated as to whether the complainant received PWN regarding the refusal to add or remove items from the student's IEP.

9. PGCPS did not ensure that the parents were provided a reasonable time before they proposed or refused to initiate a change to the student's IEP following the May 10, 2023, IEP team meeting, in accordance with 34 CFR § 300.503.

BACKGROUND:

The student is 18 years old and is identified as a student with Autism under the IDEA. The student is placed by the PGCPS at [REDACTED], a nonpublic, separate, special education school, and has an IEP that requires the provision of special education and related services.

FINDINGS OF FACT:

ALLEGATIONS #1 AND #7

PARTICIPANTS AT MAY 10, 2024 IEP TEAM MEETING

1. A meeting notice was sent to the student's parents dated April 25, 2023, for the May 10, 2023. The purpose of the meeting was to:
 - Review and, if appropriate, revise the IEP;
 - Address functional behavioral assessment and/or behavioral intervention plan;
 - Consider Extended School Year services;
 - Consider postsecondary goals and transition services; and
 - Annual Review and Transition Planning.
2. The invited participants to the May 10, 2023, IEP team meeting were: [REDACTED], occupational therapist; [REDACTED], special education coordinator; [REDACTED], special education teacher; [REDACTED], transition coordinator; Keith Marston, PGCPS Compliance Coordinator; [REDACTED], behavior specialist; [REDACTED], social worker; [REDACTED], lead agency representative; [REDACTED], school nurse; the student; the complainant; and the student's mother.
3. The May 10, 2023, IEP team meeting was also attended by representatives from the PGCPS Department of Transportation, [REDACTED] and [REDACTED].
4. On April 25, 2023, the complainant sent a letter to PGCPS stating the following:
"I consent to invite representatives of the following agencies (collectively, the "Representatives") of the state of Maryland (the State), to the Student's IEP Team Meetings which will be held within two (2) years from the date of this letter:
 1. Division of Rehabilitation Services (DORS);
 2. Developmental Disabilities Administration (DDA); and
 3. Maryland Department of Labor (MDL)."
5. There is documentation that PGCPS invited outside Transition agencies to the student's May 10, 2023, IEP team meeting.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1

A district must ensure that parents are given an opportunity to attend and/or otherwise afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement,

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and provision of a free, appropriate public education (FAPE). 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 and .328. 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.

In this case, the student's parents were not notified of the participation of PGCPs Transportation staff in the May 10, 2023, IEP team meeting.

Based on the Finding of Fact #3, PGCPs did not follow proper procedures in informing the parents of the participants attending the May 10, 2023, IEP team meeting at least ten days in advance of the meeting, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07. Therefore, this office finds there was a violation concerning this allegation.

ALLEGATION #7

To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of secondary transition, the local education agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

In this case, the complainant provided consent for the PGCPs to invite appropriate transition agencies to the student's IEP team meetings. There is documentation that outside agencies were invited to participate in the May 10, 2023, IEP team meeting.

Based on Findings of Fact #4 and #5, PGCPs did ensure that representatives from appropriate Transition Service agencies were invited to the student's May 10, 2023, IEP team meeting, in accordance with 34 CFR § 300.321(b). Therefore, this office finds there was no violation concerning this allegation.

FINDINGS OF FACT:

ALLEGATIONS #2 AND #3

PARENT CONCERNS AND PRIOR WRITTEN NOTICE

6. The student's annual review IEP team meeting was conducted on May 10, 2023. There is documentation that the IEP team discussed and considered parent input about the following items: the student's use of various strategies for math calculation; the accuracy of the student's responses on assessments and various strategies to increase accuracy, as well as the reliance on teacher report for data; the student's ability to write his address, telephone number, and birth date with and without prompting; the use of writing frames and the intention to transition to smaller frames over time; the student's behavior, including scripting and calling out in class; using erasable pens and pencils as writing tools.
7. The PWN from the May 10, 2023, IEP team meeting includes documentation about decisions regarding: accepting the student's IEP as written; conducting an updated occupational therapy assessment; reviewing the student's BIP; correcting the behavior present level; making changes to the supplementary aids and services to include changing social work consultation to behavior consultation and home/school communication from weekly to daily; rejecting adding bathroom training to the student's Transition plan and counting the student's bowel movements to his communication log. The PWN also documents the speech-language therapist vacancy and the make-up services to be provided.

8. There is documentation that the complainant's request to be provided with an incident report for every injury the student may have was discussed by the IEP team and that it be included on the IEP. There is no PWN reflecting that discussion.
9. There is no documentation that the PGCPs refused to contact the complainant if the student is injured in the school setting.
10. Although there was discussion about the use of writing frames, pencils and erasable pens at the IEP team meeting, there is no documentation that the student's IEP includes the use of writing frames or any specific type of writing implement, or that the IEP team refused to include them on the student's IEP.
11. While there was discussion about the student's responses on assessments and the accuracy of his responses, there was no IEP revision that was proposed or refused. Accordingly, no PWN was required.
12. The IEP team decision to conduct an OT assessment is documented in the PWN from the May 10, 2023, IEP team meeting. In fact, the PWN documents that although the team had no questions regarding the student's performance, the complainant did. Therefore, as the basis for their decision to conduct the assessment, the PWN states, "The IEP team considered not updating formal OT assessments for [the student] as the school team does not have any questions regarding his performance and needs. The parent stated the previous evaluation was completed in 2017 and [the student] was not able to tie his shoes and he has questions about his fine motor skills."
13. There is no documentation that the student's IEP was amended by removing or adding things outside of the IEP team meeting without the complainant's consent or without providing PWN.

CONCLUSIONS:

Parent Concerns

Based on Findings of Fact #6 through #11, the parents' concerns regarding: the student's responses on assessments; the student's strategies for math calculation; the student's ability to respond to life skill questions (i.e. birth date, address); the student's scripting and echolalia; the student's preference for choosing colorful items as responses were considered and discussed when developing the student's IEP on May 10, 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds there was no violation concerning this allegation.

Prior Written Notice

Based on Finding of Fact #8, PGCPs did not ensure that the parents were provided prior written notice of the refusal to include using an incident report to inform the parents injury during the May 10, 2023, IEP team meeting, in accordance with 34 CFR § 300.503. Therefore, this office finds a violation concerning the allegation.

FINDINGS OF FACT:

ALLEGATIONS #4, #5 AND #6

BIP, REEVALUATION, AND PROGRESS ON GOALS

14. There is documentation that the IEP team discussed additional behaviors, including calling out in class and scripting. There is documentation that school staff reported that these behaviors were not of sufficient severity or frequency to warrant inclusion in the student's BIP.

15. There is documentation that the complainant did not agree with the data collection method used to determine that the frequency of these behaviors did not warrant intervention, however, there is no documentation that there was disagreement not to add these behaviors to the student's BIP.
16. There is documentation that on May 10, 2023, the IEP team agreed to conduct an OT assessment.
17. There is documentation that on July 24, 2023, the complainant provided consent for the OT assessment to be completed.
18. The OT assessment was conducted on October 6, 2023, and the report was completed on November 1, 2023.
19. The IEP team reviewed the OT assessment on February 6, 2024. There were no revisions to the student's IEP based on the OT assessment.
20. There is documentation that the student's IEP team discussed the delay in completing the OT assessment and determined that there was no negative impact to the student based on the delay.
21. There is documentation that the student's nonpublic school did not have a speech-language pathologist assigned to the student at the start of the school year.
22. The student's communication goal for the first progress reporting cycle is marked as "not making sufficient progress to meet the goal."
23. There is documentation of an IEP team meeting in August 2023, however, there is no documentation that the IEP team discussed the student's lack of progress on his communication goal.
24. There is documentation that the PGCPs has reached an agreement with a federal agency that involves making up the speech sessions that were missed during the first progress reporting cycle due to the lack of a speech/language pathologist.
25. The student has been making sufficient progress on his communication goal for the duration of the cycle of his IEP.

CONCLUSIONS:

BIP

Based on Findings of Fact #14 and #15, the team discussed the additional behaviors that the complainant wanted included in the student's BIP. Based on the teacher's report, the team declined to target the behaviors as they did not occur with such a frequency or intensity that they disrupted learning for the student or others. PGCPs did ensure that the student's May 10, 2023, IEP and/or BIP addressed all the behaviors that impede the student's learning, in accordance with 34 CFR § 300.324. This office has determined there is no violation with respect to this allegation.

REEVALUATION

Based on Findings of Fact #16 through #19, PGCPs did not ensure proper procedures were followed with respect to completing the student's reevaluation in a timely manner with respect to the decisions of the IEP team on May 10, 2023, in accordance with 34 CFR § 300.101 and COMAR 13A.05.01.06. Therefore, this office finds there is a violation concerning the allegation.

Notwithstanding this violation, based on Finding of Fact #20, the IEP team has met to determine whether there was an impact from the delay. Therefore, no further student specific correction is required.

PROGRESS ON GOALS

Based on Finding of Fact #22 and #23, PGCPs did not ensure that the IEP team convened to review the student's IEP when the student failed to make progress on his speech-language communication goals since May 10, 2023, in accordance with 34 CFR § 300.324(b)(1)(ii)(A) and COMAR 13A.05.01.08. Therefore, this office finds there is a violation concerning the allegation.

Notwithstanding this violation, based on Finding of Fact #24, PGCPs has provided the student with make-up sessions and the student has been making sufficient progress on his communication goal. No additional student specific correction is required.

ALLEGATIONS: #8 AND #9

TRANSITION ASSESSMENTS AND REASONABLE TIME PRIOR TO IMPLEMENTATION

23. The student's transition assessments were completed on April 10, 2023. He was given a transition interview and a functional vocational assessment. The student participated in work place reviews and received on the job training, as well as on and off campus vocational internships.
24. There is no requirement for a student's cognitive assessment to be considered when completing transition assessments.
25. The student's annual review meeting was convened on May 10, 2023. The start date for the services on his new IEP to begin was on May 10, 2023.

DISCUSSION AND CONCLUSIONS:

Transition Assessments

Based on Findings of Fact # 23 and #24, the PGCPs did ensure that the information from the student's most recent Transition evaluation was included on his May 10, 2023, IEP, in accordance with 34 CFR § 300.101. Therefore, this office finds there is no violation concerning the allegation.

Reasonable Time Prior To Implementation

Prior Written Notice must be given to the parents of a child with a disability a reasonable time before the public agency—

- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

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(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. 34 CFR § 300.503.

Based on Finding of Fact #25, PGCPS did not provide the complainant with a reasonable timeframe before implementing the proposed changes, or to provide the parents sufficient time to consider the changes that were requested and refused, prior to implementing the student's May 10, 2023, IEP. Therefore, this office finds there is a violation concerning the allegation.

CORRECTIVE ACTIONS AND TIMELINES:

The IDEA requires that State complaint procedures include those for 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 non-compliance 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 Nicole Green, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action. Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

By September 15, 2024, MSDE requires the PGCPS to provide the parents with PWN regarding the basis for their refusal to provide an incident report for every injury the student may sustain.

Systemic

By December 15, 2024, PGCPS must provide professional development to special education staff ensuring that they are aware of the provision requiring that families must be provided with PWN a reasonable time before changes to the student's IEP are implemented, and/or when requests families have made have been refused. Technical assistance is available to assist with this professional development.

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.

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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:ab

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