

October 28, 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: #25-030

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 August 12, 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 did not follow proper procedures when identifying the student to determine if he is a student with a disability requiring special education and related services since August 2023, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06.
2. The PGCPS did not provide prior written notice (PWN) of the IEP team's decisions from the IEP team meetings since August 2023, in accordance with 34 CFR § 300.503.
3. The PGCPS did not ensure that accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meetings were provided at least five business days before each scheduled meeting since August 2023, in accordance with COMAR 13A.05.01.03B(9).

4. The PGCPs did not develop an Individualized Education Program (IEP) that addresses the student's identified academic and behavioral needs since October 2023, in accordance with 34 CFR §§ 300.101 and .324.

BACKGROUND:

The student is seven years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. He attends [REDACTED] and has an IEP that requires special education services and related services. The parent has not provided consent to initiate the IEP services.

ALLEGATION #1

EVALUATION PROCEDURES

FINDINGS OF FACTS:

1. At the beginning of the 2023-2024 school year, the student had a 504 plan. On September 1, 2023, the school staff emailed the complainant proposing to review the student's behavior intervention plan (BIP) on September 13, 2023. On September 13, 2023, the complainant emailed the school staff requesting that the student be evaluated to determine if he is eligible for special education and related services.
2. On September 28, 2023, at the request of the parent, "the IEP team convened to determine if the student qualifies for an IEP." The virtual IEP team meeting sign in sheet reflects that the following team members participated in the meeting:
 - Assistant Principal;
 - School counselor;
 - Psychologist;
 - Pupil Personnel Worker;
 - Special Education Chairperson;
 - General Educator;
 - Special Educator;
 - School Nurse;
 - School Mental Health Therapist;
 - Mother; and
 - Grandparents.

The prior written notice (PWN) generated following the meeting further reflects:

- the student currently had a 504 plan;
- the student was evaluated during the 2022-2023 school year and did not qualify for special education services;
- the IEP team proposed reconsidering the student's eligibility due to his current behaviors impacting his academics;
- the IEP team reviewed and considered "previous assessment reports¹, teacher reports, behavioral checklists, I-Ready, and classroom assignments";

¹ An IEP team meeting occurred on March 29, 2023, to determine if the student qualified for special education services. Formal evaluations were ordered, and the IEP team determined that the student was not eligible for special education and related services.

- based on the current information, the IEP team determined that the student was eligible for special education services as a student with OHI;
- the IEP team proposed and agreed to develop an IEP to address the student’s behavioral and academic concerns/needs;
- the IEP team recommended an informal Occupational Therapy (OT) consultation; and
- the IEP team proposed and agreed to reconvene within 30 days to review the draft IEP.

DISCUSSION AND CONCLUSION:

In conducting an evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent that may assist in determining whether the student is a student with a disability, and the content of the student’s IEP. The information that the IEP team considers must include information related to enabling the student to be involved in and progress in the general education curriculum. The public agency must not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for the student (34 CFR § 300.304).

In this case, the IEP team reviewed a variety assessments and data including parental input. They discussed the student’s current behaviors that were impacting his academic success. Based upon all of the information, the IEP team determined that he was a student with a disability that required an IEP to address his academic and behavioral concerns.

Based on Findings of Fact #1 and #2, MSDE finds that the PGCPs did follow proper procedures when identifying the student to determine if he is a student with a disability in accordance with 34 CFR §§ 300.301-311 and COMAR 13A.05.01.06. Therefore, this office finds that a violation did not occur concerning this aspect allegation.

ALLEGATIONS #2 and #4 PROVISION OF PWN, DEVELOPMENT OF THE IEP

FINDINGS OF FACT:

3. On October 25, 2023, the complainant emailed the PGCPs requesting to cancel the IEP team meeting scheduled for October 26, 2023. The complainant requested a copy of the student's BIP and additional meeting dates. The complainant also informed the school staff that her advocate would be in attendance at the next meeting.
4. On November 9, 2023, the IEP team convened to review/revise the student’s Functional Behavior Assessment (FBA) and BIP and determine the next steps. The PWN reflects the school-based team proposed to review the draft IEP; however, “the parents and parent advocate did not want to consider the draft IEP.” The IEP team discussed the FBA dated June 6, 2023. The parent disagreed with the data collection time period noted in the FBA. The review date on the BIP reflects October 25, 2023; however, there is no documentation that the BIP was reviewed with the parent. The Occupational Therapist shared an informal assessment “without a report “. The Occupational Therapist agreed to conduct a formal assessment for review at the next IEP team meeting. The psychologist shared components of the November 2022 report, and agreed to provide the parent with a copy of the October 2023 classroom observation. The PWN also

reflects the IEP team proposed and agreed to “meet again on December 4th or 7th with all pertinent members present to determine next steps.”

5. On December 4, 2023, the IEP team convened for the purpose of reviewing the IEP, occupational therapy (OT) Observation, FBA/BIP. The PWN generated following the meeting reflects:
 - the parent rejected the school-based team’s proposal to review the initial IEP draft. The parent had significant concerns about the data used to determine eligibility;
 - the Occupational Therapist presented findings from the OT observation agreed upon at the September 28, 2023, IEP team meeting;
 - the IEP team proposed and agreed to conduct an OT assessment and a new FBA to identify the cause of challenging behaviors and create a new BIP; and
 - the IEP team proposed and agreed the student would continue to receive support through the student’s 504 plan.
6. On December 7, 2024, the complaint provided written consent to evaluate the student’s fine motor needs, conduct self-management skills and sensory processing, and to conduct an FBA.
7. On May 20, 2024², the IEP team convened for the purpose of re-determining eligibility for special education services. The PWN generated after the IEP team meeting reflects the IEP team proposed and agreed that the student is eligible for services as a student with OHI. The PWN further reflects “the team proposed to reconvene on June 4th at 8:00 am to discuss the draft IEP, the revised FBA, and address OT services.”

While there is documentation that a Notice of IEP Team Meeting was generated for June 4, 2024, and a virtual sign in sheet was completed; there is no PWN generated for the meeting.

8. On September 25, 2024, the IEP team reconvened to continue the meeting from June 4, 2024, for the purpose of reviewing the draft IEP. The PWN generated after the IEP team meeting reflects the IEP team reviewed proposed goals, ESY, counseling services, OT consult, and updating the BIP. Parental input was requested, and the complainant agreed to provide input via email. The PWN further reflects the complainant had not provided consent to implement the IEP.
9. The IEP developed on September 25, 2024, reflects the student’s disability impacts reading phonemic awareness, self-management, and social emotional/behavioral. The IEP provides the student’s present level of performance and a discussion of how the disability impacts his ability to access the general education curriculum. The IEP reflects the student has an FBA and requires a BIP, instructional/accessibility features, accommodations, supplementary aids, services, program modifications and supports, goals to address self-management, reading comprehension, social/emotional/behavioral, and services. The IEP reflects an ESY and least restrictive environment determination.

² There is documentation that a Notice of IEP Team Meeting was generated to convene IEP team meetings on April 2, and 25, 2024, and the meetings were rescheduled.

10. There is documentation that the complainant was provided with PWN for the September 28, 2023, IEP team meeting on both October 2 and 26, 2023; the November 9, 2023, IEP team meeting on November 17, 2023; the December 4, 2023, IEP team meeting on December 11, 2023³; and the May 17, 2024, IEP team meeting on May 24, 2024.

DISCUSSIONS AND CONCLUSIONS:

Provision of the PWN

Based on Finding of Fact #10 MSDE finds that the PGCPs provided PWNs of the IEP team's decisions from the IEP team meetings held from August 2023 to May 2024, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation did not occur concerning this allegation.

Development of IEP

An initial IEP must be developed within 30 days of the determination of the IEP team of the student's eligibility for special education services. (34 CFR § 300.323(c)). In this case, the IEP team determined the student was eligible for special education services on September 28, 2023, but they did not develop an IEP within 30 days. While there was a draft IEP presented for review at the November 9, 2023, IEP team meeting, the PGCPs team did not review it or finalize the IEP. A finalized IEP was not developed until September 25, 2024.

Based on Findings of Fact #2 through #8, MSDE finds that the PGCPs did not develop an IEP that addresses the student's identified academic and behavioral needs within the required timelines from October 2023 to September 25, 2024, in accordance with 34 CFR §§ 300.101, .323, and .324. Therefore, this office finds that a violation did occur concerning this aspect of the allegation.

Notwithstanding the violation, based on Finding of Fact #8, MSDE finds that the parent did not provide consent for the initiation of services. Therefore, no further student-specific corrective action is required.

ALLEGATION #3

IEP PROVISION OF DOCUMENTS BEFORE AN IEP TEAM MEETING

FINDINGS OF FACT:

11. On October 24, 2023, November 2, 2023, and May 28, 2024, draft copies of the IEP were provided to the complainant.
12. On November 6, 2023, the FBA and BIP were provided to the complainant.
13. On November 21, 2023, an IEP meeting notice and the psychologist observation report was provided to the complainant.
14. On May 28, 2024, the FBA was provided to the complainant.

³ On December 11, 2023, two emails were sent. An amended PWN from the November 9, 2023, IEP team meeting and the PWN generated after the December 4, 2024, IEP team meeting.

15. On June 20, 2024, the behavioral data requested by complainant during the IEP team meeting on June 4, 2024, was provided to the complainant.

CONCLUSION:

Based on Findings of Fact #2, #4 through #7, and #10 through #15, MSDE finds that the PGCPs did ensure accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meetings were provided at least five business days before each scheduled meeting since August 2023, in accordance with COMAR 13A.05.01.03B(9). Therefore, this office finds that a violation did not occur concerning this allegation.

CORRECTIVE ACTIONS AND TIMELINE:

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

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.⁴ 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.⁵ Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

School-Based

The MSDE requires the PGCPs to provide documentation by January 3, 2025, of the steps taken to ensure that the violation does not recur at [REDACTED].

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

⁴ 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, the 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.

⁵ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

written request must include a compelling reason why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

The parties maintain the right to request mediation or to file a due process complaint, if they disagree with the identification, evaluation, placement, or provision of a free appropriate public education (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/ra

c: Millard House II, Superintendent, PGCPs
Lois Jones Smith, Compliance Liaison, PGCPs
Keith Marston, Compliance Coordinator, PGCPs
Darnell Henderson, General Counsel, PGCPs
William Fields, Associate General Counsel, PGCPs
[REDACTED], [REDACTED], Principal, PGCPs
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Alison Barmat, Chief, Family Support and Dispute Resolution Branch, MSDE
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