

July 26, 2024

Ms. Debrah Martin
1300 Mercantile Lane
Largo, Maryland 20774

Ms. Trinell Bowman
Associate Superintendent of Special Education
Prince George's County Public Schools
John Carroll Center
1400 Nalley Terrace
Landover, Maryland 20785

RE: [REDACTED]
Reference: #24-242

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and 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 29, 2024, MSDE received a complaint from Ms. Debrah Martin, 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 ensure that the parents were provided with reports of the student's progress toward achieving the annual Individualized Education Program goals during the 2023-2024 school year, in accordance with 34 CFR § 300.320.
2. The PGCPS has not ensured that the student was comprehensively evaluated in all areas of need within the required timelines since September 27, 2023, in accordance with 34 CFR §§ 300.304-.311, and COMAR 13A.05.01.05 and .06.
3. The PGCPS has not developed and implemented an IEP that addresses the student's identified speech-language and occupational therapy (OT) needs since June 2023, in accordance with 34 CFR §§ 300.323 -.324.
4. The PGCPS did not provide a copy of the IEP document within five business days after the IEP team meeting held on January 8, 2024, in accordance with COMAR 13A.05.01.07.

5. The PGCPs did not ensure that proper procedures were followed when determining the student's need for Extended School Year (ESY) services in March 2024, in accordance with 34 CFR § 300.106 and COMAR 13A.05.01.08.
6. The PGCPs did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the May 24, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
7. The PGCPs has not developed and implemented an IEP that addresses the student's identified behavioral needs since May 2024, in accordance with 34 CFR §§ 300.323 - .324.

BACKGROUND:

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

FINDINGS OF FACT:

1. The IEP in effect in June 2023, is dated May 10, 2023. The student's disability is developmental delay. The IEP reflects that the areas impacted by the student's disability are: pre-academics, expressive and receptive speech-language, and social-emotional/behavior.

The Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflects the following instructional grade level performance information:

- Speech-language receptive language - the student performed within the 9-15 month age range;
- Speech-language expressive language - the student performed within the 6-9 month age range;
- Pre-academics - the student performed within the 15-18 month age range with emergent skills in the 18-21 month range; and
- Social-emotional/behavioral - the student performed within the 12-15 month age range with emergent skills in the 18-21 month age range.

The IEP reflects the student "requires low-tech assistive technology such as objects, picture symbols, photos, to [provide support] when answering questions, making choices, and communicating... wants and needs" but did not require assistive technology services.

The IEP required the following supplementary aids, services, program modifications, and supports:

- First-then board, daily;
- Picture schedule, daily;
- Visual support for comprehension of language input and formulating oral responses, daily; and
- Strategies to initiate and sustain attention.

The IEP contained the following pre-academic goals:

- “During structured and unstructured activities, [the student] will match up to 20 objects/manipulative[s] by one attribute (color, size, shape) in 4 out of 5 trials with fading prompts.”
- “During structured and unstructured time [the student] will follow 2 step related direction[s] in 4 out of 5 trials with fading prompts.”
- Throughout the school day “when provided with visual supports, [the student] will communicate his wants/needs and respond to requests for information by using the core Vocabulary Board, and signs in 4 out of 5 trials.”

The IEP contained the following social-emotional/behavioral goal:

- “During structured and unstructured activities, [the student] will [participate] in 3 turn-taking activities with adult play or peer play in 4 out of 5 trials with fading prompts.”

The IEP required the following special education services:

- 16 two-hour and 30-minute sessions of classroom instruction outside general education, monthly from May 10, 2023, through June 9, 2023;
- 18 five-hour and 45-minute sessions of classroom instructions outside general education, monthly from September 5, 2023, through May 9, 2024; and
- Transportation.

There is no documentation that OT is an identified need.

2. On September 27, 2023, the IEP team convened to review the results of private speech-language, OT, and Applied Behavior Analysis (ABA) assessments, as well as a medical diagnosis of Autism. The prior written notice (PWN) generated after the meeting reflects that after reviewing the outside assessments the IEP team agreed to, and the parent consented to, conduct additional assessments for the student in the areas of expressive/receptive language; functional/adaptive performance; intellectual/cognitive functioning; emotional/social/behavioral development; fine motor; and self-management/sensory processing.
3. On December 12, 2023, an assessment report was developed to reflect the results of the Developmental Assessment of Young Children - second edition (DAYC-2). The assessment report reflects that the student was assessed in the areas of “cognition, communication, social-emotional development, physical development, and adaptive behavior.” The assessment report also reflected assessment results for the student in expressive and receptive language.

On December 13, 2023, the PGCPs conducted an OT assessment report for the student in fine motor and self-management. On December 18, 2023, the PGCPs conducted a psychological assessment.
4. There is documentation that the parent was sent the draft IEP on January 5, 2024.
5. On January 8, 2024, the IEP team reconvened to review the assessments conducted for the student’s reevaluation and to review and revise the student’s IEP as appropriate. The PWN generated after the meeting reflects that the team reviewed the assessment results from the Cognitive Assessment of Young Children (CAYC), Adaptive Behavior Assessment System - Third Edition (ABAS-3), Autism Spectrum Rating Scales (ASRS), and the Developmental Assessment of Young Children (DAYC-2) Receptive, Expressive, and Fine Motor and determined the student met the qualifications as a

student with Autism. The IEP team determined that the “cognitive and adaptive testing also suggest[ed] that [the student] has significant delays in both...cognitive and adaptive skills.” The team updated the student’s IEP to include the assessment information and added an OT and speech-language service consult. The PWN further reflects that the IEP team would conduct a 60-day review to determine if the additional services are appropriate.

6. The IEP developed at the January 8, 2024, IEP meeting reflects the areas affected by the student’s disability as cognitive, pre-academics, expressive and receptive speech-language, social-emotional/behavior, adaptive behavior, and fine motor. The IEP reflects “the areas of disability that were assessed included: cognitive/pre-academics, receptive and expressive language, and personal social/behavior.”

The PLAAFP data in speech-language receptive and expressive language, pre-academics, and social-emotional/behavioral remained the same. The following instructional grade-level performance information was added to the PLAAFP:

- Cognitive -scattered skills 13-36 months;
- Fine motor - very poor; and
- Adaptive - below age expectations.

The previous IEP supplementary aids, services, program modifications, and supports continued, and the following supports were added:

- Speech-language pathologist consult, monthly, “to develop the student’s functional communication needs”; and
- Occupational therapists consult, monthly, to support the student’s “fine motor skills, attention, and sensory processing challenges.”

The IEP continued the pre-academics and social-emotional/behavioral goals.

The IEP required the following special education services:

- 18 five-hour and 45-minute sessions of classroom instruction outside general education, monthly; and
- Transportation.

7. There is documentation that the finalized IEP was emailed to the parent on January 17, 2024.
8. There is documentation that the January 22, 2024, second quarter progress report was emailed to the parent.
9. There is documentation that the psychological report; speech report and consultation data; January 8, 2024, IEP; January 8, 2024, PWN; May 10, 2023, IEP; occupational evaluation; and English-Language Arts documentation was sent to the parent on March 22, 2024.
10. On April 19, 2024, the IEP team reconvened to review and revise the student’s IEP concerning his OT and speech-language needs and to discuss parent concerns. The PWN generated after the meeting reflects that the IEP team discussed the student’s OT and speech-language needs, and it was shared that the speech therapist and “teaching team” had been utilizing assistive technology with the student since January. The IEP team proposed that the assistive technology team observe the student to determine if an assistive technology device or services were required.

The speech therapist and occupational therapist proposed adding three 15-minute sessions of direct speech and OT services per month to the student's IEP and having the student observed by an autism specialist and a registered behavior technician (RBT). The student's parents requested six sessions of direct speech services per month, but this was rejected.

The IEP team reviewed the criteria for ESY services and determined the student met the criteria for ESY.

11. On April 19, 2024, the IEP was amended to reflect the following changes:

The following supports were added:

- Provide manipulatives and/or sensory activities to promote listening and focusing on skills, daily;
- Adaptive equipment, daily; and
- Preferential seating, daily.

The IEP reflects the student is eligible for ESY service.

The student's pre-academic and social-emotional/behavioral IEP goals continued.

The IEP required the following special education and related services:

- 18 five-hour and 45-minute sessions of classroom instruction outside general education, monthly;
- Three 15-minute sessions of OT inside general education, monthly, "to address the student's fine motor skills, self-management skills that are needed for greater independence in the learning environment, and foundation skills (i.e. attention and imitation) to increase the student's availability for learning".
- Three 15-minute sessions of speech-language therapy outside general education, monthly, "to address functional communication"; and
- Transportation.

12. On May 9, 2024, the IEP team reconvened at the parent's request "following a teacher phone call related to [the student's] behaviors at school."

The PWN generated after the meeting reflects the team agreed to conduct a Functional Behavior Assessment (FBA) "to include a preference inventory." The school-based team shared that the "previous effective strategies (preferred person) to calm [the student] were not successful." The parent was called and asked to pick the student up; however, the student was able to access the sensory motor room to help regulate his behaviors and return to class prior to the parent's arrival.

The classroom teacher shared that there had been a recent increase in the student's behaviors which include "biting, scratching, spitting, eloping, and dropping to the floor." The IEP team discussed other factors that may have contributed to the student's behavior, "such as extended wait time at arrival" for the morning bus.

The PWN further reflects that the next meeting will be scheduled prior to the end of May "to discuss kindergarten placement, progress related to speech and occupational therapy services, and results of the AT assessment." The family and the complainant inquired about moving the student to a

different classroom, and it was shared that the student's current classroom has "1 teacher and 2 paraprofessionals, one of which is [the student's] preferred adult" while the other classrooms have only two adults. However, it was stated that this information would be shared with the administration.

13. On May 9, 2024, a daily home-school communication system was added to the supplementary aids, services, program modifications, and support section of the IEP.
14. On May 10, 2024, the IEP team conducted a 60-day review of the student's speech and OT services, and to discuss the results of the assistive technology observation and recommendations. The PWN generated after the meeting reflects the IEP team's proposal to continue to collect assistive technology data and reconvene in the fall to review the data. The speech and occupational therapists provided updates and proposed that the services remain the same.

Based on the student's needs the school team proposed "considering the alternate framework so [the student] could be provided with an appropriate kindergarten placement." The PWN further reflects that the team started to work through the document but tabled the discussion to allow the student's parents and the complainant to view the form.

15. On May 15, 2024, PGCPS conducted an assistive technology consultation for the student. The consultation report reflects that "the Assistive Technology team received an AT Request for support for [the student]" but it does not reflect when the request was made. Information from the report reflects that the student "is not able to identify objects, but...can make choices with objects...[the student] benefited from direct instruction and modeling." Observation recommendations included:
 - Allowing the student to have access to single symbols picture cards; and
 - An individualized core board to help with communication.

The school team was directed to collect data to monitor student progress.

16. While there is documentation that a May 24, 2024, IEP team meeting occurred, the PWN generated after the meeting reflects the details of the May 10, 2024, IEP team meeting.
17. On June 6, 2024, the IEP team reconvened to review and revise the student's IEP if appropriate. The PWN generated after the meeting is dated June 11, 2024.

The PWN reflects the IEP team's proposal to provide the student with four hours and 30 minutes of special education outside of the general education classroom during the 2024-2025 school year at "his boundary [REDACTED]" due to the program having a low student-teacher ratio, "opportunities for remediation of skill deficits, sensory supports, and staff...trained in providing behavioral supports." The IEP team discussed the least restrictive environment and continuum of services for the student and determined that the student would participate in the general education curriculum in the [REDACTED] working toward a Maryland High School diploma and participating in state standardized assessments when appropriate "to ensure that [the student] to the maximum extent appropriate is educated with children who are nondisabled."

The IEP team accepted the occupational therapist's proposal to add a self-management goal to the student's IEP.

The school-based team considered reviewing the Appendix A alternate instructional standards for kindergarten due to the student's "cognitive, communication and learning profiles" but the student's parents indicated that they were not interested in considering the alternate framework for the student and the team did not review the Appendix A form.

The family and advocates expressed their desire for a CIEP referral for a non-public placement, however, the school-based team stated there was insufficient data to support a more restrictive placement for the student.

The IEP team agreed that a meeting would be scheduled to review the FBA, and the school-based team agreed to the family's advocates' request to add behavior information from previous IEP meetings to the IEP.

The PWN states the amended IEP, revised PWN and draft FBA were sent via email on July 1, 2024.

18. The IEP amended at the June 6, 2024, IEP meeting reflects the student's PLAAFP was updated to include self-management data that reflects the student performing below average.

The IEP reflects the student achieved the following pre-academic goals:

- "During structured and unstructured time [the student] will follow 2-step related direction[s] in 4 out of 5 trials with fading prompts", and
- Throughout the school day "when provided with visual supports, [the student] will communicate his wants/needs and respond to requests for information by using the core vocabulary board, fringe vocabulary, and signs in 4 out of 5 trials."

The IEP continued the social-emotional/behavioral goal, and the IEP team developed the following self-management goal:

- "When sitting amongst peers in school (e.g. circle time, rug read aloud, lunch), given a teacher prompt and shown a visual cue card, [the student] will hold a sensory toy and keep hands to self for 10 minutes, with graduated teacher guidance, for 4 out of 5 sessions with peers."

The IEP requires the following special education and related services:

- 18 five-hour and 45-minute sessions of classroom instruction outside general education, monthly;
- Three 15-minute sessions of OT inside general education, monthly;
- Three 15-minute sessions of speech-language therapy outside general education, monthly; and
- Transportation.

19. The January 22, 2024, April 2, 2024, and June 10, 2024, progress reported toward the achievement of the student's pre-academic and social-emotional/behavioral IEP goals reflect the student was making sufficient progress.

20. The student's IEP was amended on July 1, 2024, to include the following:
- The PLAAFP data for social-emotional/behavioral was updated to include behavior data from April 11, 2024, through May 17, 2024; and
 - Special Education services were updated to include five, four-hour and 30-minute sessions of classroom instruction outside of general education weekly from August 26, 2024, through January 7, 2025, provided by the special education classroom teacher, IEP team, or instructional assistant.

21. On July 1, 2024, PGCPs conducted an FBA for the student. The FBA reflects the student's negative behaviors in the classroom increased in April 2024. These behaviors included "scratching, eloping, hitting, and dropping to the floor during transitions to unpreferred activities or in the absence of adult attention." The FBA reflects the student "has a medical and educational diagnosis of autism spectrum disorder, for which he receives ABA and other therapies outside of school." The observational data included in the FBA reflects 36 instances of physical aggression and six instances of elopement from April 11, 2024, through May 17, 2024.

The draft BIP developed from the FBA addresses the behaviors of physical aggression and elopement. The BIP provides a summary of information for family and medical history, strengths and protective factors for the student, previous interventions used, and additional information. The previous interventions used include "working with a preferred person (paraprofessional in the classroom), visiting the sensory room (including opportunities for water play) for a break when needed, and providing fidget toys. These strategies have been used after the challenging behavior occurs, and [the student] is able to participate in classroom activities after the intervention is put in place."

22. On July 12, 2024, the IEP team reconvened to review the results of the FBA, discuss the student's progress during ESY services, and review and revise the IEP as appropriate.

The PWN generated after the meeting reflects that the IEP team reviewed the student's progress during ESY and decided to monitor his behaviors while transitioning during the bus arrival. The team also reviewed the FBA, and recommended that the school staff should continue to collect data on the behaviors of concern (physical aggression and elopement) because "the behavioral data that is currently available was collected for approximately a month and may not account for variables in the learning environment...The additional data may inform whether there are additional interfering behaviors that need to be addressed and/or whether a BIP needs to be developed for the student."

The IEP team agreed that the behavior specialist would observe the student during ESY to help determine strategies to support the student's behavioral needs. The team decided to develop a "Support Plan" for the student that would "outline support strategies and tools [for the student]." The team also added the support plan to the student's PLAAFP and uploaded a link to the plan to his online records.

Daily "adult support" was added to the supplementary aids of the IEP "to promote [the student's] access to and engagement in learning tasks, school and class routines, as well as promote his safety (risks for out-of-the-classroom elopement)."

The IEP team proposed the [REDACTED] for the school year 2024-2025. However, based on the IEP team's discussion, the severity of the behaviors of concern, and a review of the data the team proposed referring the student to the Central IEP team to "explore possible educational programming options for the student" because the [REDACTED] "may not be able to provide the extensive academic, related services, and behavioral supports needed to enable [the student] to access and make progress in the curriculum."

The PWN also reflects that the IEP team agreed to the provision of the following compensatory services to the student for speech-language and OT services, and progress monitoring of the student's pre-academic IEP goals:

- "15 hours of compensatory services in the area of occupational therapy;
- 15 hours of compensatory services in the area of speech/language (communication); and
- 18 hours of compensatory education/tutoring services to support [the student's] IEP goals for his pre-academic skills to be completed no later than July 31, 2025."

23. The student's IEP was amended on July 12, 2024, to include the following information:
- The data in the Social Emotional/Behavioral PLAAFP was updated to reflect that "The team reviewed the FBA and determined that additional data was necessary [to determine the function of the student's behavior] and "A support plan will be developed to be shared with [the student's] next school team which provides proactive strategies." The data was also updated to include classroom observations conducted on June 11, 2024, and July 1, 2024. The PLAAFP information was also updated from "Preschool Aged" to "School Aged."
 - Supplementary aids, services, program modifications, and supports were updated to include adult support, daily.
 - Related services were updated to reflect the provision of OT from inside general education to outside general education.
 - The LRE was updated to reflect that "During the 2024-2024 school year, [the student's] least restrictive environment will be in a specialized program (Autism) in a comprehensive school, which is a smaller special placement setting." The LRE reflects the student's placement as inside general education less than 40% of the school day.
24. There is no documentation that the student's parents were provided with reports of the student's progress toward achieving the annual IEP goals as required by the IEP for the first, third, and fourth quarters of the 2023-2024 school year.
25. There is no documentation that the student received the speech-language and occupational therapy consult or services during the 2023-2024 school year as required by the IEP.
26. There is no documentation that the student's parents received any of the documentation considered at the student's May 24, 2024, IEP meeting five days prior to the IEP team meeting.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1

REPORTING OF PROGRESS

Based on the Findings of Fact #8, #19, and #24, MSDE finds the PGCPs did not ensure that the parents were consistently provided with reports of the student's progress toward achieving the annual IEP goals during the 2023-2024 school year, in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #2 **PROPER PROCEDURES FOR COMPLETING A REEVALUATION IN THE REQUIRED TIMELINE**

An IEP team shall complete a reevaluation involving new assessment data within 90 days of the date the IEP team determined new data was needed in order to determine the student's continued eligibility for special education services. COMAR 13a.05.01.06(E)(6). In this case, the IEP team determined assessments were needed on September 27, 2023, however, the IEP team did not review the results of the assessment until January 8, 2024.

Based on the Findings of Fact #2, #3, #5, and #6, MSDE finds that the PGCPs has not ensured that the student was comprehensively evaluated in all areas of need within the required timelines since September 27, 2023, in accordance with 34 CFR §§ 300.304 -.311, and COMAR 13A.05.01.05 and .06. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3 **DEVELOPMENT AND IMPLEMENTATION OF THE IEP FOR SPEECH-LANGUAGE AND OCCUPATIONAL THERAPY SERVICES**

Based on the Findings of Fact #1 to #3, #5, #6, #10, #11, #14, #17, #18, and #20 to #23, and #25, MSDE finds that the PGCPs has not developed and implemented an IEP that addresses the student's identified speech-language and occupational therapy needs since June 2023, in accordance with 34 CFR §§ 300.323 - .324. Therefore, this office finds that a violation occurred concerning the allegation.

Notwithstanding this violation, based on Finding of Fact #22, MSDE finds that the PGCPs has determined the compensatory services to be provided to the student. Therefore, no further student-specific corrective action is required concerning the violation.

ALLEGATION #4 **PROVISION OF IEP DOCUMENT FIVE DAYS AFTER IEP MEETING**

Based on the Findings of Fact #7, MSDE finds that the PGCPs did not provide a copy of the IEP document within five business days after the IEP team meeting held on January 8, 2024, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #5 **PROPER PROCEDURES WHEN DETERMINING ESY**

Based on the Findings of Fact #10 and #11, MSDE finds that the PGCPs did ensure that proper procedures were followed when determining the student's need for Extended School Year (ESY) services on April 19, 2024, in accordance with 34 CFR § 300.106 and COMAR 13A.05.01.08. Therefore, this office finds a violation did not occur concerning the allegation.

ALLEGATION #6 **PROVISION OF IEP DOCUMENTS FIVE DAYS PRIOR TO IEP MEETING**

Based on the Findings of Fact #26 MSDE finds that the PGCPs did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the May 24, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

School-Based

MSDE requires the PGCPs to provide documentation by October 7, 2024, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the implementation of the aforementioned violations under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance. Monitoring activities must include submission of reports for 5 randomly selected students with IEPs reflecting documentation that the student's have received the OT and speech-language services required by their IEPs, their progress reports were completed and provided to their families, and that their evaluations were completed within timelines. Monitoring reports must be provided on or before December 2, 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 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/ebh

c: Millard House II, Chief Executive Officer, PGCPs
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