

August 9, 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: #24-269

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 11, 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 develop and implement an Individualized Education Program (IEP) that addressed the student's identified academic and social/emotional/behavioral needs during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323 - .324.
2. The PGCPS did not follow proper procedures when responding to a request for an Independent Education Evaluation (IEE) for the student during the 2023-2024 school year in accordance with 34 CFR § 300.502 and COMAR 13A.05.01.14.

BACKGROUND:

The student is 12 years old and is identified as a student with Autism 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 Behavior Intervention Plan (BIP) in effect for the student during the 2023-2024 school year is dated March 24, 2022. The BIP reflects that it was developed to address behaviors that impact the student's learning, peer learning, and social relationships. The BIP reflects that the student was refusing to complete work, leaving his assigned area both within and outside of the classroom, and engaging in emotional outbursts. The only behavior addressed by the BIP was elopement.
2. The IEP in effect for the student at the beginning of the 2023-2024 school year is dated May 15, 2023, and was amended on September 11, 2023. The IEP lists the student's primary disability as Autism, with math calculation, math problem solving, reading comprehension, speech and language pragmatics, and social-emotional/behavioral as the areas impacted by the disability.

The Present Level of Academic Achievement and Functional Performance (PLAAFP) data in the IEP reflects that the student was performing at the following instructional grade levels:

- Reading comprehension - 4.5;
- Math calculation - 3.5;
- Math problem solving - 3.5;
- Speech and language pragmatics - below age expectations; and
- Social-emotional/behavioral - below age expectancy.

The IEP reflects that the student did not have special communication needs and did not require an assistive technology (AT) device or service. The IEP required the following instructional and assessment accommodations for the student:

- Blank scratch paper;
- Highlight tool;
- Magnification/enlargement device;
- Redirect student;
- Graphic organizer;
- Text-to-speech for mathematics, science, and government assessments;
- Small group;
- Separate or alternate location;
- Frequent breaks;
- Reduce distractions to self;
- Calculation device and mathematics tools (on calculation and non-calculation sections of the mathematics assessment);
- ELA/L constructed response speech-to-text;
- Monitor response; and
- Extended time (1.5x).

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

- Have student repeat and/or paraphrase information, daily;
- Check for understanding, daily;
- Repetition of directions, daily;
- Research and evidence-based intervention, daily;
- altered/modified assignments, daily;
- Use of flash pass, daily;
- Provide frequent changes in activities or opportunities for movement, daily;

- Home-school communication system, daily (“The IEP team will communicate with [the parent] via email when there is a problem in class or a celebration to share, Frequent communication via email will be used to ensure all team members are up to date on what is happening during the school day.”);
- Use of positive/concrete reinforcers, daily (“Provide [the student] with frequent positive attention when he engages in appropriate behavior. In particular, compliment him for attempting non-preferred and more difficult tasks (e.g., “I know that assignment was not easy, and I’m so proud of your for trying your best.”) Find easy to foster self-esteem (e.g., classroom job that he enjoys.”);
- Facilitate peer interactions, daily; and
- Occupational therapist (OT) consult (“An occupational therapy practitioner will provide services on behalf of [the student] by working with the IEP team on [a] quarterly basis to help establish increased attention and engagement in functional and instructional routines.”)

The IEP requires the following goals:

- Reading comprehension - “By 05/14/2024, after reading a grade-level informational text and given a written prompt to form a textual inference, [the student] will write an inference based on implied information from the text, for 3 out of 4 prompts, on 3 out of 4 progress monitoring assessments.”
- Math problem solving - “By 05/14/2024, given a word problem that can be represented by a one-step equation, [the student] will write the solution by creating and solving an equation, with 75% accuracy on 3 out of 4 progress monitoring assessments.”
- Speech-language pragmatics - “During a small-group peer discussion, [the student] will follow at least 2 rules of social interaction (e.g. understanding others perspectives, making inferences, etc.) in 4 out of 5 conversational turns.”
- Social-emotional/behavioral - “By 05/14/2024, during group instruction, given an incomplete “If-Then” sentence stem about the feelings of others, [the student] will say or write 1 feeling to complete the “Then” portion of the “If-Then” statement, for 4 out of 5 If-Then statements, as measured by a progress monitoring assessment.”
- Math calculation - “By 05/14/2024, given an equation with two multi-digit decimal numbers up to the hundredths place, [the student] will calculate the solution by adding, subtracting, multiplying, or dividing, with 75% accuracy, on 3 out of 4 progress monitoring assessments.”

The IEP required the following special education and related services:

- 5 one-hour and 30-minute sessions of classroom instruction inside general education, weekly - (“[The student] will receive 7 hours and 30 minutes of specialized instruction weekly which will be provided inside of a general education classroom);
- 12 - 30-minute sessions of classroom instruction outside general education, weekly - (“[The student] will receive 6 hours per week of specialized instruction outside of the general education classroom focused on social/emotional goals as well as academic interventions.”);
- 5 one-hour and 30-minute sessions of classroom instruction inside general education, weekly - (“Beginning in middle school, [the student] will receive 7 hours and 30 minutes a week of support within his general education setting for reading and math.”);
- 30-minutes of counseling outside general education, weekly - (“[The student] will be provided with 30 minutes of counseling services per week outside of general education); and

- Three 30-minute sessions of speech-language therapy outside general education, monthly - (“[The student] will receive speech services 3x per month for 30 minutes outside the general education classroom.”)

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

3. From November 13, 2023, through November 20, 2023, the parent and school-based PGCPs staff exchanged emails regarding the student’s poor grades and disruptive behaviors in class, and what supports and interventions the team had in place for the student.
4. On November 21, 2023, school-based PGCPs staff sent an email to the parent explaining that the student was provided the use of a “safe space” and “flash pass” in addition to three identified staff members who he can utilize when needed, namely the special education department chair, the mental health therapist, and the school counselor. It was also shared that the student has access to use the restroom “up to 3 times daily” within the restroom use policy of the school.
5. On November 26, 2023, the IEP team convened at the parent’s request. The Prior Written Notice (PWN) generated after the meeting reflects that the parent shared concerns about how the student’s IEP was being implemented. The PWN reflects that the team discussed and answered questions for the parent about the following topics:
 - Parent/teacher communication;
 - How the student’s “Flash Pass” was being implemented;
 - Parent assistance with navigating Canvas and providing examples to help the student with math homework; and
 - The student’s outside OT and SLP services ended on October 2, 2023.

The PWN reflects that the parent provided verbal consent for the school-based mental health practitioner to see the student “as needed for social/emotional support while at school.” It was also shared that the student could begin attending “After-School Enrichment” for social skills and homework assistance.”

6. The progress for the student reported in November 2023, reflects that the student was making sufficient progress toward achieving all of his IEP goals.
7. On December 12, 2023, and December 14, 2023, school-based PGCPs staff sent an email to the parent providing updates to the student's use of his “Flash Pass” and the restroom policy.
8. There is documentation that on January 8, 2024, the student received an “in-school suspension.”
9. On January 12, 2024, the IEP team reconvened to address parent concerns. The PWN generated after the meeting reflects that the IEP team discussed the student’s grades in his RELA (Reading English Language Arts) and social studies classes. The school-based team reported that the student was receiving his IEP accommodations as required by the IEP, however, the student was often tardy to class and was struggling with “class preparation and organization.” It was shared that the student was not utilizing the opportunities to make up assignments.

The PWN reflects that the parent “expressed concern about the home-school communication regarding [the student’s] academics and behavior. The IEP team determined that a “Daily Progress Form” would be completed by the student’s teachers and shared with the parent.

The PWN reflects that the parent requested a BIP be developed for the student. The school-based team proposed that the student’s behavior could be addressed through supplementary aids and services before conducting a formal Functional Behavior Assessment (FBA). It was stated that the student’s weekly counseling sessions could be tailored to include social skills training, and a student inventory would be used to identify positive reinforcers.

The PWN reflects that the parent shared concerns that the student’s struggles in art class could be related to the struggles with his hand muscles, and the school-based team members shared that the OT would be consulted about this concern.

The team agreed to schedule another IEP meeting to “further review and discuss [the student’s] supplementary aids and services and an IEP amendment.”

10. The report of progress towards the achievement of the student’s IEP goals reported in January 2024, reflects the student was making sufficient progress to achieve the IEP goals in reading comprehension, math problem solving, math calculation, social-emotional/behavioral, and the student achieved the goal in speech-language pragmatics.
11. On January 24, 2024, the IEP team reconvened to discuss an amendment to the student’s IEP. The PWN generated after the meeting reflects that the team determined that the “Daily Progress Form” would be implemented for one month before deciding if it should be continued or adjusted. The school-based team shared that it had determined the snacks that could be used as positive reinforcers for the student and his teachers would be surveyed to understand how this information could be used to motivate the student. The IEP team agreed that the student’s counseling sessions would include social skills lessons to help the student with “developing and maintaining positive relationships with his peers.” The speech-language therapist reported that the student was meeting his previous pragmatic goal and would continue to work on “social inference and perspective taking” and the occupational therapist shared data from observing the student’s hand muscles and the use of a sensory object at school.
12. The amended IEP developed at the January 24, 2024, IEP meeting is dated January 26, 2024. The IEP reflects the following changes:
 - Daily home-school communication was updated to reflect “Parent will be provided with updates regarding [the student’s] progress in his classes via email and Daily Progress Form completed by [the student’s] teachers”.
 - Use of positive/concrete reinforcers was updated to reflect “Provide [the student] with frequent positive attention when he engages in appropriate behavior or attempts non-preferred tasks. [The student] also benefits from having opportunities to earn free time using the Chromebook after completing assignments or assessments”.
 - Weekly Social Skills Training, was added to the IEP - (“[The student’s] counseling sessions will be tailored to include social skills lessons in order to assist him with developing and maintaining positive relationships with his peers”);
Quarterly occupational therapy consult was updated to reflect that “An occupational therapy practitioner will provide services on behalf of [the student] by working with the IEP team on [a] quarterly basis to help establish increased attention and engagement in functional and instructional routines. [The student’s] increased activity level and possible

sensory-seeking behavior, along with self-directed behaviors are impacting his participation in the learning environment. OT consult may include collaboration with school staff, parents, and/or relevant medical providers on behalf of [the student], as well as participation in IEP team meetings. If consulting with the team, OT monthly consult should include a follow-up consult with [the] parent.”

- The speech-language goal was updated to the following:
 - “Given a video, reading passage, or real-life social situation, [the student] will independently answer social inference questions to help improve his perspective taking of others in 4 out of 5 opportunities across 3 data days by the end of the IEP cycle.”

13. The report of progress towards the achievement of the student’s IEP goals reported in March 2024, reflects the student was making sufficient progress to achieve the IEP goals in reading comprehension, math problem solving, math calculation, and social-emotional/behavioral. Progress toward the speech-language pragmatics goal was reported in April 2024 and reflected that the student was making sufficient progress to achieve the goal.

14. On April 9, 2024, the IEP team reconvened to discuss parental concerns and the parent's request to conduct an FBA for the student. The PWN generated after the meeting reflects that the IEP team reviewed the student’s grades and behavior data. School-based team members reported that the student had recently been observed displaying aggressive behaviors toward others in class. The parent reported that she was unaware that a BIP had been created for the student in elementary school and she did not know that the BIP was no longer active. A school-based IEP team member explained that the student’s FBA/BIP “was not documented properly in MD Online IEP (MOIEP) and the middle school team was not aware that [the student] had an FBA from 2022.” A member of the student’s elementary school-based IEP team shared that specific supports from the student’s BIP were “transferred into his IEP as supplementary aids and services” in June 2022, however, the PWN from that meeting did not note that the student’s BIP “had ended” because the student “displayed no behavioral challenges in the 5th grade and [the student] finished elementary school on a high note.” The IEP team agreed that a consultation and observation would be conducted for the student to consider how his executive functioning and social skills were impacting him academically and socially. The team also proposed to conduct a new FBA for the student that will consider his new interfering behaviors and data would be collected to determine if the student requires a BIP. It was agreed that the team would reconvene in May to discuss the FBA.

15. On April 10, 2024, the advocate sent a letter about the April 9, 2024, IEP meeting to PGCPs school-based and central office staff. Among other concerns, the parent requested PGCPs to fund an IEE-FBA for the student.

16. On April 22, 2024, the IEP team reconvened to discuss parental concerns and grievances. The PWN generated after the meeting reflects that the team took the following actions:

- PGCPs proposed to incorporate a central office Social-Emotional Learning (SEL) specialist to address concerns about the student’s social-emotional development, in addition to providing the student with after-school tutoring. This proposal was made in response to the parent’s request to receive compensatory services for the failure to implement the student’s BIP for sixth and seventh grade. PGCPs took the position that there was no agreement that compensatory services were warranted as the student’s BIP focused on elopement and the student was no longer displaying that behavior. The parent did not agree with the school-based team’s proposal and declined the offer.

- The IEP team agreed to provide the parent with weekly progress monitoring reports for the student's current BIP and the targeted behavior of elopement.
- The IEP team agreed that the parent's request for an Independent Educational Evaluation would be submitted to the Central Office Special Education Department.
- The IEP team discussed and agreed upon positive reinforcers for the student.
- The IEP team agreed to review the student's current testing location to determine how the student performs in small group testing and what supports are needed to help him stay on task and follow directions.
- The school-based team reported that the student is provided speech-to-text as both a supplementary aid and a testing accommodation, and access to the teacher's notes.
- The OT requested permission to administer a "sensory processing questionnaire" to the student to address his sensory profile and needs, and the parent agreed.
- The SLP agreed to add speech consult to the student's IEP during the upcoming annual review in May at the parent's request.
- The parent agreed with the observation the PGCPs Autism specialist was scheduled to conduct for the student.

17. On April 30, 2024, the PGCPs Department of Special Education sent a letter to the parent acknowledging the receipt of the April 10, 2024, request for an IEE for an FBA for the student. The letter states that during the April 22, 2024, IEP meeting the Office of Comprehensive Coordinated Early Intervening Services Comprehensive Response team proposed to coordinate with the school to conduct the FBA for the student, but the parent's advocate declined to allow PGCPs staff to complete the FBA due to perceived prejudice. The letter informed the parent that PGCPs would review her request and respond within two weeks of the date of the letter.

18. On May 13, 2024, the IEP team reconvened to conduct the student's annual IEP review and determine the need for Extended School Year (ESY) services. The PWN generated after the meeting reflects the IEP team discussed the following:

- School-based IEP team members reported that the parent's request for an IEE had been submitted to the Central office and the PGCPs compliance supervisor would investigate concerns regarding the implementation of the student's BIP and compensatory services. The parent agreed to this.
- The IEP team agreed to have the student receive an OT assessment in self-management (written language expression).
- The autism specialist reported on data collected from the classroom observation. The IEP team agreed to add visual supports and check-in/checkout as a supplementary aid to support the student's executive functioning. The parent agreed to be contacted to schedule a tour of autism programs in the school district.
- The IEP team agreed to "add language about receptive/expressive language skills" in the speech consult section.
- The IEP team agreed on the draft IEP developed for the student.
- The IEP team agreed that the student would receive special education services in "the general education co-taught classroom for 7.5 hours weekly in Reading and Math."
- The IEP team agreed that the student was eligible for ESY services.
- The parent provided consent for an FBA "after language was updated to include existing and new behaviors per parent's request."

19. The IEP developed at the May 13, 2024, meeting reflects the student was performing at the following instructional grade levels in the PLAAFP:

- Reading comprehension - 4th - 5th grade;
- Math calculation - 4th grade;
- Math problem solving - 4th grade;
- Speech and language pragmatics (SLP) - below age expectations;
Social-emotional/behavioral - below age and grade level expectations; and
- Self-management - "Interferes with school performance without support and strategies in place."

The instructional and assessment accommodations required by the IEP continued.

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

- Text-to-speech via Google Chrome Extension, daily;
- Visual supports, as needed per subject/class, as needed per subject/class;
- Provide student w/copy of student/teacher notes, as needed per subject/class;
- Monitor independent work, daily;
- Check-in/Check-out to support with executive functioning, weekly;
- Social skills training, weekly;
- Use of preferred chewing object upon student's request, daily; and
- Speech/language pathologist consult ("[The student] will receive speech/language consult for his pragmatic language, and expressive/receptive language skills once per quarter. Consult can be described as providing materials, or resources to [the] parent or IEP team, check-in with teachers to continue to monitor how best to facilitate carryover of [the student's] skills through the general education setting.")

The IEP required the following IEP goals:

- Reading comprehension - "Given a grade-level literary text and a written inferential claim about the text, [the student] will write 1 piece of evidence to support the claim with 80% accuracy in 3 out of 4 opportunities as measured by classroom-based assessments by May 2025."
- Math problem solving - "Given a one-step word problem and an equation template, [the student] will correctly solve the problem by filling in the equation template and completing a solution sentence template (e.g., The photo album has ___ pages.) in 3 out of 4 opportunities as measured by classroom-based assessments by May 2025."
- Speech-language pragmatics - "Given a video, reading passage or real-life social situation, [the student] will independently answer social inference questions to help improve his perspective taking of others in 4 out of 5 opportunities across 3 data days by the end of the IEP cycle."
- Social-emotional/behavioral - "During counseling sessions on managing personal anxiety and stress, given a model and a list of strategies, [the student] will physically demonstrate/practice 1 preferred self-calming technique (e.g. deep breathing, self-talk) for 20 seconds in 4 out of 5 opportunities as measured by an observation tool by May 2025."
- Math calculation - "Given a set of problems involving multi-digit addition, subtraction, multiplication, or division, [the student] will use the standard algorithm to correctly solve the problems with 80% accuracy in 3 out of 4 opportunities as measured by classroom-based assessments by May 2025."

The IEP required the following special education and related services:

- 5 one-hour and 30-minute sessions of classroom instruction inside general education, weekly - (“[The student] will receive 7 hours and 30 minutes of support within a general education co-taught setting for reading and math.”)
- One 30-minute session of counseling outside general education, weekly - (“[The student] will be provided with 30 minutes of counseling services per week outside of general education.”); and
- Three 30-minute sessions of speech-language therapy outside general education, monthly - (“[The student] will receive speech services 3x per month for 30 minutes outside the general education classroom.”)

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

20. On May 16, 2024, the PGCPs Department of Special Education sent a letter to the parent in response to her IEE request for an FBA. The letter reflects that the previous PGCPs letter dated April 30, 2024, shared that parents have the right to receive one IEE at public expense if the parent disagreed with an evaluation that the public agency conducted. The letter denied the parent’s IEE request because the parent did not “indicate any disagreement with the results of an evaluation that [had been] conducted by PGCS.” The letter also reflected that on May 1, 2024, the parent provided consent for an FBA to be conducted by the PGCPs, but then revoked the consent on May 13, 2024.
21. On May 17, 2024, the advocate sent an email to PGCPs central office staff indicating the parent’s previous statement of disagreement with the results of the student’s 2022 FBA/BIP in the April 10, 2024, grievance letter. The email requested that the parent receive a “new IEE letter” for the request that was sent “37 days ago.”
22. On May 21, 2024, the PGCPs conducted an Occupational Sensory Assessment for the student in the area of “self-management as it relates to written language expression.”
23. On May 31, 2024, PGCPs school-based staff emailed the advocate informing him that “Restorative Practices” were being used with the student.
24. On June 10, 2024, the IEP team reconvened to review the results from the OT assessment and discuss the student’s counseling services and parent concerns. The PWN generated after the meeting, dated June 11, 2024, reflects that the team discussed the following:
 - The OT supervisor reported that the OT assessment results showed that the student did not warrant direct OT therapy. The parent disagreed.
 - The IEP team agreed to continue the student’s counseling services through October 2024.
 - The IEP team agreed to continue the 7.5 hours of specialized instruction inside the general education classroom required by the student’s current IEP.
 - The parent and advocate requested written confirmation that the student’s 2022 BIP had not been implemented, and the school-based team reported that the BIP had not been implemented because the student had not been exhibiting the interfering behavior that the BIP addressed (elopement). The school-based team shared that consent to conduct an updated FBA was requested to allow the team to identify current behavior data and develop a new plan. The PWN reflects there is currently an IEE request for an FBA. The parent disagreed.

- The parent and advocate requested to receive the student's progress reports monthly instead of quarterly. The school-based team shared that the compliance office would be contacted regarding this request.
- The PWN reflects the team determined the student was eligible for ESY services.

25. The amended IEP developed at the June 10, 2024, IEP meeting is dated June 17, 2024. The student eligibility, PLAAFP, and instructional and assessment accommodations in the IEP continued. The supplementary aids, services, program modifications, and supports continued, and the following supports were added:

- Access to typing to complete extended writing tasks, as needed per subject/class;
- Research and evidence-based intervention, as prescribed by the research-based intervention - ("[The student] will have access to research-based interventions in reading and math to help support his reading comprehension, math calculation, and math problem-solving. These interventions will be provided in academic resources class based on an A/B day schedule. Parent will be provided [the student's] whole year intervention reports at the end of the school year per [the parent].")

The IEP goals, special education instruction, related services, and LRE continued.

26. On June 14, 2024, the PGCPs Department of Special Education sent the parent a letter acknowledging her request for an IEE on May 17, 2024. In its correspondence, the PGCPs agreed to fund the IEE FBA for the student.
27. On June 14, 2024, school-based PGCPs staff emailed the parent a copy of the iReady and Lexia reports, and the counseling, speech, and OT service logs for the 2023-2024 school year.
28. The IEP goal progress reported for the student on June 14, 2024, reflects the skills in reading comprehension, math problem solving, and math calculation were newly introduced and not measurable at the time. The student's progress in social-emotional/behavioral and speech and language pragmatics reflect the student was making sufficient progress to meet the goal.
29. On July 1, 2024, the PGCPs Department of Special Education sent a letter to the parent acknowledging her request for an IEE for occupational therapy that was made on June 17, 2024, through her advocate. The letter informed the parent that her request was being reviewed.
30. On July 17, 2024, the advocate sent an email to PGCPs central office staff indicating that the parent had not received a response to her June 17, 2024, request for an OT IEE.
31. On July 19, 2024, PGCPs central office staff sent an email to the advocate stating that "PGCPs will be providing a letter indicating that the IEE will be funded in the near future..."
32. On July 26, 2024, the PGCPs sent the parent a letter agreeing to fund the June 17, 2024, IEE OT request.
33. While there is some documentation that the student received counseling services, the documentation is insufficient to demonstrate that the student received all of the counseling services required by the IEP during the 2023-2024 school year.
34. There is documentation that the student received the specialized instruction and supports required by the IEP during the 2023-2024 school year.

CONCLUSIONS:

ALLEGATION #1

DEVELOPMENT AND IMPLEMENTATION OF THE IEP

As soon as possible following the development of the IEP, the public agency must ensure that special education and related services are made available to the child in accordance with the child's IEP. (34 CFR § 300.323).

Academic Needs:

Based on the Findings of Fact #2, #3, #6, #9, #13, #16, #18, #19, #24, #25, and #28, MSDE finds that the PGCPs developed and implemented an Individualized Education (IEP) that addressed the student's identified academic needs during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that no violation occurred concerning the allegation.

Social/Emotional/Behavioral Needs:

In this case, although the student's 2022 BIP was not implemented during the 2023-2024 school year, there is no documentation that the student was exhibiting the behavior that the BIP addressed. During the 2023-2024 school year, the IEP team addressed the parent's concerns about the student's social-emotional and behavioral needs by updating the IEP with additional supplementary aids, services, program modifications, and supports to address the student's behavior and social-emotional needs throughout the 2023-2024 school year.

Based on the Findings of Fact #1 to #14, #16, #18, #19, #22 to #24, and #28, MSDE finds that the PGCPs developed and implemented an IEP that addressed the student's identified social/emotional/behavioral needs during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323- .324. Therefore, this office finds that no violation occurred concerning the allegation.

Provision of Counseling Services

Based on the Finding of Fact #33, MSDE finds that the PGCPs did not ensure that the student received all of the counseling services required by the IEP during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred.

ALLEGATION # 2

RESPONDING TO A REQUEST FOR AN IEE

When a parent requests an independent educational evaluation at public expense, the public agency shall provide a written response approving or denying the request within 30 days of the date the request was made. (COMAR 13A.05.01.14).

In this case, the parent made a formal request for an IEE on April 10, 2024, however, PGCPs did not respond to the request until May 17, 2024, 36 days after the parent's initial request.

Based on the Findings of Fact #15, and #20, MSDE finds that the PGCPs did not follow proper procedures when responding to the April 10, 2024, request for an IEE for the student in accordance with 34 CFR § 300.502 and COMAR 13A.05.01.14. Therefore, this office finds that a violation occurred concerning the allegation.

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.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 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

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

- Convened an IEP team meeting to determine the amount and nature of compensatory services or other remedy to redress the failure to provide the counseling services as required by the IEP and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

School-Based

MSDE requires the PGCPs to provide documentation by October 30, 2024, of the steps it has taken to ensure that the staff at [REDACTED] properly implements and documents the requirements for the responding to an IEE and the provision of special education related services under IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance.

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.

¹ 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.

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, PGCP
Keith Marston, Compliance Instructional Supervisor, PGCP
Lois Jones Smith, Compliance Liaison, PGCP
Dr. Wendi Wallace, Compliance Liaison, PGCP
Darnell Henderson, General Counsel, PGCP
William Fields, Associate General Counsel, PGCP
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Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
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Tracy Givens, Section Chief, Dispute Resolution, MSDE
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