


December 12, 2024




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

RE: 
Reference: #25-099

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 October 9, 2024, MSDE received a complaint from , 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.

1. The PGCPS did not follow proper procedures when conducting a reevaluation of the student since March 2024, in accordance with 34 CFR §§ 300.303- .306 and COMAR 13A.05.01.06.
2. The PGCPS did not follow proper procedures when responding to a request for an Independent Education Evaluation (IEE) for the student in June 2024 in accordance with 34 CFR § 300.502.
3. The PGCPS did not ensure that the student’s placement determination for the 2024-2025 school year was based on the student’s Individualized Education Program (IEP) and was made by the IEP team since June 2024, in accordance with 34 CFR § 300.116.
4. The PGCPS has not ensured that the student has been provided with the special education instruction, supports, services, and accommodations as required by the IEP during the 2024-2025 school year, in accordance with 34 CFR §§300.101 and .323. Specifically, the complainant alleged that the student has not been consistently provided with adult support as required by the IEP.

5. The PGCPs has not ensured that the student was provided with the transportation services required by her IEP during the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and 323.
6. The PGCPs did not provide the parent with prior written notice of the IEP team's decisions from the IEP team meeting held in September 2024, in accordance with 34 CFR § 300.503.
7. The PGCPs did not follow proper procedures when disciplinarily removing the student from school during the 2024-2025 school year, in accordance with 34 CFR §§ 300.530 and .531, COMAR 13A.08.03, and COMAR 13A.05.01.10.

BACKGROUND:

The student is 11 years old and is identified as a student with Autism under the IDEA. During the 2023-2024 school year, the student attended [REDACTED]. The student currently attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. On March 21, 2024, the IEP team convened for a reevaluation meeting. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team utilized previous formal assessments, current classroom performance, teacher and parent input, and proposed updated evaluations in the areas of cognitive and adaptive skills, autism scales, pragmatic language skills, fine motor skills, and academic skills as part of the reevaluation process. These assessments were intended to help the team determine the student's present levels of academic achievement and developmental needs.

Additionally, the IEP team recommended an assessment for Adapted Physical Education to evaluate object control and locomotor skills, noting that these areas had not been previously assessed.

During the IEP meeting, the complainant requested an IEE that is specifically designed for non-speaking students and expressed concerns about the work being sent home for lower elementary students, requesting ELA/reading materials that incorporate higher-order thinking skills. The IEP team declined the request for an IEE, explaining that such a request can only be acted upon if there is a disagreement with the results of assessments ordered during the reevaluation meeting. The school indicated they would consult a compliance specialist for further guidance on the IEE request.

2. On April 8, 15, and 26, 2024, the student received a private speech-language evaluation.
3. On April 10, 2024, the complaint signed consent for the student to receive assessments in the areas:
 - Academics;
 - Communication (Pragmatic and Receptive/ Expressive Language);
 - Functional/Adaptive Performance;

- Intellectual/Cognitive Functioning;
- Emotional/Social/Behavior Development;
- Motor Skills (Fine Motor); and
- Autism Rating Scales- Functional School Participation (Occupational Therapy (OT)), Self-Management.

4. On April 25, May 9 and 16, 2024, PGcps conducted an OT assessment.
5. On May 13, 2024, PGcps conducted a psychological assessment.
6. On May 14, 2024, PGcps conducted The Test of Gross Motor Development–Third Edition (TGMD-3).
7. On May 23, 2024, PGcps conducted an academic assessment.
8. On June 3, 2024, the IEP team reconvened to review the assessment results and to determine eligibility. The PWN reflects that after reviewing comprehensive assessments in cognitive and adaptive skills, autism scales, pragmatic language, fine motor skills, physical education, and academic areas, the team determined the student continues to qualify for special education services with Autism as the primary disability.

The PWN also reflects that while the student demonstrated impairments potentially indicating an intellectual disability, she did not meet the criteria for significantly subaverage intellectual functioning due to incomplete assessment results. Although the student's initial nonverbal IQ score was very low, the evaluator was unable to obtain a current IQ score due to the student's inability to complete the tasks during the recent assessment.¹

9. During the IEP meeting, the IEP team discussed the student's transition to middle school for the upcoming 2024-2025 school year. The PWN reflects that to support the transition the IEP team recommended adding additional "adult support" to assist with accessing direct instruction and "understanding safety concerns" to the student's IEP. The IEP proposed the student's placement in the Community Referenced Instruction (CRI)² Program at [REDACTED] ([REDACTED]). The IEP team also reviewed the Alternate Appendix A and determined that the student meets the criteria for alternate standards and assessments. The PWN reflects the complainant expressed concerns about the potential restrictiveness of the CRI placement and was informed that she can revoke consent for the Alternate Assessment and Standards at any time. The IEP team previously determined that the student qualified for alternative assessments during an IEP meeting held in February.

¹ The PGcps psychological report conducted May 13, 2024, notes the student was not able to attend to the demands of the Comprehensive Test of Nonverbal Intelligence | Second Edition CTONI-2; therefore, it was discontinued.

² PGcps provides specially designed instruction for students with significant cognitive disabilities who require specialized instruction based on alternate academic achievement standards and assessments. Within PGcps, students with significant cognitive disabilities are educated in the Least Restrictive Environment, which may be a Community Referenced Instruction (CRI) Program. Programs are located in a variety of comprehensive schools.

10. Following an OT assessment, it was proposed to seek assistance from the PGCPs Assistive Technology (AT) Team to support the student's communication needs during her transition. During the IEP meeting, the complainant requested an IEE, as she did not believe the current assessments do not accommodate the student's need for facilitated communication or typing responses. She requested an assessment tailored for non-speaking students. The IEP team explained that assessments must follow a standardized format. In response, an IEP team member stated they would contact a compliance specialist to address the request for an IEE covering academic, cognitive, and speech-language assessments.

11. The amended IEP dated June 3, 2024, reflects the student requires daily adult support and will employ supplementary aids from her IEP throughout the day for the student to be successful in accessing instruction. The support person will ensure that the student is safe during transitions and on Community-Based Instruction (CBI) trips.

The IEP requires the student to receive 26 hours and 15 minutes of specialized instruction outside of the general education classroom in a separate class, three hours and 30 minutes a month of adaptive physical education outside of the general education classroom, 40 minutes a month of OT outside of the general education classroom, two hours monthly of speech-language services outside of the general education classroom, and curb to curb transportation as a related service in order to receive specialized instruction. In addition, the IEP reflects that the student participates in alternate state assessments and receives instruction that follows alternate academic achievement standards. Furthermore, it reflects that she will receive a Maryland High School Certificate of Program Completion.

The IEP reflects that the student requires an AT device but does not require AT services. The student is nonverbal and requires AT to communicate her needs and wants and to participate in academic activities. The student needs support with her communication needs in the form of visual aids, pictures, pictures communication symbols (PCS), core vocabulary boards, and adult gestures to help her make choices and follow directions.

The IEP reflects the Least Restrictive Environment (LRE) as an "Autism Extension Program" for the remainder of the 2023-24 school year. The IEP team determined that the student needs extensive support to make progress in the Alternate Framework, utilizing substantially adapted materials and customized methods to access information in alternative ways. The IEP reflects supports are necessary to help the student acquire, maintain, generalize, demonstrate, and transfer skills across multiple settings.

12. On June 16, 2024, the complainant emailed a member of the IEP team to express concerns about the June 3, 2024, IEP meeting and the PWN provided on June 10, 2024. The complainant stated that the PWN did not fully reflect the discussions or include all requested accommodations for the student. She contended that the IEP team failed to properly conduct assessments for non-verbal students, preventing the student from demonstrating her true abilities. Additionally, she claimed that the proposed placement in the [REDACTED] CRI program was based on outdated assessments, disregards current evidence of the student's capabilities, and denies her a Free Appropriate Public Education (FAPE) in the LRE.

The complainant also disputed the IEP team's use of the CTONI-2 assessment, arguing it does not accurately reflect the student's intellectual functioning. Despite presenting evidence of the student's abilities through a typed letter, the complainant alleges the IEP team ignored it. The email stated that the complainant formally requested an IEE at public expense, citing the IEP team's lack of experience with non-verbal children using electronic communication. Additionally, the complainant revoked consent for the student's participation in the Alternate Education Framework and insisted she should be provided grade-level content with appropriate accommodations.

13. On August 20, 2024, the IEP team convened to review and revise the IEP as needed. During the meeting, the IEP team discussed placement and informed the complainant that the CRI Program at [REDACTED] remains the recommended placement, which requires consent for alternate standards and assessments. The team also revisited the recommendation for additional adult support to assist the student during her transition to middle school.

The PWN reflects that the complainant disagreed with the placement and "refused consent for alternate standards and assessments," though there is no written documentation of the refusal. Due to the refusal, the PWN reflects that the student will need to attend her neighborhood comprehensive middle school, [REDACTED] ([REDACTED]). It also notes that the receiving school does not currently have the "additional support" outlined in the amended June 3, 2024, IEP but will work to secure a staff person to provide the required support.

During the meeting, the team reviewed the current IEP services and discussed the supplementary aids the student needs. The team from [REDACTED] shared information about their building and schedules and noted that while they will implement the student's IEP to the fullest extent possible, the IEP as written cannot be fully implemented until the team reconvenes to review updated assessments.

14. Throughout the discussion, the IEP team reviewed that during the June 3, 2024, meeting, a referral for an AT consultation was proposed and a commitment was made to ensure its completion as the student transitions. Additionally, the IEP team requested consent for additional academic, cognitive, and speech/language assessments to support educational planning, and the complainant rescinded her IEE request. The team proposed convening another IEP meeting within 45-60 days to review the student's progress and updated assessments.
15. On August 22, 2024, the complaint signed consent for the student to receive additional assessments in the areas:
 - Academic Performance;
 - Communication (pragmatic, expressive, and receptive language);
 - Intellectual/Cognitive Functioning; and
 - Assistive Technology Consult.

The Notice and Consent for Assessment's justification for additional assessments reflects, "[the complainant] requested an IEE for her disagreement with the assessments (psychological, academic, and speech-language) completed in the Spring of 2024. She felt that the assessments were not an accurate view of [the student's] present levels of performance. There was no disagreement with the OT assessment. PGCPs and mom agreed that an IEE would not be conducted and staff at her current school () would complete the assessments.³ An AT consultation will also be conducted as it was requested by the team in the 2023-2024 school year.

16. There is no documentation the IEP team updated the student's IEP to reflect an updated LRE.
17. On September 19, 2024, the IEP team met to review and revise the IEP as appropriate and to propose creating a classroom support schedule for the student, allowing existing Additional Adult Supports (AAS) to be used for classroom support. This arrangement was intended as a temporary measure until a dedicated 1:1 AAS could be secured for the student, noting it was necessary to address the student's increasing frustration and behaviors, such as eloping, self-injury, and throwing of objects observed throughout the school day in the general education setting. The PGCPs staff felt that the AAS would be used to better support the student's needs, reduce disruptions, and enable her to demonstrate progress in the general education environment.

During the IEP meeting, the general education teachers reported limited progress, as the student often required removal from the classroom due to frustration or the need for breaks, particularly after lunch as well as required daily calls home. Work samples showed incomplete tasks, reflecting these challenges.

18. During the IEP meeting, the team reviewed the 2024 assessments, including psychological, educational, speech-language, and assistive technology consultations, along with classroom work samples, service provider observations, and other relevant data. The PWN reflects the IEP team determined that an environment outside general education, with alternative curriculum standards, alternative assessments, community-based instruction, and a smaller student-to-teacher ratio, would best support the student's progress. However, the complainant disagreed with this determination, revoked consent for the alternative curriculum and assessments, and requested that the student pursue a high school diploma instead of a Certificate of Completion. The PWN reflects the student remained in the general education environment with maximum support to help her progress toward a diploma, however, the IEP has not been updated to reflect the level of support the student is currently receiving.
19. On October 10, 2024, PGCPs conducted a psychological report.
20. On November 6, 2024, PGCPs generated a Notice of IEP Team Meeting for an IEP meeting to be held on November 14, 2024, to review and, if appropriate, revise the IEP and per parent request of an emergency IEP meeting to discuss the student's progress.

³ On November 25, 2024, the complainant provided an email to members of the IEP team refuting that statement that the parent waived her rights to an IEE.

21. There is no documentation that an IEP team meeting was held on November 14, 2024.
22. On November 15, 2024, PGCPs generated a Notice of IEP Team Meeting for an IEP meeting to be held on November 25, 2024, as an expedited meeting that was scheduled with less than ten days' notice and was mutually agreed upon by parent/guardian and IEP team to review existing information to determine the need for additional data.
23. On November 18, 2024, PGCPs conducted an academic assessment.
24. On November 18, 2024, PGCPs conducted a speech-language assessment.
25. There is no documentation that an IEP team meeting was held on November 25, 2024.
26. While there is limited documentation of the current school requesting the complainant to pick the student up from school when she required extra support, there is documentation of the student not being in attendance for partial portions of the school day during the 2024-2025 school year.
27. There is documentation that the complainant received the PWN from the September 19, 2024, IEP meeting on October 22, 2024. The PWN is dated October 2, 2024.
28. PGCPs acknowledges that it did not follow proper procedures in responding to a request for an IEE for the student following the IEP meeting held on June 3, 2024.
29. PGCPs acknowledges that they have not ensured that the student has been provided with the special education instruction, supports, services, and accommodations as required by the IEP during the 2024-2025 school year, specifically the lack of additional support as required by the IEP.
30. PGCPs acknowledges they have not ensured that the student was provided with the transportation services required by her IEP during the 2024-2025 school year.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1

PROPER PROCEDURES FOR CONDUCTING A REEVALUATION OF THE STUDENT

When conducting a reevaluation, the public agency must ensure that assessments are conducted, the results are considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety days of the date the team determines that assessments are required (COMAR 13A.05.01.06E).

Based on Findings of Fact #13 through #15, #19, #23, and #24, MSDE finds that the PGCPs did not follow proper procedures when conducting a timely reevaluation of the student since March 2024, in accordance with 34 CFR §§ 300.303- .306 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #2

PROPER PROCEDURES WHEN RESPONDING TO AN IEE

Based on Findings of Fact #10, #12, #14, #15, and #28, MSDE finds that the PGCPs did not follow proper procedures when responding to a request for an IEE for the student in June 2024 in accordance with 34 CFR § 300.502. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3

PLACEMENT DETERMINATION

In determining the educational placement of a student with a disability, the public agency must ensure that the placement decision is made by the IEP team. The placement decision must be made in conformity with the least restrictive environment provisions, determined at least annually, based on the student's IEP, and as close as possible to the student's home (34 CFR § 300.116 and COMAR 13A.05.01.10(C)(1)).

In this case, the IEP team proposed placing the student in a middle school with a CRI program, which required the complainant's consent due to the student's participation in alternate state assessments and following alternate academic achievement standards. When consent was not given, the student was assigned to her neighborhood school in accordance with 34 CFR § 300.116. However, the IEP team failed to update the student's IEP to reflect her needs in the new placement.

Every public agency must provide a range of placement options to meet the diverse needs of children with disabilities requiring special education and related services. This continuum should include alternative placements such as regular classrooms, special classes, special schools, home instruction, and instruction in hospitals or institutions. Additionally, it must allow for supplementary services, like resource room support or itinerant instruction, to be provided alongside regular classroom placement when needed (34 CFR § 300.115).

The IEP does not reflect the IEP team discussed a continuum of services for the student since the start of the 2024-2025 school year. When the parent revoked consent for participation in the alternate framework, the team did not consider any placement alternatives or continuum of placement options or combinations that may have better supported the student. They simply maintained their position that the student required instruction in the alternate framework. However, a determination that a student requires alternate standards and assessments does not dictate placement, nor does instruction in the general curriculum negate the need for individual determinations regarding LRE, including some segregated classes or small group instruction, as appropriate.

Based on Findings of Fact #9, #11, #12, #13, and #16, MSDE finds that the PGCPs did not ensure that the student's placement determination for the 2024-2025 school year was based on the student's IEP and was made by the IEP team since June 2024, in accordance with 34 CFR § 300.116. Therefore, this office finds that a violation occurred concerning this allegation.

ALLEGATION #4

PROVISION OF SPECIAL EDUCATION INSTRUCTION, SUPPORTS, AND RELATED SERVICES

The public agency is required to ensure that the student is provided with the special education and related services required by the IEP (34 CFR §300.101).

Based on the Findings of Fact #11, #13, #17, #18, #26, and #29, MSDE finds that the PGCPs has not ensured that the student has been provided with the special education instruction, supports, services, and accommodations as required by the IEP during the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and .323. Specifically, the student has not been consistently provided with adult support as required by the IEP. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #5 PROVISION OF TRANSPORTATION

Based on the Findings of Fact #11 and #30, MSDE finds that the PGCPs has not ensured that the student was provided with the transportation services required by her IEP during the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and 323. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #6 PROVISION OF PRIOR WRITTEN NOTICE

Based on the Finding of Fact #27, MSDE finds that the PGCPs did provide the parent with prior written notice of the IEP team's decisions from the IEP team meeting held in September 2024, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation did not occur concerning the allegation.

ALLEGATION #7 DISCIPLINARY REMOVAL

The complainant alleges that the PGCPs school team frequently called for the complainant to "pick up" the student when staff were unable to manage the student's behaviors or removed her from class due to behavioral challenges or the need for breaks. Additionally, the student has accumulated numerous "unlawful absences" across all classes, reflecting a consistent pattern of removal from the general education classroom. There is documentation indicating the student's limited attendance throughout the school day, yet the school team failed to properly document these "pick-ups" or removals. Whether formally recorded or not, these actions constitute disciplinary removals that should have been documented to comply with the procedural safeguards under the IDEA, including manifestation determination reviews and the continued provision of free appropriate public education (FAPE) when removals result in a change in placement (COMAR 13A.08.03).

Based on Findings of Fact #17 and #27, MSDE finds that the PGCPs did not follow proper procedures when disciplinarily removing the student from school during the 2024-2025 school year, in accordance with 34 CFR §§ 300.530 and .531, COMAR 13A.08.03, and COMAR 13A.05.01.10. 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 manner⁴. 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 action⁵. 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 February 28, 2025, that the IEP team has:

- a. Reviewed outstanding assessments, determined the student's present levels of functioning and performance, updated IEP goals to reflect the student's current needs, and updated the student's services, placement and LRE, and
- b. Determined the amount and nature of compensatory services or other remedies to redress the violations outlined in this letter and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

School-Based

MSDE requires the PGCPs to provide documentation by February 28, 2025, that it has provided professional development to [REDACTED] and [REDACTED] staff on the following:

- Proper procedures for conducting a reevaluation;
- Responding to a parent's request for an IEE;
- Proper procedure for determining placement and LRE; and
- Proper procedure for disciplinary removal.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not

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, 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.

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 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 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/sj

c: Millard House II, Chief Executive Officer, PGCPS
Trinell Bowman, Associate Superintendent for Special Education, PGCPS
Keith Marston, Compliance Instructional Supervisor, PGCPS
Lois Jones Smith, Compliance Liaison, PGCPS
Darnell Henderson, General Counsel, PGCPS
William Fields, Associate General Counsel, PGCPS
[REDACTED], Principal, PGCPS
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Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Stephanie James, Complaint Investigator, MSDE
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