

September 13, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #25-019

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services (DEI/SES), 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 August 2, 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) concerning the above-referenced student.

MSDE investigated the following allegations:

1. The PGCPS has not ensured that school staff responded to questions the parent asked the special education teacher by email on July 31, 2024, as required by his Individualized Education Program (IEP), in accordance with 34 CFR §300.101. Questions included the following:
 - Did [the student] eat lunch today?
 - Did he go to a restaurant?
 - What did he eat?
 - Did he grab food from others?
 - [The student] threw up a lot after coming home from school today. Could you please explain if there was anything that happened at the school which can cause vomiting?
 - [The student] threw up a lot after coming home from school today. Who was with him today?
 - [The student] threw up a lot after coming home from school today. Did he throw up while he was at school?
 - Was there any other unusual incident?

2. The PGCPSS has not ensured that the student was provided with his home/school communication log on July 31, 2024, as required by his IEP, in accordance with 34 CFR § 300.101. The student's home/school communication log includes the following information:
 - When the student goes into the community
 - Where the student goes in the community
 - The student's handwashing procedures
 - The student's toileting procedures
 - Inappropriate fecal behavior
 - Elopement
 - Following directions
 - Following the schedule

BACKGROUND:

The student is 19 years old, is identified as a student with Autism under the IDEA and has an IEP that requires the provision of special education and related services. At the time of this complaint the student was attending [REDACTED], a nonpublic, separate, special education school. The student currently attends the [REDACTED] in Prince George's County.

FINDINGS OF FACT:

1. There is documentation that the complainant sent two email communications to school staff on July 31, 2024, with the questions: "[The student] threw up a lot after coming home from the school today (07/31/2024). Could you please explain if there was anything that happened at the school which can cause vomiting? Who was with him today? Did he throw up (vomit) while he was at school? Was there any other unusual incidents?" and "Did [the student] eat lunch today? Did he go to a restaurant? What did he eat? Did he grab food from others? Did he eat excessive food?"
2. These emails were sent to two staff members at the student's school, including the student's former teacher who no longer worked at the time the questions were sent.
3. An Email Communication Protocol has been in place for this student since November 9, 2022. The Email Communication Protocol was updated on October 5, 2023, and states that Ms. Lois Jones-Smith and Ms. Trena Bolding, both PGCPSS staff, are required to be copied on all communications between the "parent and the school staff member to ensure that IEP requirements are being implemented." There is no documentation that the complainant followed this protocol.
4. There is no documentation that either the student's school or PGCPSS received the complainant's questions.
5. The student's IEP requires a daily home/school communication log. The log includes daily data about the student's behavior (aggression, elopement, inappropriate fecal behavior); where the student went, what the student worked on; areas where the student excelled; toileting and handwashing behaviors; singlet data; whether additional clothes are needed, and additional notes.
6. There is no documentation that there was a home/school communication log provided to the complainant on July 31, 2024.

DISCUSSION AND CONCLUSIONS:

As a result of prior MSDE complaints, the PGCPs was directed to develop an Email Communication Protocol to ensure that the complainant's questions and concerns were responded to on a timely basis. The PGCPs cannot be responsible for responding to questions that they are not aware of, or that the nonpublic school has no record of receiving. The Protocol was put in place to avoid this situation.

Based on Findings of Fact #1 through #4, MSDE finds that the PGCPs was not informed of the complainant's questions as he failed to follow the well-established Email Communication Protocol, and at least one of the school staff emailed was no longer employed by the school at the time of the communication. Therefore, as there wasn't proper notification to PGCPs and the school of complainant's questions, this office finds that a violation did not occur concerning this allegation.

Based on Findings of Fact #5 and #6, MSDE finds that the PGCPs has not ensured that the student was provided with his home/school communication log on July 31, 2024, as required by his Individualized Education Program, in accordance with 34 CFR § 300.101. Therefore, this office finds a violation concerning this 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.² Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

¹The 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.

Student-Specific

By October 1, 2024, the PGCPs is required to use existing data sheets to provide the student's parents with a home/school communication log for July 31, 2024, to the extent possible. The PGCPs should also make every effort to respond to the parent's questions regarding the student's illness on July 31, 2024, now they are aware of the questions surrounding the incident. Copies of the recreated July 31, 2024, home/school communication log and any response to the parent's questions must be provided to MSDE by October 1, 2024.

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 (15) 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/abb

c: Millard House, II, Superintendent, PGCPs
Keith Marston, Supervisor Special Education Compliance, PGCPs
Lois Smith-Jones, Liaison, Special Education Compliance, PGCPs
Darnell Henderson, General Counsel, PGCPs
William Fields, Associate General Counsel, PGCPs
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicol Elliott, Section Chief, Policy and Accountability, MSDE
Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicole Green, Compliance Specialist, MSDE