

October 15, 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: #25-036

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 16, 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 student's special education teacher by email on October 10, 2023, as required by his Individualized Education Program (IEP), in accordance with 34 CFR § 300.101. Questions included the following:
 - Was there any event on last Friday which [the student] attended?
 - Was there any food served at the event?
2. The PGCPS has not ensured that the student was provided with his home/school communication log on July 30, 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 data
 - Following directions
 - Following the schedule
3. The PGCPSS has not ensured that school staff responded to questions the parent asked the student's special education teacher by email on April 27, 2024, as required by his IEP, in accordance with 34 CFR § 300.101.
 4. The PGCPSS failed to follow proper procedures when denying the parent's request to amend the student's education records following his July 26, 2024, request, in accordance with 34 CFR § 300.618 and COMAR 13A.08.02.14.

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. 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 Bowlding (both PGCPSS staff members) are required to be copied on all communications between the "parent and the school staff member to ensure that IEP requirements are being implemented."
2. On October 10, 2023, the complainant sent an email to the student's teacher asking: "Was there any event on last Friday which [the student] attended? Was there any food served at the event?"
3. The complainant did not follow the Email Communication Protocol by failing to include PGCPSS staff on this communication.
4. There is no documentation that the complainant was provided with the daily home/school communication log on July 30, 2024.
5. On April 29, 2024, the complainant sent an email to the student's teacher asking questions regarding student behavior data. The questions were sent to staff at the student's school.
6. The complainant did not follow the Email Communication Protocol by failing to include PGCPSS staff on this communication.
7. There is no documentation that the PGCPSS or school staff received the complainant's questions.
8. On July 26, 2024, the complainant sent a request to PGCPSS to amend the student's education record, specifically, the prior written notice (PWN) from an IEP team meeting on April 30, 2024. The complainant stated that the information he requested to be amended was misleading.

9. The PGCPs responded to the complainant on July 31, 2024. The July 31, 2024, letter provided the complainant with the process to appeal the decision, as well as the name, address, and contact information of the individual within the PGCPs to whom the appeal should be directed.
10. On July 31, 2024, the complainant sent an email to staff at the [REDACTED] with a question regarding sending the student's belongings home since it was the last day of school.
11. The complainant did not follow the Email Communication Protocol by failing to include PGCPs staff on this communication.

DISCUSSION AND CONCLUSIONS:

Allegation #4: Response to Request to Amend the Student Record and Right to Appeal

The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

A parent who believes that information in the education records collected, maintained, or used is inaccurate or misleading or violates the privacy or other rights of the child may request the local education agency that maintains the information to amend the student record. The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing. (See 34 CFR § 300.618). The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. (See 34 CFR § 300.619).

In this case, the parent requested that the student record be amended on July 26, 2024. The LEA responded within five (5) days, including the information regarding the avenue to appeal. Based on Findings of Fact #8 and #9, MSDE finds that the PGCPs has responded to a request to amend the student's education record made on July 31, 2024, in accordance with 34 CFR § 300.618 and COMAR 13A.08.02.14. Therefore, this office finds no violation concerning this allegation.

Based on Finding of Fact #8, MSDE finds that the PGCPs has provided the parent with the appeal rights within a reasonable time following a denial to amend the student's education record, in accordance with COMAR 13A.08.02.17. Therefore, this office finds no violation concerning this allegation.

Allegations #1 and #3: Response to Questions

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 is not responsible for responding to questions of which they are not aware. The Protocol was put in place to avoid this situation.

Based on Findings of Fact #1-#3, #5-#7, #11-#12, MSDE finds that the PGCPs was not informed of the complainant's questions as he failed to follow the well-established Email Communication Protocol. Therefore, since there was not proper notification to the PGCPs of the complainant's questions, this office finds that a violation did not occur as there is no documentation that the PGCPs received the complainant's questions concerning these allegations. Therefore, MSDE finds no violations concerning allegations #1 and #3.

Allegation #2: Daily Communication Log

Based on Finding of Fact #4, MSDE finds that there is no documentation that the PGCPs has ensured that the student was provided with his home/school communication log on July 30, 2024, as required by his IEP, 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 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.

The MSDE has established reasonable time frames below to ensure that non-compliance 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 the 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 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

By November 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 30, 2024, to the extent possible. Copies of the recreated July 30, 2024, home/school communication log and any response to the parent's questions must be provided to MSDE by November 1, 2024.

¹ 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.

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 (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, PGCP
Keith Marston, Supervisor, Special Education Compliance, PGCP
Lois Smith-Jones, Liaison, Special Education Compliance, PGCP
Darnell Henderson, General Counsel, PGCP
William Fields, Associate General Counsel, PGCP
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicol Elliott, Section Chief, Policy and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicole Green, Compliance Specialist, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE