

December 19, 2024

[REDACTED]

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

RE: [REDACTED]
Reference: #25-108

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 22, 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 ensure that the Individualized Education Program (IEP) team addressed parental concerns regarding the student’s behavior and placement since September 2024, in accordance with 34 CFR § 300.324.
2. The PGCPS did not follow proper procedures for amending the student’s IEP to address the student’s least restrictive environment (LRE) by failing to convene an IEP team meeting or obtain an agreement to amend the IEP without a meeting in September 2024, in violation of 34 CFR § 300.324.
3. The PGCPS has not followed proper procedures when determining the student’s educational placement since September 2024, in accordance with 34 CFR §§ 300.114 - .116.
4. The PGCPS did not follow proper procedures when disciplinarily removing the student during the 2024-2025 school year, in accordance with 34 CFR § 300.530 and COMAR 13A.08.03.
5. The PGCPS has not developed and implemented an IEP that appropriately addresses the student’s behavioral needs since September 2024, in accordance with 34 CFR §§ 300.101 and 300.324. Specifically, the PGCPS has failed to ensure that the IEP includes positive behavioral interventions and strategies to address the student’s interfering behaviors.

6. The PGCPs has not ensured that the student has been provided with the special education instruction and related services required by the IEP, during the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and .323.
7. The PGCPs did not provide the parent with a copy of the IEP document within five business days after IEP team meetings in October 2024 in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07.

BACKGROUND:

The student is six years old and is identified as a student with Autism under the IDEA. At the start of the 2024-2025 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 July 24, 2024, the PGCPs created an "Invitation for an IEP meeting" to be held on August 1, 2024, to review a private speech-language evaluation and discuss placement.
2. On August 1, 2024, the IEP team met to review the results of the student's private speech evaluation, discuss placement for the 2024-2025 school year, and review and revise the IEP, as appropriate, with the IEP team from [REDACTED].
3. The Prior Written Notice (PWN) reflects the IEP team used the results of a private speech-language assessment, classroom performance, progress towards his IEP goals and objectives, results of the Carolina Curriculum, ELA, and parental input to determine that the student did not qualify for speech-language services. The IEP team proposed adding a 45-day review of the IEP to determine if speech-language services are warranted during the next school year. During the meeting, the IEP team also discussed the student's placement. The PWN reflects that during the previous IEP meeting on July 8, 2024, the IEP team proposed placing the student in an Elementary Autism Program. During the meeting, the complainant informed the IEP team that the student was accepted into the Lottery and was accepted into the "[REDACTED] ([REDACTED]) on the Joint Base and expressed that is where she wanted the student to attend." The IEP team "agreed to the placement," with a 45-day review of the IEP to determine if the services were appropriate. The PWN reflects that the IEP team considered early childhood education inside and outside the general education setting and rejected placement outside of general education since the complainant wanted the student to attend the charter school with a 45-day review.
4. On August 1, 2024, the student's IEP was amended to reflect:
 - The student would not be removed from the general education environment.
 - Special education services would be delivered within the general education environment.
 - The IEP team discussed the changes on the LRE page related to the change in services, school week hours, special education placement, and transportation from the 2023-2024 school year to the 2024-2025 school year. The LRE page will be updated to reflect the changes at the beginning of the 2024-2025 school year. "[The student's] parent agreed that the case manager could complete an amendment without an IEP team meeting to reflect the changes on the LRE page of the IEP."

5. On September 18, 2024, the PGCPs generated a PWN that reflects the purpose of the notice was to provide "notification of the LRE amendment to reflect [the student's] current (school age) 6-12 least restrictive environment." The PWN reflects the following change made to the IEP:

The student's special education placement will change from a regular early childhood program for at least 10 hours per week to an inside general education setting for 80% or more of the day.

The PWN reflects the proposed IEP changes that were discussed with the complainant during the student's annual review, and the parents gave permission for the case manager to amend the LRE section "without a meeting". The IEP team also reviewed the service change for the 2024-2025 school year noting the service change will be reflected on the LRE page of the student's IEP. The PWN reflects that the complainant "agreed that the case manager for the 2024-2025 school year has permission to amend the IEP to reflect this service change at the start of the school year without a meeting."

6. On September 19, 2024, the complainant received the amended IEP and the PWN, which describes the changes made to the IEP.
7. The September 18, 2024, amended IEP created on March 18, 2024, reflects the student's needs in the areas of cognitive, speech-language (expressive and receptive), and behavioral/social-emotional, and has IEP goals to address the student's cognitive needs.

The IEP requires that the student receive three hours a week of specialized instruction inside of the general education classroom.

The IEP reflects that the student requires an Assistive Technology (AT) device but does not require AT services. The student may benefit from low-tech AT devices, such as objects, picture symbols, photos, and core vocabulary boards, to support him in answering questions, making choices, and/or communicating his wants and needs.

The IEP requires the student to receive instructional and social/behavioral supports to access the general education curriculum.

The IEP reflects that the IEP team determined that the student's LRE will be special education services delivered within the general education environment. The IEP also reflects that "the IEP team discussed the changes on the LRE page related to the change in services, school week hours, special education placement, and transportation from the 2023-2024 school year to the 2024-2025 school year. The LRE page will be updated to reflect the changes at the beginning of the 2024-2025 school year. [The student's] parent agreed that the case manager could complete an amendment without an IEP team meeting to reflect the changes on the LRE page of the IEP."

8. Throughout September 2024, behavior tracker forms, discipline referrals, and communication with parents noted that the student exhibited behaviors such as hitting, eloping, screaming, taking time to settle down, and refusing to put his snack away.
9. On September 18, 2024, via email, the complainant requested to have an IEP meeting prior to the 45-day review recommended by the IEP team on August 1, 2024, and received a response from a member of the IEP team that they would contact the special education instructional specialist and coordinate a date and time to meet with the complainant and pertinent members of the team as soon

as possible.

10. On September 25, 2024, the complainant emailed a member of the IEP team to follow up on her request for an IEP meeting and to ask questions and address matters from the “phone conversation that was held that morning.” The email outlined several of the complainant’s concerns, including the implementation of the student’s IEP and the lack of support the student was receiving. The complainant noted that she wanted to pursue transferring the student to his boundary school.
11. On September 25, 2024, and September 26, 2024, the student received a Discipline Referral for Elopement.
12. On September 27, 2024, an IEP meeting was scheduled for October 8, 2024, to address the complainant’s concerns.
13. During the week of September 30, 2024, the school team adjusted the student’s schedule to provide additional support within the classroom.
14. On October 3, 2024, the student was suspended from school for two days due to “battery on an adult and student and disruption.” The student did not return to [REDACTED] after his suspension.
15. On October 3, 2024, the complainant emailed members of the IEP team to “reactivate the student IEP” and continue with the meeting on October 8, 2024, and request that district personnel be present to determine placement. The complainant tried to register the student at [REDACTED] ([REDACTED]), however, was informed that the student’s IEP needs to be updated.
16. On October 8, 2024, the IEP team convened to review and revise the IEP as appropriate, discuss reevaluation, conduct a 45-day review, and consider placement. The PWN reflects that the IEP team reviewed the student’s present levels of performance, previous assessments, teacher and administrator feedback, and parental input. Based on this review, the team rejected continued placement in the general education program (with resource service hours) at [REDACTED]. The team determined that the student’s academic, social, and emotional needs cannot be met in the current general education setting with specialized instruction, including social, emotional, and behavioral supports. The student struggles academically, socially, and behaviorally. The IEP team also noted that the private speech-language assessment indicated that the student has deficits in articulation.

The team believed that improving this area would be beneficial for him and determined that the speech-language articulation services would be added to his IEP. The IEP team proposed an Autism Referral and agreed to continue implementing the current IEP during the referral process. Additionally, the team identified the need for a social and emotional IEP goal, as well as a self-management goal to help the student access the general education curriculum.

There is no documentation of the IEP team discussing and/or amending the student’s accommodations and supplementary aids to provide positive behavior interventions or strategies to address the student’s increasing behaviors.

17. The October 8, 2024, IEP reflects the student’s academic social-emotional/behavioral goal states: “When given an anchor chart of ways to manage upsetting emotions [the student] will practice (1) self-selected strategy (e.g., use an I-statement, take a deep breath, ask for help, etc.) by following a teacher model in 5 out of 7 opportunities as measured by an observation checklist with 80% accuracy.”

18. The October 8, 2024, IEP reflects the student's academic self-management goal states: "By October 2025, in a variety of settings and with one prompt and no more than one redirection, [the student] will be able to remain on task until completing 3 out of 5 assignments or tasks with 80% accuracy."
19. The October 8, 2024, IEP reflects the student's academic speech-language goal states: "By the end of this IEP period, [the student] will produce intelligible utterances of up to six words in length spontaneously given a single prompt (such as a question) in 4 out of 5 trials."
20. The October 8, 2024, IEP requires the student to be provided with 12 hours and 30 minutes weekly of specialized instruction inside of the general education classroom and one hour per month of speech-language services outside of the general education classroom as a related service.
21. The report of the student's progress dated October 14, 2024, for the student's annual cognitive goal, reflects that the student is "making progress to meet the goal" with 30% accuracy. The progress report reflects the student made minimal progress and required prompts, cues, redirection, pictures, prompts, and guidance to focus.
22. The report of the student's progress dated October 14, 2024, for the student's annual behavioral and speech-language goals, reflects "Newly Introduced skill; progress not measurable at this time."
23. On October 15, 2024, the complainant received a "Notice and Consent for Assessment" form for the student to receive an assessment for emotional/social/behavior development due to exhibiting behaviors that impact his and others learning. The consent form reflects the student was having difficulty staying focused and on-task. It also reflects the student was suspended for two days for displaying behaviors such as physical aggression to peers and adults and eloping from the classroom and throughout the building.

There is no documentation that the complainant signed the consent form and the PWN from the October 8, 2024, meeting does not reflect that the IEP team discussed the need for additional assessments.

24. On October 16, 2024, the complainant emailed the PGCPs instructional specialist to inquire whether the student needed to be in school to receive the Functional Behavior Assessment (FBA), or if it could be based on the observations the school had taken since the start of the school year. The complainant informed the psychologist that the student had been suspended and that she did not feel comfortable sending him back to school. The complainant also inquired if the student could receive schoolwork until he transferred to the new school. The PGCPs member informed the complainant that the student needed to be in school to receive the FBA and participate in the Autism consult process.

There is no documentation that the IEP team discussed the need for an FBA.

25. On October 22, 2024, the complainant received an email from the school administrator reflecting: "As of Wednesday, October 23, [the student], will be withdrawn from [REDACTED] due to 10 days of unlawful absences."

"Scholars who are absent from [REDACTED] or any other public charter school in PGCPs will be withdrawn from the school's roster on the 10th day. The scholar will lose his or her seat and have to return to the zone school."

26. On October 30, 2024, PGCPs generated a PWN to document the verbal consent provided by the complainant during a phone call on October 25, 2024, with a PGCPs Elementary Special Education Supervisor and the Associate Superintendent for Special Education. The PWN reflects that the complainant specifically granted permission to amend the student's IEP by revising the "service lines" and the "least restrictive environment page due to the student being out of school since October 3, 2024, and the complainant's concerns regarding the student's placement." The student was granted permission to attend [REDACTED]. The PWN proposed the following changes on the LRE page:

- Special education services that were previously provided inside the general education environment have been changed to services delivered outside the general education environment in a self-contained classroom;
- The special education placement (school age K-21) changed from an average of 100% per day inside general education (80% or more) to an average of 26.22% per day inside general education (less than 40%);
- Service hours were adjusted from 12 hours and 30 minutes per week inside the general education classroom to 22 hours and 30 minutes per week outside the general education classroom; and
- Service School changed from [REDACTED] to [REDACTED].

The PWN reflects that the IEP team has determined the student requires special education services in a smaller classroom setting with a reduced student-to-teacher ratio to effectively progress in the general education curriculum and an additional IEP meeting will need to be scheduled to review the entire IEP document and identify any areas that may require revision.

27. There is no documentation that an additional meeting has been scheduled.

28. On October 31, 2024, via email, the complainant received a copy of the student's amended IEP and PWN from the October 8, 2024, IEP meeting and was informed that it would be shared with [REDACTED].

29. There is documentation that the student received accommodations to help support him academically and behaviorally while attending [REDACTED].

30. The student started the [REDACTED] Autism program on November 4, 2024. There is documentation that the student received his related services as required by the IEP, however, there is no documentation that the student received his special education services as required by the IEP.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1

ADDRESSING PARENT CONCERN

Based on Findings of Fact #9, #10, #12, #16, #23 through #26, MSDE finds that the PGCPs did ensure that the IEP team addressed parental concerns regarding the student's behavior and placement since September 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occur concerning the allegation.

ALLEGATION #2

IEP AMENDMENT

Based on Findings of Fact #4, #5, #6, and #7, MSDE finds that the PGCPs followed proper procedures for amending the student's IEP to address the student's LRE. Specifically, PGCPs was not required to convene an IEP team meeting to amend the IEP when it received parental permission to amend the IEP without holding a meeting in September 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds that no violation occurred regarding 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)).

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).

In this case, the IEP team determined that [REDACTED] was not an appropriate placement for the student and rejected continued placement in the general education program with resource service hours. The team concluded that the student's academic, social, and emotional needs could not be met in the current general education setting, even with specialized instruction and social, emotional, and behavioral supports. However, the IEP team did not consider a full continuum of services, as the school did not offer the necessary range of options to allow the student to access the general education curriculum, in violation of 34 CFR § 300.115.

Based on Findings of Fact #1, through #3, #14, #16, #25, and #26, MSDE finds that the PGCPs did not follow proper procedures when determining the student's educational placement since September 2024, in accordance with 34 CFR §§ 300.114 - .116. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #4

DISCIPLINARY PROCEDURES

The IDEA and COMAR provide protection to students with disabilities who are removed from school in excess of ten school days in a school year. A student with a disability may be removed from the student's current placement for up to ten consecutive school days for each incident of misconduct in a school year if the cumulative effect of the removals does not constitute a change in placement (34 CFR § 300.530).

In this case, the student was not removed in excess of ten school days, therefore, the disciplinary protections under IDEA are not applicable.

Based on Finding of Fact #14, MSDE finds that the PGCPs was not required to implement the additional IDEA procedures when disciplinarily removing the student during the 2024-2025 school year, in accordance with 34 CFR § 300.530 and COMAR 13A.08.03. Therefore, this office finds that a violation did not occur concerning the allegation.

ALLEGATION #5

IEP THAT ADDRESS THE STUDENT'S BEHAVIORAL NEEDS

IEP that addresses behavioral needs

In the case, the complainant alleges that the school team did not follow the student's IEP and or provide appropriate behavioral interventions to support the student's needs.

The failure to implement positive behavioral supports, initiate an FBA, and develop a BIP left the IEP unable to address the student's escalating behaviors, violating 34 CFR § 300.324(a)(2)(i). While the IEP team added social-emotional and self-management goals to address long-term needs, these objectives were insufficient to manage the immediate behaviors disrupting the classroom. Without targeted interventions, the IEP lacked the supports required under 34 CFR § 300.101(a) to ensure the student's access to the curriculum.

Based on Findings of Fact #8, #16, #20, #21, #23, #24, and #26, MSDE finds that the PGCPs has not developed and implemented an IEP that addresses the student's behavioral needs since September 2024, in accordance with 34 CFR §§ 300.101 and 300.324. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

IEP that provided interventions and strategies to address behaviors

Based on Finding of Fact #16, MSDE finds that the PGCPs has not developed and implemented an IEP that provides positive behavioral interventions and strategies to address the student's interfering behaviors since September 2024, in accordance with 34 CFR § 300.324(2)(i). Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

ALLEGATION #6

PROVISION OF SPECIAL EDUCATION INSTRUCTION AND RELATED SERVICES

Based on Findings of Fact #12, #21, and #29, MSDE finds that the PGCPs has ensured that the student has been provided with the special education instruction required by the IEP, while attending [REDACTED], in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

Based on Finding of Fact #30, MSDE finds that the PGCPs has not ensured that the student has been provided with the special education instruction as required by the IEP since attending [REDACTED] in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

ALLEGATION #7

PROVISION OF IEP DOCUMENT FIVE DAYS AFTER AN IEP MEETING

Based on Findings of Fact #16, #26, and #28, MSDE finds that PGCPs did not provide the parent with a copy of the IEP document within five business days after IEP team meetings in October 2024 in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

Notwithstanding the violation, there is documentation that the complainant received a copy of the student's IEP and PWN on October 31, 2024. Therefore, no further corrective action is required.

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 manner¹. 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 action². 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 March 3, 2025, that the IEP team has:

- a. Convened an IEP meeting to review and revise the IEP as appropriate, determined the student's present levels of functioning and performance, and assessed whether the student requires interventions and strategies to address behavioral needs;
- b. Determined whether an FBA and/or Behavior Intervention Plan (BIP) are warranted;
- c. Provided the student with special education services as required by the IEP; and
- d. Determined the amount and nature of compensatory services or other remedies to address 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.

The PGCPs must ensure that the complainant is provided with written notice of the team's decisions. The complainant retains the right to request mediation or file a due process complaint to resolve any disagreements with the team's decisions.

School-Based

MSDE requires the PGCPs to provide documentation by March 17, 2025, that it has provided professional development to [REDACTED] staff on the following:

- The proper procedure for determining placement, and
- Developing an IEP that addresses student needs.

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, 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 why the documentation was not made available during the investigation. The written request for reconsideration should be provided to Tracy Givens, Section Chief, Dispute Resolution via email at Tracy.Givens@maryland.gov. 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/sj

c: Millard House II, Chief Executive Officer, 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
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Stephanie James, Complaint Investigator, MSDE