

August 19, 2024

Ms. Debrah Martin
1300 Mercantile Lane Ste 139-W
Largo, Maryland 20774

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

RE: [REDACTED]
Reference: #24-284

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 21, 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) concerning the above-referenced student.

MSDE investigated the following allegations:

1. The PGCPS has not ensured that the student has been provided with the special education instruction as required by the Individualized Education Program (IEP) since December 2023¹, in accordance with 34 CFR §§ 300.101 and .323. Specifically, the complainant alleges the student was not provided appropriate reading services.
2. The PGCPS did not provide proper written notice (PWN) of the IEP team's decisions to decrease the number of days the student receives reading support from the special education teacher as required by the IEP since January 2024, nor did they provide proper written notice of the IEP team decisions from the IEP team meetings on February 7, 2024, in accordance with 34 CFR § 300.503.

¹The Letter of Initiation reflects 2024.

3. The PGCPs did not follow proper procedures when responding to a request to amend the student's education record on April 16, 2024, in accordance with 34 CFR § 300.618.

BACKGROUND:

The student is eight years old and is identified as a student with a Specific Learning Disability (SLD) under the IDEA. The student currently attends [REDACTED] and has an IEP that requires the provision of special education instruction.

FINDINGS OF FACT:

1. The IEP in effect in December 2023 was developed on May 24, 2023, and amended on September 27, 2023. The IEP reflects that the areas impacted by the student's disability are reading comprehension, reading fluency, and phonics. The IEP team developed goals for these impacted areas. The IEP required:
 - Four 30-minute sessions weekly of specialized instruction inside the general education classroom, provided by a special education teacher, to deliver a research-based reading intervention and work on the IEP goals;
 - Four 30-minute sessions weekly of specialized instruction outside the general education classroom, provided by a special education teacher, to address the student's needs in reading. These services are to be provided in the Special Education Resource Room.
2. There is documentation that, since December 2023, the student has received:
 - Specialized instruction inside the general education classroom was provided by a special education teacher for one hour on Mondays and 30 minutes on Thursdays.
 - Specialized instruction outside the general education classroom was provided by a special education teacher for 45 minutes on Mondays, 45 minutes on Thursdays, and 30 minutes on Fridays.
3. On January 8, 2024, the special education teacher emailed the parents to follow up on their last conversation, which was held on December 6, 2023. The email provided an update on the student's services. The special education teacher informed the parent that the student "complains" when it is time to do Lexia², the research-based intervention used with the student, and often wants to "play or go back to her class." The special education teacher then inquired if the student's IEP states: "Pull-out is 30 minutes, 4 times per week, for a total of 2 hours a week. My schedule for second grade is to pull out 3 times a week only—2 sessions of 45 minutes (90 minutes) and 1 session of 30 minutes. The total is 2 hours. As I told you, we try our best to serve students."

² Lexia Reading is a computerized reading program that provides phonics instruction and gives students independent practice in basic reading skills. Lexia Reading is designed to supplement regular classroom instruction.

4. On February 11, 2024, the IEP team met at the parent's request to discuss whether reading was impacting the student during math, changes in the delivery of services, and the Lexia online intervention. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team reviewed the student's DIBELS³ report and i-Ready Reading scores⁴. The team also discussed the student's progress with the Lexia Core Reading Intervention and considered input from the special education teacher. It was noted that while the student was showing overall progress in reading compared to the previous quarter's data, her Lexia scores indicated minimal progress from the beginning of the year to the present. The PWN reflects that the IEP team discussed the student's service hours; the options considered were "continue to implement [the student's] IEP with fidelity. The PWN indicates that the parent agreed with the IEP team's decision.
5. While the PWN reflects the parent agreed to the IEP team's decisions; the PWN is not clear as to what decisions were made by the IEP team regarding the special education services for reading.
6. On April 16, 2024, the parent emailed members of the IEP team, stating that there are "two outstanding document points that need to be addressed for accuracy of the student's record." The parent expressed concern that the PWN they received in February lacked key details, such as the parent and advocate expressing concern regarding the inconsistencies or absences in service delivery, and the PGCPs administrator "assuring that the team would monitor service delivery carefully to ensure compliance," as it was explained to the parent that the change was due to scheduling constraints. The email also noted that the second issue was that the parent did not receive an amended IEP to reflect the change of services to three days a week.
7. On April 18, 2024, a member of the IEP team responded to the parent, stating that "[they] will look into this and get back to you as soon as possible." There is no documentation that the PGCPs team responded to the parent's request to amend the student's record.
8. On May 8, 2024, the IEP team held an annual review of the student's IEP. The PWN reflects that the IEP team discussed the student's service hours. The IEP team proposed that the student will receive:
 - "3 sessions of 45 minutes of pull-out special education services per week, totaling 2 hours and 15 minutes per week" and
 - "4 sessions per week, 30 minutes each, totaling 2 hours per week, inside the general education classroom with the special education teacher.

³ DIBELS (Dynamic Indicators of Basic Early Literacy Skills) is a series of short tests designed to evaluate key literacy skills among students in kindergarten through 8th grade, such as phonemic awareness, alphabetic principle, accuracy, fluency, and comprehension.

⁴ i-Ready is a combination of an online instruction program and a diagnostic test for students in kindergarten through eighth grade designed to identify a student's strengths and weaknesses, and to personalize their learning.

9. The PWN reflects that during push-in services, the special education teacher will support the student with her general education class activities. During pull-out services, the special education teacher will work on the student's IEP goals and research-based interventions. The PWN also indicates that the parent and advocate agreed with the IEP team's decisions.
10. The May 8, 2024, IEP reflects that the student requires:
 - Three 45-minute sessions weekly of specialized instruction outside the general education classroom, provided by a special education teacher in the resource room, to address the student's reading and math goals and include a research-based intervention; and
 - Four 30-minute sessions weekly of specialized instruction inside the general education classroom, provided by a special education teacher, to deliver a research-based reading intervention and work on IEP goals.
11. The PGCPs acknowledges that the PGCPs has not ensured that the student has been provided with the special education instruction as required by the IEP since December 2023, in accordance with 34 CFR §§ 300.101 and .323.

DISCUSSION and CONCLUSIONS:

ALLEGATION #1 PROVISION OF SPECIAL EDUCATION AND READING SERVICES

Based on the Findings of Fact #1 through #5 and #8 through #11, MSDE finds that the PGCPs has not ensured that the student has been provided with the special education instruction as required by the IEP, including appropriate reading services, since December 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #2: PRIOR WRITTEN NOTICE

In this case, the PWN generated after the February 11, 2024, IEP team meeting does not clearly document the IEP team's discussion and decision regarding the delivery of service hours for the student. As a result, the documentation does not accurately reflect the decisions or the basis for any decisions made by the IEP team.

Based on the Findings of Fact #1 through #6, MSDE finds that the PGCPs did not provide prior written notice of the IEP team's decisions to decrease the number of days the student receives reading support from the special education teacher as required by the IEP since February 11, 2024, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3 REQUEST TO AMEND STUDENT RECORDS

Based on the Findings of Fact #6 and #7, MSDE finds that the PGCPs did not follow proper procedures when responding to a request to amend the student's education record on April 16, 2024, in accordance with 34 CFR § 300.618. Therefore, this office finds that a violation occurred concerning the allegation.

CORRECTIVE ACTIONS AND TIMELINES:

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR § 300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.⁵ 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.⁶ 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 25, 2024, that the IEP team has convened and determined the amount and nature of compensatory services or other remedies to redress the lack of provision of special education services in the area of reading and developed a plan for the provision of those services within one year of the date 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 by October 25, 2024, the PGCPS to provide documentation that it has provided professional development to [REDACTED] staff on the following:

- The provision of special education services as required by the IEP;
- The proper procedure to clearly write a PWN; and
- The proper procedure to respond to a request to amend student records.

⁵ 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.

⁶ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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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

AH/sj

c: Millard House II, Chief Executive Officer, PGCPS
Keith Marston, Compliance Instructional Supervisor, PGCPS
Lois Jones Smith, Compliance Liaison, PGCPS
Darnell Henderson, General Counsel, PGCPS
William Fields, Associate General Counsel, PGCPS
██████████, ██████████, Principal, PGCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
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