

August 14, 2024

Ms. Beth Ann Hancock
Charting the Course
P.O. Box 350
Lothian, Maryland 20711

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- 267

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 on the final results of the investigation.

ALLEGATIONS:

On June 11, 2024, MSDE received a complaint from Ms. Beth Ann Hancock, hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that Prince George’s County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) concerning the above-referenced student.

MSDE investigated the following allegations:

1. The PGCPS did not ensure that the complainant was provided with a report of the student’s progress toward achieving the annual Individualized Education Program (IEP) goals, and that the progress reported was [not] based upon the data collection method required by the IEP since June 2023, in accordance with 34 CFR §§ 300.101 and .323.
2. The PGCPS has not ensured that the student is being provided with the special education classroom instruction required by the IEP, since June 2023, in accordance with 34 CFR §§ 300.101 and .323.
3. The PGCPS has not ensured that a comprehensive evaluation was conducted within the required timelines, since June 2023 in accordance with 34 CFR §§ 300.300-.311 and COMAR 13A.05.01.06.
4. The PGCPS has not ensured that the student's behavioral needs have been identified and addressed since June 2023, in accordance with 34 CFR §§ 300.304 and .324.

BACKGROUND:

The student is 15 years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. The student was placed by PGCPS at the [REDACTED], a private separate day school, at the beginning of the 2023-2024 school year. He currently attends [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 was developed on October 12, 2022, at the [REDACTED]. The IEP was amended on March 13, 2023, and on July 26, 2023. The IEP reflects the student's most recent evaluation was October 6, 2022. The IEP reflects the following areas are impacted by the student's disability: math problem solving, reading comprehension, written language expression, and behavior. The IEP requires 29 hours of special education classroom instruction outside of the general education setting to be provided by the special education teacher and the instructional assistant. The IEP requires one hour per week of counseling services outside the general education setting to be provided by a school social worker or other licensed mental health provider.

The IEP requires supplementary aids and services to address social/behavioral support needs, including daily crisis intervention.

The IEP reflects that the parent will be notified of the student's progress toward the IEP annual goals through a quarterly parent-teacher conference.

The IEP requires the student to be provided with goals in the identified areas of need including social emotional/behavioral and counseling.

- The social emotional/behavioral goal requires that the "[Student] will follow classroom rules and accept redirection on 6 out of 8 opportunities."
- The counseling goal requires that "When presented with an opportunity [Student] will increase his ability to have a healthy sense of self-concept to get his needs met appropriately through the expression of his feelings related to strengths about himself and others in 7 out of 8 trials."

2. On October 12, 2023, the IEP team at the [REDACTED] convened to hold the annual review. The IEP developed at this meeting requires 29 hours of special education classroom instruction outside of the general education setting to be provided by the special education teacher and the instructional assistant. The IEP requires one hour per week of counseling services outside the general education setting to be provided by a school social worker or other licensed mental health provider.

The IEP requires supplementary aids and services to provide social/behavioral support, including daily crisis intervention.

The IEP requires the student to be provided with goals in the identified areas of need, including social emotional/behavioral and counseling.

- The social emotional/behavioral goal requires that "When presented with frustrating situations, [Student] will respond appropriately by implementing appropriate coping strategies and social interaction skills on 6 out of 8 opportunities:"

- The counseling goal requires that “During counseling sessions [Student] will increase his ability to have a healthy sense of a self-concept in order to get his need met in an appropriate manner through the expression of his feelings related to strengths about himself and others in 7 out of 8 trials.”

The IEP reflects that the parent will be notified of the student's progress toward the IEP annual goals quarterly, by mail.

3. The report of the student's progress dated October 26, 2023, towards the achievement of the annual math problem-solving, reading comprehension, written language expression and counseling goals reflects that the student is “making sufficient progress to meet the goal.”
 - The narrative reflects that the student's progress was measured based upon the data collection method required by the IEP for the social/emotional behavior, the written language expression, and the counseling goals; and
 - The narrative reflects that the student's progress was not measured based upon the data collection method required by the IEP for the math problem-solving and reading comprehension goals.
4. On November 6, 2023, the present levels of academic achievement and functional performance (PLAFFPs) were amended. The IEP reflects the parent inquired about the student returning to his home school. The parent “expressed that [the student] was not making sufficient progress and questioned how she could obtain an immediate change in placement.” In response to the parent the PGCPs central office staff, “recommended a complete full evaluation of [the student] prior to another central IEP (CIEP) referral is submitted.” The IEP further reflects that the school-based staff agreed to submit a request for the school psychologist to observe the student.
5. On November 16, 2023, the PLAFFP was amended. The IEP reflects a PGCPs school psychologist reviewed the results of the 2017 and 2020 psychological assessments, and that recommendations were not made for additional testing.
6. The report of the student's progress dated January 16, 2024, towards the achievement of the annual social emotional/behavioral, reading comprehension, written language expression and counseling goals reflects that the student is “making sufficient progress to meet the goal.”
 - The narrative reflects that the student's progress was measured based upon the data collection method required by the IEP for social/emotional behavioral, written language expression, and counseling goals; and
 - The narrative reflects that the student's progress was not measured based upon the data collection method required by the IEP for the math problem solving and reading comprehension goals.
7. The Prior Written Notice (PWN) developed on December 21, 2023, reflects the IEP team met for the purpose of discussing program/placement. The parent requested a change in placement and informed the team that the family has relocated. The IEP team proposed and agreed to place the student in the Social Emotional Academic program (SEAD) at [REDACTED], as an interim placement.

The PGCPS informed the parent that referrals have been sent to other non-public schools. However, the student has not been placed due to lack of space, or not gaining acceptance into the program based on the student's profile.

8. The report of progress dated January 26, 2024, reflects the math problem solving goal had not yet been introduced.
9. On February 14, 2024, the IEP team convened for the purpose of discussing evaluation/re-evaluation assessments. The PWN generated following this IEP team meeting reflects:
 - The IEP team rejected administering formal assessment for cognitive/intellectual and behavioral data;
 - The student was new to the school and the Social Emotional Academic Development (SEAD) program. The IEP team proposed and accepted providing the student "with time to adjust so that data on his capacity will be better captured and reported"; and
 - The IEP team reported that school staff "has not observed any behavioral or academic demonstrations from [the student] that warrant immediate assessments. The team acknowledged the need for adjustment time for [the student] so that an accurate report can be provided. Because [the student] is now a student in the SEAD Program, a new Functional Behavioral Assessment (FBA) will be administered. Consent will be sent to [the parent] for signature to begin this assessment."
10. On March 28, 2024, the Functional Behavioral Assessment (FBA) summary report was completed. The identified targeted behaviors were "easily frustrated and annoyed, includes arguing, cursing and name calling peers" and "difficulty getting along with others, arguing, aggravating, interrupting, and loud outburst." A Behavior Intervention Plan (BIP) was recommended to address the targeted behaviors.
11. The report of the student's progress dated April 18, 2024, towards the achievement of the annual social emotional/behavioral, reading comprehension, math problem solving, written language expression and counseling goals reflects that the student is "making sufficient progress to meet the goal."
 - The narrative reflects that the student's progress was measured based upon the data collection method required by the IEP for social/emotional behavioral, written language expression, and counseling goals; and
 - The narrative reflects that the student's progress was not measured based upon the data collection method required by the IEP for the math problem solving and reading comprehension goals.
12. There is documentation that a Woodcock Johnson (WJIV) assessment was completed in April 2024.

13. On April 19, 2024, the IEP team convened to discuss evaluation/revaluation, assessments, review/revise IEP, and a 45-day program review. The PWN generated following this IEP team meeting reflects:
- The IEP team proposed and agreed to revise the student’s goals and objectives based on the results of the Woodcock Johnson (WJIV) assessment;
 - The complainant proposed that the team reconvene to discuss evaluation assessments due to concerns that the team did not include a psychological assessment; and
 - The IEP team informed the complainant that the PGCPD did not recommend a psychological assessment during the planning meeting, the team proposed to reconvene on April 30, 2024, for the purpose of discussing evaluations for programming, reviewing the updated draft IEP, FBA and BIP.

The is no documentation that the parent provided consent for the WJIV assessment.

14. On May 21, 2024, the IEP team convened to review/revise the IEP and obtain consent to evaluate. The IEP reflects the most recent evaluation date as May 21, 2024. The IEP reflects the following areas are impacted by the student’s disability: math problem solving, reading comprehension, reading vocabulary, written language expression, self-management, social/emotional behavioral, and social interaction skills.

The IEP requires two hours and twenty minutes per day of special education instruction inside of the general education setting to be provided by the general education teacher and/or the instructional assistant. The IEP requires four hours and forty minutes per day of special education instruction outside of the general education setting to be provided by the special education teacher and/or the IEP team. The IEP requires thirty minutes per week of counseling services outside the general education setting to be provided by a school-based mental health provider, psychologist, guidance counselor, and/or school social worker.

The IEP requires supplementary aids and services to address social/behavioral support needs including daily check-in with a trusted adult, crisis intervention, and home school communication.

The IEP requires the student to be provided with goals in the areas of social emotional/behavioral, social interaction skills, and self-management.

- The social emotional/behavioral goal requires that “By May 2025, during a student-led check-in with an adult (e.g., teacher, counselor, etc.), after identifying a cause of stress at school, given a list of familiar coping strategies (e.g. deep breathing, walking away from conflict, talking with a trusted adult, etc.), [Student] will identify three (3) coping strategies that could be used to address the stressor in 3 out of 4 trials;”
- The social interaction skills goal requires that “By May 2025, during a student-led check-in with an adult (e.g., teacher, counselor, etc.), after identifying a cause of stress at school, given a list of familiar coping strategies (e.g. deep breathing, walking away from conflict, talking with a trusted adult, etc.), [Student] will identify three (3) coping strategies that could be used to address the stressor in 3 out of 4 trials;” and

- The self-management goal requires that “By May 2025, when presented with a class-based task (e.g., reading a passage, completing a set of problems), [Student] will demonstrate agency with regard to work habits (e.g. self-starting assignments, working through completion) by selecting and using at least (1) strategy from a list of options to complete the task (e.g. positive self-talk, chunking tasks, goal-setting) as measured by a teacher-student observation form, for 3 out of 4 class-based tasks.”

The IEP reflects that the parent will be notified of the student's progress toward the IEP annual goals quarterly, by mail.

15. The report of the student’s progress dated June 12, 2024, towards the achievement of the annual self-management, social interaction skills, social emotional/behavioral, reading comprehension, written language expression, reading vocabulary, goals reflects that the student is “making sufficient progress to meet the goal.”
 - The narrative reflects that the student’s progress was measured based upon the data collection method required by the IEP for the self –management, social interaction skills, social emotional/behavioral, written language expression, and counseling goals; and
 - The narrative reflects that the student's progress was not measured based upon the data collection method required by the IEP for the reading vocabulary, reading comprehension, written language goals.
16. The report of progress developed on June 12, 2024, reflects, the math problem-solving goal had not yet been introduced during the 4th quarter of the 2023-2024 school year.
17. There is no documentation that the complainant was provided with a report of the student's progress toward achieving the annual IEP goals since June 2023.
18. There is no documentation that the student was provided with special education instruction as required by the IEP since November 2023.
19. There is documentation that the student was provided with counseling services as required by the IEP from June 2023 through January 2024.
20. There is no documentation that the student was consistently provided with counseling services as required by the IEP from February 2024 through June 2024.

CONCLUSIONS:

ALLEGATIONS #1, #2, AND #4

REPORT OF PROGRESS, PROVISION OF INSTRUCTION AND BEHAVIORAL NEEDS

Report of Progress

Based on the Findings of Fact #1 through #3, #6, #8, #11, and #13 through #14, MSDE finds that the PGCPS has not ensured that the complainant was provided with a report of the student’s progress toward achieving the annual IEP goals, required by the IEP since June 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds a violation has occurred concerning this aspect of the allegation.

Based on the Findings of Fact #1, thorough #3, #6, and #14, MSDE finds that the PGCPs has not ensured and that the progress reported was based upon the data collection method in all areas as required by the IEP since June 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has occurred concerning this aspect of the allegation.

Special Education Instruction

Based on the Findings of Fact #1, #2, #12 and #17, MSDE finds that the PGCPs has not ensured that the student is being provided with the special education classroom instruction required by the IEP, since June 2023, in accordance with 34 CFR §§ 300.101 and .323.

Behavioral Needs

Based on the Findings of Fact #1, #2, #9, and #13, MSDE finds that the PGCPs has ensured that the student's behavioral needs have been identified from June 2023 to January 2024, in accordance with 34 CFR §§ 300.304 and .324. Therefore, this office finds a violation has not occurred concerning this aspect of the allegation.

Based on the Findings of Fact #1, #2, #13, and #19, MSDE finds that the PGCPs has not ensured that the student's behavioral needs have been addressed from February 2024 to June 2024, in accordance with 34 CFR §§ 300.304 and .324. Therefore, this office finds that a violation has occurred concerning this aspect of the allegation.

ALLEGATION #3

EVALUATION

21. On May 21, 2024, a notice and consent for assessment was developed. The notice reflects the IEP team proposed to assess the student to determine the present levels of academic achievement and developmental needs. The IEP team proposed assessments in the following areas:
intellectual/cognitive functioning, emotional/social/behavioral development, and attention scales.
22. On June 5, 2024, the parent provided written consent to assess the student in the following areas:
intellectual/cognitive functioning, emotional/social/behavioral development, and attention scales.

DISCUSSION AND CONCLUSION:

In this case, the PGCPs conducted a WJIV, a standardized assessment, and the IEP team reviewed it on April 19, 2024. There is no documentation that the parent provided consent for the assessment. The IEP team determined assessments were needed at the May 21, 2024, IEP team meeting and acquired parental consent on June 5, 2024.

Based on the Finding of Fact #11, MSDE finds that the PGCPs conducted an assessment without parental consent since June 2023, in accordance with 34 CFR § 300.300 and COMAR 13A.05.01.06. Therefore, this office finds a violation has occurred concerning this allegation.

CORRECTIVE ACTIONS AND TIMELINE:

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 noncompliance 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 Ms. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.^[2] Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Based

MSDE requires the PGCPs to provide documentation by November 1, 2024, that the IEP team has taken the following action:

- a. Provided the student with special education instruction and counseling services as required by the IEP;
- b. Provided the parent with reports of progress; and
- c. Determined the amount and nature of compensatory services, or other remedies, to address the lack of provision of special education instruction and counseling services and the failure to provide appropriate reports of progress. The IEP team must develop a plan for implementing these services within one year of this Letter of Findings.

The PGCPs must ensure that the parents are provided with written notice of the team's decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

MSDE requires the PGCPs to provide documentation by November 1, 2024, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the implementation and documentation of the provision of services required by the IEP, obtaining parental consent for evaluations/assessments, and reporting of progress under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance.

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct 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.

² The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

Monitoring must include a review of at least five randomly selected students ensuring compliance with proper progress reporting aligned with the goal's requirements and receipt of consent prior to conducting assessments. Full compliance is required. If the monitoring sample does not meet 100% compliance, the PGCPs will submit a second randomly selected sample from [REDACTED], on or before January 15, 2025, with the same requirements. If 100% compliance is not demonstrated on the second sample, the PGCPs will confer with MSDE for further guidance.

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/ra

c: Millard House II, Chief Executive Officer, PGCPs
Trinell Bowman, Associate Superintendent, Special Education, PGCPs
Keith Marston, Compliance Instructional Supervisor, PGCPs
Lois Jones Smith, Compliance Liaison, PGCPs
Darnell Henderson, General Counsel, PGCPs
William Fields, Associate General Counsel, PGCPs
[REDACTED], Program Director, [REDACTED], PGCPs
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Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
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