

August 2, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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: #24-252

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 June 3, 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 the student has been consistently provided with the special education instruction required by the Individualized Education Program (IEP) since September 2023, in accordance with 34 CFR §§ 300.101 and .323.
2. The PGCPS did not ensure that the parent was 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 and .323.
3. The PGCPS did not provide a copy of the IEP document within five business days after the IEP team meeting held on February 5, 2024,¹ in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07.
4. The PGCPS did not provide the parent prior written notice of the IEP team's decisions from the IEP team meeting held on February 5, 2024, in accordance with 34 CFR § 300.503.

¹ During the course of the investigation, it was determined that the February 2024 IEP meeting for the student occurred on February 5, 2023, and not February 24, 2024.

5. The PGCPS has not followed proper procedures when responding to a request for an IEP team meeting since April 2024, in accordance with 34 CFR § 300.503.
6. The PGCPS did not ensure that the IEP team convened to review the student's IEP before January 25, 2024,² in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR § 300.324.

BACKGROUND:

The student is seven years old and is identified as a student with Developmental Delay (DD) under the IDEA. The student attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The student's IEP in effect in September 2023, was developed on January 25, 2023, and amended on September 22, 2023. The IEP reflects the student's disability as DD, with expressive and receptive language and social-emotional/behavioral as areas impacted by the disability. The projected annual review date for the IEP was January 24, 2024.

The Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflects the student is performing at the following instructional grade levels:

- Speech-language receptive language - proficient at the 36-42 [month] age range;
- Speech-language expressive language - proficient at the 42-48 [month] age range;
- Pre-academic - proficient at the 42-42 [month] age range; and
- Social-emotional/behavioral - 36-42 months range.

The IEP reflects that the student has special communication needs "in the area of receptive and expressive language that impacts his ability to follow and understand what is asked of him and his ability to express his thoughts, wants and needs." The IEP requires an assistive technology (AT) device but does not require AT services. The IEP reflects that "low-tech devices such as pictures to communicate are needed to support [the student] and will be address[ed] in supplementary aids."

The IEP requires the following instructional assessment accommodations:

- Frequent breaks; and
- Reduce distractions to self.

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

- Preferential seating, daily;
- Provide sufficient wait time, daily;
- Repetition of directions, daily;
- Objects, picture symbols, daily visuals, and photographs, daily;
- Warning of loud noises, daily; and
- Strategies to initiate and sustain attention, daily.

² During the course of the investigation, it was determined that the annual review date for the student's IEP was January 25, 2024, and not April 17, 2024.

The IEP requires the following IEP goals:

- Pre-academic: “[The student] will appropriately answer who, what [,] and where questions when presented with an activity or experience (e.g. story time or show and tell)”;
- Pre-academic: “Given objects and/or pictures and when asked “show me 1-20”, [the student] will show the number of given objects on request independently”; and
- Social-emotional/behavioral: “During play and learning situations, [the student] will actively engage in group activities while following directions.”

The IEP requires the following special education services:

- Five one-hour sessions of classroom instruction inside general education, weekly - “From 8/28/2023 to 01/24/2024, [the student] will [sic] receive one hour of special education services, five sessions per week. All sessions will be provided by a special educator inside the general education classroom”.
- 20 one-hour sessions of classroom instruction inside general education, weekly - “From 1/25/2022 to 6/16/2023, [the student] will receive one hour for 20 sessions per month of special education services inside of the general education classroom in a co-taught Pre-K classroom”; and
- Transportation.

The Least Restrictive Environment (LRE) required by the IEP is inside general education 80% or more of the school day.

2. There is no documentation of a Prior Written Notice (PWN) reflecting the decisions made by the IEP team at the September 22, 2023, IEP meeting.
3. The progress report for the student’s achievement toward the IEP goals dated November 10, 2023, reflects the student was making sufficient progress to meet the IEP goals in pre-academics and the student achieved the social-emotional/behavioral goal.
4. The progress report for the student’s achievement toward the IEP goals dated January 19, 2024, reflects the student was making sufficient progress to meet the IEP goals in pre-academics.
5. On February 5, 2024, the IEP convened to conduct the annual review for the student and to determine if the IEP needed to be revised. The PWN generated after the meeting reflects the IEP team agreed to do the following:
 - Add a phonics goal to the student’s IEP “because [the student] is making significant gains in his current goals and this is an area that needs support.”
 - Update the behavioral goal to focus on task completion; and
 - Track the student’s behavioral goal through progress monitoring “to determine if he will be eligible for a dedicated aide.”

The PWN reflects the IEP team reviewed current grades, assessment data, input from general education, behavior observations, and parent observations to make these decisions.

The PWN reflects the following “follow-up items to be addressed after [the] IEP meeting”:

- The general education teacher “will collect data on behavior to determine if a Functional Behavior Assessment (FBA) needs to be completed.”
- The Spanish Intervention Specialist “will provide resources to the general education teacher.”
- The instructional specialist “will visit the classroom to observe [the student’s] behavior.”

The IEP reflects that the parent attended the meeting and would receive a copy of the PWN and draft IEP within five business days after the IEP meeting.

6. On February 22, 2024, PGCPs staff emailed the PWN from the February 5, 2024, IEP meeting to the parent and stated that the draft IEP would be sent to the parent's home.
7. The progress report for the student's achievement toward the IEP goals dated March 22, 2024, reflects the student was making sufficient progress to meet the IEP goals in pre-academics.
8. On April 9, 2024, the complainant emailed school-based PGCPs staff members stating that the parent had only received one assessment report for the school year and no progress reports. The complainant also requested an IEP meeting, and that the parent be provided with "copies of any benchmark and district assessments that [the student] has taken" in addition to copies of progress reports from quarters one, two, and three. There is no documentation that the PGCPs responded or provided the records to the complainant.
9. In its written response the PGCPs acknowledges that it did not provide the parent a copy of the IEP document within five business days after the IEP team meeting held on February 5, 2024, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07.
10. In its written response the PGCPs acknowledges that it has not followed proper procedures when responding to a request for an IEP team meeting since April 2024, in accordance with 34 CFR § 300.503.
11. There is no documentation that the parent was provided with the IEP progress reports during the 2023-2024 school year.
12. There is documentation that the student has been consistently provided with the special education instruction required by the IEP.
13. There is no documentation of a revised IEP that reflects the IEP team decisions made at the February 5, 2024, IEP meeting.

DISCUSSION AND CONCLUSIONS:

ALLEGATION #1 PROVISION OF SPECIAL EDUCATION INSTRUCTION

Based on the Findings of Fact #1 and #12, MSDE finds that the PGCPs has ensured that the student has been consistently provided with the special education instruction required since September 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #2 PROVISION OF PROGRESS REPORTS

Based on the Findings of Fact #3, #4, #7, #8, and #11, MSDE finds that the PGCPs did not ensure that the parent was 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 and .323. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3 PROVISION OF IEP DOCUMENT AFTER AN IEP MEETING

Based on the Finding of Fact #9, 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 February 5, 2024, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #4 PROVISION OF PRIOR WRITTEN NOTICE

Based on the Findings of Fact #1, #2, #5, and #6, MSDE finds that the PGCPs did provide the parent prior written notice of the IEP team's decisions from the IEP team meetings held on September 22, 2023, and February 5, 2024, in accordance with 34 CFR § 300.503. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #5 RESPONDING TO A REQUEST FOR AN IEP MEETING

Based on the Finding of Fact #10, MSDE finds that the PGCPs has not followed proper procedures when responding to a request for an IEP team meeting since April 2024, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #6 ANNUAL REVIEW

Based on the Findings of Fact #1 and #5, MSDE finds that the PGCPs did not ensure that the IEP team convened to review the student's IEP before January 24, 2024, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred concerning the allegation.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

IEP THAT ADDRESSES THE STUDENT'S IDENTIFIED NEEDS

The IEP team must revise the IEP to reflect the results of any reevaluation, to reflect information about the student provided to or by the student's parent, to address the student's anticipated needs, or other matters. (34 CFR §300.324).

In this case, the IEP team met on February 5, 2024, and agreed to update the student's phonics and behavioral IEP goals, however, the IEP was never revised to reflect these changes.

Based on the Findings of Fact #5 and #13, MSDE finds that the PGCPs has not revised the student's IEP to reflect the decisions made at the February 5, 2024, IEP team meeting, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred.

ACCESS TO STUDENT RECORDS

The Family Educational Rights and Privacy Act (FERPA) requires public agencies to permit parents to inspect and review any educational records relating to their children that are collected, maintained, or used by the agency. The public agency must comply with a request within a reasonable time period, and in no case more than forty-five (45) days after the request has been made. Parents are not entitled to copies of educational records pursuant to FERPA unless their circumstances prevent them from exercising their right to inspect or review the student's records. (34 CFR § 99.10). The IDEA also includes this requirement. (34 CFR § 300.613).

In this case, on April 9, 2024, the complainant requested to receive copies of the student's progress reports and assessment results. There is no documentation that the PGCPS responded or provided the records to the complainant.

Based on the Finding of Fact #8, MSDE finds that the PGCPS has not complied with a request to review the student's education record since April 9, 2024, in accordance with 34 CFR §§ 99.10 and 300.613. Therefore, this office finds that a violation occurred.

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.³ 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. Nicole Green, Compliance Specialist, 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

MSDE requires the PGCPS to provide documentation by October 30, 2024, that the IEP team has:

- Provided the parent with the progress reports;
- Provided the parent with the September 22, 2023, PWN;
- Provided the parent with the requested records;
- Updated the student's IEP to reflect the IEP team's decisions at the February 5, 2024, meeting regarding IEP goals; and
- Convened an IEP team meeting and determined if the failure to timely conduct the student's annual IEP review, to implement the decisions made at the February 5, 2024, IEP meeting; provision of requested records, provision of PWN, and provision of progress reports had a negative impact on the student's ability to benefit the educational program. If the IEP team determines that there was a negative impact it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

³ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

School-Based

MSDE requires PGCPs to provide professional development to the staff at [REDACTED] on the violations identified above on or before December 2, 2024. This is the seventh State complaint from this school since 2023. Accordingly, PGCPs must complete ongoing monitoring and review all IEPs for students at [REDACTED] for compliance with MSDE requirements using MSDE Monitoring rubric (attached). The initial monitoring report must be provided to MSDE by February 3, 2025. Any corrections must be made by June 2, 2025. Full compliance is required by June 2, 2025.

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
Keith Marston, Compliance Instructional Supervisor, PGCPs
Lois Jones Smith, Compliance Liaison, PGCPs
LaRon Martin, Compliance Liaison, PGCPs
Darnell Henderson, General Counsel, PGCPs
William Fields, Associate General Counsel, PGCPs
[REDACTED], Principal, [REDACTED], PGCPs
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
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Nicole Green, Compliance Specialist, MSDE
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