

September 6, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #24-287

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 27, 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 School (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 student was provided with the Extended School Year (ESY) services required by the Individualized Education Program (IEP) during the July 2023 ESY session and transportation services during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323.
2. The PGCPS did not follow proper procedures when responding to a request for an IEP team meeting from June 2023 to December 2023, in accordance with 34 CFR § 300.503.
3. The PGCPS did not follow proper procedures when conducting a reevaluation of the student since the start of the 2023-2024 school year, in accordance with 34 CFR §§ 300.303 -.311 and COMAR 13A.05.01.06. Specifically, the complainant alleges:
 - The student was not reevaluated at least every three years; and
 - PGCPS did not complete the reevaluation initiated in December 2023 within the required timelines.

4. The PGCPSS has not ensured that the IEP team addressed the parent's concerns regarding direct speech services since March 2024, in accordance with 34 CFR § 300.324.
5. The PGCPSS has not developed an IEP that addresses the student's identified needs since March 2024, in accordance with 34 CFR §§ 300.101 and .324.
6. The PGCPSS has not provided the parent with prior written notice of the IEP team decisions from the IEP team meeting on June 7, 2024, in accordance with 34 CFR § 300.503.

BACKGROUND:

The student is 19 years old and is identified as a student with Intellectual Disability (ID) under the IDEA. The student attends [REDACTED] ([REDACTED]) and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The IEP in effect for the student in July 2023 is dated November 30, 2022, with a projected annual review date of November 29, 2023. The IEP reflects the student's most recent evaluation date was on February 13, 2021, and the projected reevaluation date as February 12, 2024. The IEP requires the following transportation services:
 - Transportation services from November 30, 2022, to November 29, 2023.
("Related Services - Transportation: [the student] will be provided transportation as a related service. Transportation from home to school and back to home will be provided. Transportation is for in-school sessions.")
2. On September 6, 2023, the complainant emailed the PGCPSS sharing that she spoke with transportation, and "despite completing a form provided by [the student's case manager] in the spring and a conversation with the school's registrar[,] she was informed that the student's records regarding her transportation were not updated. The complainant further shared that the "kinship form" was submitted with the correct address.
3. On September 21, 2023, the student's IEP was amended to reflect an updated evaluation date of April 13, 2024, and the student's Least Restrictive Environment (LRE) was updated to reflect the student "will receive services in the CRI classroom." There is no documentation that a meeting was convened on September 21, 2023, or that permission to amend the IEP without an IEP team meeting was provided.
4. On October 25, 2023, the PGCPSS Pupil Accounting and School Boundaries Department sent a letter to the complainant stating that her "kinship care/tuition waiver" was reviewed by the evaluation committee and was approved for the 2023-2024 school year. The letter states that the approval "is contingent upon enrollment in school" within ten school days and within the compliance registration procedures outlined in "Administrative Procedure 511." The letter informed the complainant that "if the informal kinship care status changes...the committee may terminate the Kinship Care approval."
5. The November 17, 2023, report of the student's progress toward achieving the math problem-solving goal reflects the student was making sufficient progress to meet the goal. The November 21, 2023, report of the student's progress toward achieving the reading comprehension goal reflects that the goal was achieved.

6. The student's IEP dated November 21, 2023, reflects that the Present Levels of Academic Achievement and Functional Performance (PLAAFP) data was updated to include monthly checkpoints and benchmark assessment results in reading comprehension and math problem-solving, and speech-language data was updated to reflect November 2023 classroom observation and teacher report data. The PLAAFP data reflects that the student was performing on the following performance levels:
- Reading comprehension - second grade;
 - Math problem solving - first grade;
 - Speech and language expressive language - below grade level; and
 - Secondary transition - "Current performance is not commensurate with peers."

The secondary transition data continued, and the IEP team added the November 2023 pictorial interest survey and student interview information. The student's postsecondary goals were updated to reflect the student's interest in retail. The secondary transition agency linkage information was also updated to reflect that consent was obtained to communicate with the Division of Rehabilitation Services (DORS), the Developmental Disabilities Administration (DDA), and the Division of Workforce Development & Adult Learning at the Maryland Department of Labor.

The IEP reflects that the student does not have communication needs and does not require an assistive technology (AT) device or services. The instructional and assessment accommodations required by the IEP included:

- Blank scratch paper;
- General administration directions clarified;
- Redirect student;
- Graphic organizer;
- Small group;
- Frequent breaks;
- Calculation device and mathematics tools on calculation sections of the mathematics assessments;
- Monitor test response; and
- Extended time (1.5x).

The supplementary aids, services, program modifications, and supports required by the IEP were as follows:

- Model, gesture, verbal prompts, visual supports - daily;
- Paraphrased direction, repetition of task direction, redirection as needed, extended time - daily;
- Picture support, small chunk modified texts, manipulatives - daily; and
- Speech/language pathologist consult - monthly ("Consultation services will occur on a monthly basis through classroom observation and check-ins with teachers.")

The student's previous IEP goals continued and were updated to reflect an end date of November 2024. The IEP goals were as follows:

- Math Problem-Solving: "By November 2024, given math word problems involving money and time and with verbal prompts, [the student] will solve the word problem with 75% accuracy in 4 out of 5 trials."
- Reading Comprehension: "By November 2024, given a grade-level, informational or literary text, and asked to identify the main idea and supporting details from 3 choices, [the student] will compare the choices to the given text and point to the main idea and supporting details for (33 out of 4) texts, on (3 out of 4) progress monitoring assessments."

The special education classroom instruction required by the IEP was increased and the related services required by the IEP were updated to the following:

- Four one-hour and 30-minute sessions of classroom instruction outside general education, daily; and
- Transportation.

The Least Restrictive Environment (LRE) required by the IEP was updated to “inside general education less than 40%” in the Community Referenced Instruction (CRI) classroom.

7. There is no documentation that the parent/guardian provided permission to develop or amend the IEP on November 21, 2023, without an IEP team meeting.
8. On December 11, 2023, the IEP team convened to conduct the student’s annual review and to determine the need for updated assessments. The Prior Written Notice (PWN) reflects that the IEP team reviewed requests of the family, previous IEPs, past formal psychological reports, cognitive reports, and Speech-Language assessments. The IEP team agreed to conduct a psychological, cognitive, speech-language, and emotional rating scale.

The family requested reimbursement for transportation services provided by the family to transport the student to and from school from April - June 2023 and since September 2023.

The IEP facilitator explained that the request for special transportation for the student that the district made in April 2023 “was denied by special education transportation because the student lives outside of the boundaries of [REDACTED].” The student’s 2022-2023 transportation was routed “based on the student’s address on file, however, the student was residing with [the complainant] outside of the school's boundary.”

The IEP team agreed to consider a referral to the CIEP team. The IEP team planned to reconvene in February 2024 to review the assessment results.

9. The amended November 21, 2023, IEP is dated December 15, 2023, and reflects the PLAAFP, secondary transition data, instructional and assessment accommodations, supplementary aids, services, program modifications, and supports, goals, special education classroom instruction, and related services, and LRE continued without any changes.
10. The February 9, 2024, report of the student’s progress toward achieving the math problem-solving and reading comprehension goals reflects the student was making sufficient progress to meet the goals.
11. On March 20, 2024, the IEP team reconvened to review the assessment results. The PWN reflects that the IEP discussed the family and school-based team’s disagreement regarding the provision of the student’s speech and language services in a consult format and the family’s concern that the service model was predetermined. The school-based team shared the recommendation that the student continue to receive services in the consultative format was not a predetermination. The “IEP team proposed additional assessments because there were concerns that the administration of the Woodcock-Johnson IV and the WISC were not the appropriate assessments for this student.” The team also “developed goals and objectives based on the results of the new assessments that will reasonably meet the student's needs.”

12. On April 12, 2024, the student's address on the IEP was updated to reflect the complainant's address. There is no documentation that permission to amend the IEP without an IEP team meeting was provided by the complainant or that a PWN was generated and provided to the complainant to reflect the changes made to the IEP.
13. The April 18, 2024, report of the student's progress toward achieving the math problem-solving and reading comprehension goals reflects the student was making sufficient progress to meet the goals.
14. On April 19, 2024, the IEP team reconvened to review the student's assessment results. The PWN generated after the meeting reflects that the team reviewed the results of the Brigance Assessment conducted for the student in March 2024, the speech and language assessment conducted in January 2024, and the psychological assessment conducted for the student in January 2024. The PWN reflects that the team agreed to meet again on April 29, 2024, to develop the student's IEP.
15. The IEP developed on April 19, 2024, is dated April 29, 2024. The student's primary disability is ID. The areas affected by the student's disability are math calculation, math problem-solving, reading comprehension, reading vocabulary, speech and language articulation, speech and language expressive language, speech and language receptive language, written language expression, and self-management.

The student's evaluation date reflects March 14, 2024, and the documentation for the disability decision was updated to reflect the results of the Wechsler Abbreviated Scale of Intelligence (WASI-II), the Adaptive Behavior Assessment System - Third Editions (ABAS-III), and the Behavior Assessment Scale for Children, Third Edition (BASC-3). The PLAAFP data reflects the student was performing on the following instructional grade levels:

- Reading vocabulary - first grade;
- Reading comprehension - first grade;
- Math calculation - first grade;
- Math problem solving - first grade;
- Written language expression - first grade;
- Speech and language articulation - below age expectancy;
- Speech and language receptive language - below age expectancy;
- Speech and expressive language - below age expectancy; and
- Self-management - first grade.

The student's secondary transition information was updated to reflect the results from the provision of the O'NET interest inventory, student interview, and the Brigance Comprehensive Inventory of Basic Skills II Standardized. The student's area of interest in retail continued unchanged.

The parental input reflects: "The guardian stated that she would provide the team with her parental input no later than Wednesday, May 1, 2024." The student's strengths, interest areas, significant personal attributes, and personal accomplishments were updated to reflect the student's abilities regarding task completion, self-advocacy and self-efficacy, behavior during the student's work assignment at Old Navy, and what the student does in her downtime.

The instructional and assessment accommodations were updated to include the following:

- Eliminate answer choice;
- General administration directions read aloud and repeated as needed
- ELA/Literacy selected response speech-to-text;

- ELA/Literacy selected response human scribe;
- ELA/L response human scribe;
- Answers recorded in the test book; and
- Extended time (2.0x).

The supplementary aids and services required by the IEP were updated to include the following:

- Small group reteaching of concepts, daily;
- Pre-teach (preview) complex lessons, daily;
- Check for understanding;
- Scheduled breaks with greater frequency for complex tasks, daily;
- Allow use of manipulatives, daily;
- Use of word bank to reinforce vocabulary and/or when extended writing is required, daily;
- Allow use of highlighters during instruction and assignments, daily;
- Teach in a concrete manner with manipulatives, picture support, small chunks, modified texts; and
- Psychologist consult, monthly (“Consultation with IEP team and teachers on behalf of student. Informal check in and check out, observations, and sharing of strategies.”)
- The dates for the student’s speech-language consult were updated to April 29, 2024, to April 28, 2025.

The IEP goals were updated to the following:

- Written Language Expression: “By April 2025, [the student] will construct a sentence that ask[s] her to write the main idea of a story, to state the main character of the story or the setting of a story with 7% accuracy on 3 out of 4 trials.”
- Self-management: “By April 2025, [the student] will demonstrate appropriate time management skills in the school setting and work environment.”
- Reading Vocabulary: “By April 2025, when presented with modified reading informational text on her current instructional level, [the student] will recite 10 new words each quarter from a Dolch Reading List, with 70% accuracy on 2 out of 3 trials.”
- Math Problem-Solving: “By April 2025, given math word problems involving money and time, with verbal prompts, and picture support, [the student] will correctly identify keywords that task her to perform specific operations such as addition and subtraction to solve the word problem with 75% accuracy in 4 out of 5 trials.”
- Reading Comprehension: “By April 2025, when a modified informational or literary text, with picture support, is presented to [the student] on her instructional level, 1st grade; and [is] she asked to identify the main idea and supporting details from 3 choices, [the student] will compare the choices to the given text and point to the main idea and supporting details, for (3 out of 4) tests, on (3 out of 4) progress monitoring assessments.”
- Math Calculation: “By April 2025, [the student] will visually identify symbols within a math problem that denote subtraction and addition operations with 75% accuracy on 3 out of 4 trials.”

The special education instruction, related services, and LRE continued with no changes.

16. The written language expression and self-management goals required by the student’s April 29, 2024, IEP are not measurable as written.

17. On April 29, 2024, PGCPs central office staff sent an email to the student's family that reflected the student's bus route information for the 2021-2022 and 2023-2024 school years. The information provided for the 2023-2024 school year reflects the updated address for the student as residing with the complainant and states "Out-of-Boundary for Transportation. CRI program boundary - [REDACTED]."
18. On May 6, 2024, the IEP team reconvened to review and/or revise the student's IEP. The PWN generated after the meeting reflects that the speech pathologist reviewed present levels for articulation, expressive, and receptive language, and present level data was updated with the information obtained from the speech and language assessment report. The IEP team "concluded that [the student] would continue to receive speech services on a consultative basis to reinforce expanding her expressive language." The PWN reflects that the advocate and the complainant were concerned that the team had predetermined the student's speech services and disagreed with the proposal. The advocate and the complainant inquired about transportation and reimbursement for transportation. The PGCPs central office staff stated that it would be addressed.
19. On June 12, 2024, the IEP team reconvened to discuss reimbursement for transportation and compensatory services. The PWN reflects that the IEP team refused the complainant's request for reimbursement for transportation required for the student during the "last school year and the entirety of this school year" because "the student transitioned from the parent's address to the guardian's address near the end of the 2022-2023 school year thereby placing [the student] outside of the boundary for [REDACTED] [and] the guardian requested that the student remains at [REDACTED], however, transportation is not provided to students living outside of the boundary."

The IEP team refused the complainant's request for compensatory services for the direct speech services that were removed from the student's IEP. The school-based team concluded that based on the results from the updated speech assessments, the student did not require direct speech services. The PWN reflects that the school-based team shared that the decision to remove direct speech services had been removed from the student's IEP six years ago.

The PWN further reflects that the school-based IEP team granted the complainant's request for compensatory services due to the student's inability to attend the summer 2023 session of ESY and the student's lack of progress on IEP goals and objectives. These services would be completed "prior to the end of the 2024-2025 school year."
20. The June 14, 2024, report of the student's progress toward achieving the math problem-solving reading vocabulary, math calculation, written language expression, self-management, and reading comprehension reflects the student was making sufficient progress to meet the goals.
21. On June 26, 2024, a PGCPs central office staff member emailed the complainant a copy of the PWN from the June 7, 2024, IEP meeting.
22. On July 16, 2024, the IEP team reconvened to conduct a CIEP team meeting to discuss the program and placement for the student during the 2024-2025 school year based on a referral by the school-based team. The PWN reflects that in 2023 it was agreed that the student would remain at [REDACTED] for the remainder of the 2023-2024 school year "to minimize disruption for [the student]." When the team discussed transportation at the June 15, 2024, IEP meeting it was stated that the student was not eligible for transportation to [REDACTED], and the school-based team explained the PGCPs transportation policy regarding students who attend schools that are outside of their assigned boundaries.

The team discussed the “similar separate class program” at [REDACTED] that was available within the boundary location and shared that “there are different vocational sampling opportunities and fewer staffing vacancies” compared to [REDACTED]. The complainant shared her concerns that the student needed a program that would help develop skills needed for “independent work and living” and stated that she did not believe that those skills “can be adequately addressed through the program at [REDACTED] or [REDACTED] within the next school year.” The complainant also shared her concern that the student’s IEP “does not currently include goals to address life skills...completing transactions/using money, telling time, or following daily routines independently.” The PWN reflects that the school-based team agreed that additional goals were needed and that baseline data would need to be collected to develop appropriate life skills goals. The school-based team proposed adding home/school communication to the student’s IEP.

The IEP team agreed that the student is eligible to receive special education services with a projected graduation date of June 1, 2025. The IEP team determined that the student required an 11-month program which would allow the student to remain enrolled in school through the 2025-2026 school year. The IEP team adjusted the student’s graduation date to June 1, 2026. The IEP team agreed to refer the student to a private separate day school with an 11-month program with special transportation.

The PGCPs proposed, and the complainant agreed, to rescind its previous offer of compensatory services in lieu of the proposed nonpublic placement. If the student is not accepted at the recommended placements the complainant will be contacted to “discuss an alternate MSDE-approved private separate day school that can implement [the student’s] IEP.”

The PWN further reflects that the special educational instructional specialist for [REDACTED] will set up a meeting with transportation “to discuss [the] student attending [REDACTED] until a nonpublic placement is finalized.” It was also agreed that the receiving school would hold a 45-day review meeting to “revisit the family’s concerns regarding [the student’s] speech/language needs and to develop additional goals to address independent living/life skills.”

23. The amended IEP developed after the July 16, 2024, reflects the following changes:
 - The documented basis for assessment decisions for alternate standards was updated to reflect that the student is working towards a Certificate of Program Completion.
 - The parental input regarding the student's educational program was updated to include information from the CIEP meeting on July 16, 2024.
 - The student’s date of graduation was updated to reflect June 1, 2026.
 - The classroom instruction required by the IEP was updated to reflect that the team determined the student would receive 30 hours of special education services weekly outside of general education.
 - The LRE was updated to reflect the student’s placement option as “Private Separate Day School.”
24. In its written response, the PGCPs acknowledges that the student did not receive ESY services in July 2023.
25. In its written response, the PGCPs acknowledges that it did not follow proper procedures when responding to a request for an IEP team meeting from September 2023 to December 2023.

26. In its written response, the PGCPs acknowledges that proper procedures were not followed in obtaining a reevaluation for the student at least every three years since 2018. Although there is documentation in the February 13, 2021, IEP, indicating that new assessments were not needed, this is not documented in any PWN.
27. In its written response, the PGCPs acknowledges that proper procedures were not followed in completing the reevaluation for the student, which was initiated in December 2023, within the required timelines. Specifically, both PGCPs and the family agreed that the WJ-IV was not an appropriate testing instrument for the student, so the IEP team needed to conduct another assessment.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1 PROVISION OF ESY SERVICES AND PROVISION OF TRANSPORTATION SERVICES

ESY

Based on Finding of Fact #24, the PGCPs acknowledges that the student was not provided with the ESY services required by the IEP during the July 2023 ESY session, in accordance with 34 CFR §§ 300.101 and .323. Therefore, there is a violation concerning this allegation.

TRANSPORTATION

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

In this case, the student's amended IEPs dated January 9, 2023, and December 15, 2023, required the provision of transportation services for the 2023-2024 school year. However, being informed that the student was residing with the complainant in May of 2023, the PGCPs did not ensure the student was either transferred to her boundary school or provided transportation services to [REDACTED]. There is also no documentation that the complainant was made aware that transportation would not be provided until December 2023.

Based on the Findings of Fact #1, #2, #6, #8, #17 to #19, and #22, MSDE finds that the PGCPs did not ensure the transportation 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 concerning the allegation.

ALLEGATION #2 PROPER PROCEDURES WHEN RESPONDING TO A REQUEST FOR AN IEP MEETING

Written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (34 CFR § 300.503).

Based on the Finding of Fact #25, PGCPs acknowledges that they did not follow proper procedures when responding to a request for an IEP team meeting since September 2023, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3

PROPER PROCEDURES FOR CONDUCTING A REEVALUATION OF THE STUDENT

Proper Procedures For Conducting A Reevaluation Of The Student

A public agency must ensure that a reevaluation of each child with a disability occurs at least once every three years unless the parent and the public agency agree that a reevaluation is unnecessary. (34 CFR §§ 300.303). In this case, the November 30, 2022, IEP reflects the student’s most recent evaluation date was on February 13, 2021, and the projected reevaluation date is February 12, 2024.

Based on the Findings of Fact #1 and #26, the PGCPS acknowledges that they did not follow proper procedures when ensuring that the student was reevaluated at least every three years since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.303 -.311 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

Proper Procedures For Completing A Reevaluation In The Required Timeline

The results of assessment procedures shall be used by the IEP team in reviewing, and, as appropriate, revising the student's IEP within 90 days of the IEP team meeting when assessments were agreed upon. (COMAR 13A.05.01.06). In this case, the IEP team received written consent to conduct assessments for the student on December 16, 2023, however, the IEP team completed its review of the assessments on April 19, 2024.

Based on the Findings of Fact #8 and #27, the PGCPS acknowledges they did not follow proper procedures when conducting a reevaluation of the student by failing to complete a timely reevaluation, since December 16, 2023, in accordance with 34 CFR §§ 300.303 -.311 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

ALLEGATION #4

ADDRESSING PARENT CONCERNS

In developing each child's IEP, the IEP Team must consider the strengths of the child and the concerns of the parents for enhancing the education of their child. (34 CFR § 300.324).

In this case, the IEP team discussed the complainant’s concerns regarding the student’s speech services at the March 20, 2024; April 19, 2024; May 6, 2024; and June 12, 2024, IEP meetings. The PGCPS team explained that the decision to remove direct speech services from the student’s IEP occurred six years previously. However, the IEP team reevaluated the student in the areas of speech and language articulation and receptive and expressive language and determined that the student should continue to receive speech services on a consultative basis.

Based on the Findings of Fact #11, #14, #18, and #19, MSDE finds that the PGCPS has ensured that the IEP team addressed the parent’s concerns regarding direct services since March 2024, in accordance with 34 CFR §300.324. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #5

IEP THAT ADDRESS THE STUDENT'S NEEDS

In developing each child's IEP, the IEP Team must consider the strengths of the child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child. (34 CFR §§ 300.324).

In this case, based upon updated reevaluation assessment results the IEP team developed the April 29, 2024, IEP based upon the student's strengths, areas affected by the disability, secondary transition data, parent input, instructional and assessment accommodations, supplementary aids and services, and IEP goals.

Based on the Findings of Fact #11, #14, #15, #18, #19, #22, and #23, MSDE finds that the PGCPs has developed an IEP that addresses the student's identified needs since March 2024, in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #6 PROVISION OF PRIOR WRITTEN NOTICE

Written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (34 CFR § 300.503).

In this case, the documentation provided reflects that the complainant received the PWN from the June 7, 2024, IEP meeting on June 26, 2024.

Based on the Finding of Fact #21, MSDE finds that the PGCPs has provided the parent with proper written notice of the IEP team decisions from the IEP team meeting on June 7, 2024, in accordance with 34 CFR § 300.503. Therefore, this office finds that no violation occurred concerning the allegation.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

PROPER PROCEDURES WHEN AMENDING AN IEP

Amendments or changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or by amending the IEP rather than by redrafting the entire IEP with the agreement of the parent. In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes and instead may develop a written document to amend or modify the child's current IEP. If changes are made to the child's IEP the public agency must ensure that the child's IEP Team is informed of those changes. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. (34 CFR § 300.324).

In this case, the student's IEP was amended on September 21, 2023, and April 12, 2024, however, there is no documentation that the complainant agreed to or provided permission to amend the IEP without a meeting.

Based on the Findings of Fact #3 and #12, MSDE finds that the PGCPs did not follow proper procedures when amending the student's IEP in September 2023 and April 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred.

PROPER PROCEDURES FOR DEVELOPING AN IEP

In this case, the November 21, 2023, IEP was developed without an IEP team meeting. While there is documentation that the November 21, 2023, IEP meeting was rescheduled, the IEP is dated November 21, 2023.

Based on the Findings of Fact #6 and #7, MSDE finds that the PGCPs did not follow proper procedures by developing the student's IEP without an IEP team meeting, in November 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred.

PROVISION OF PRIOR WRITTEN NOTICE

Written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (34 CFR § 300.503).

In this case, the student's IEP was amended on September 21, 2023, and April 12, 2024, and an IEP was developed for the student on November 21, 2023. There is no prior written notice to reflect the amendments or the development of the IEP.

Based on the Findings of Fact #3, #6, #7, and #12, MSDE finds that the PGCPs did not provide prior written notice of the decisions reflected in the September 21, 2023, and April 12, 2024, amendments, and the development of the November 21, 2023, IEP, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation occurred.

MEASURABLE ANNUAL IEP GOALS

An IEP must include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and meet each of the child's other educational needs that result from the child's disability.

In this case, the student's April 29, 2024, IEP contains a written language expression goal that requires the student to perform with 7% accuracy and a self-management goal that does not require a level of accuracy at all.

Based on the Findings of Fact #15, #16, and #20, MSDE finds that the PGCPs has not ensured that the IEP contains measurable goals since April 29, 2024, in accordance with 34 CFR § 300.320. 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.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.² 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 that the school system has taken the following actions:

1. By September 30, 2024, convene a meeting with the PGCPs transportation department to determine the provision of transportation services to and from [REDACTED] from the complainant's address until a nonpublic placement is finalized and inform the complainant of the decision immediately; and
2. By November 1, 2024, convene an IEP team meeting and determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The PGCPs must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains 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 staff at [REDACTED] properly implements the requirements for the implementation of ESY services, special transportation services, proper procedures for completing a reevaluation, developing IEPs with measurable goals, providing PWNs for IEP amendments or obtaining written permission from parents/guardians to amend an IEP without a meeting under the IDEA. PGCPs must also provide quarterly monitoring reports of 15 randomly selected IEPs from [REDACTED] reflecting the following: proper procedures for amending IEPs (including parental consent to amend without a meeting, PWN, providing the parent with the amended IEP); measurable goals, proper procedures for reevaluation (including timelines and appropriate assessments); ensuring parents are provided with PWN following IEP team meetings. Monitoring reports are due by December 1, 2024; March 1, 2025; June 1, 2025; and October 1, 2025.

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.

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

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
Dr. Wendi Wallace, Compliance Liaison, PGCPs
Darnell Henderson, General Counsel, PGCPs
William Fields, Associate Deputy 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
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE