

January 10, 2025

Mr. Levi Bradford
Public Justice Center
201 North Charles Street
Baltimore, Maryland 21201

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

RE: [REDACTED]
Reference: #25-129

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 November 12, 2024, MSDE received a complaint from Mr. Levi Bradford, 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 followed proper procedures when disciplinarily removing the student from school since November 2023. Specifically, the complainant alleged that a manifestation determination meeting was not conducted after the tenth day of the disciplinary removal, in accordance with 34 CFR §§ 300.530 and .531, COMAR 13A.08.03, and COMAR 13A.05.01.10.
2. The PGCPS has not provided the student with a free appropriate public education (FAPE) since their disciplinary removal from school since November 2023, in accordance with 34 CFR §§ 300.101, .530 - .536.
3. The PGCPS has not developed an Individualized Education Program (IEP) that addresses the student's identified behavioral needs since November 2023, in accordance with 34 CFR §§ 300.101 and .324.
4. The PGCPS has not followed proper procedures when determining the student's educational placement since November 2023, in accordance with 34 CFR §§ 300.114 -.116.
5. The PGCPS did not follow proper procedures in the identification and evaluation of the student to determine if they require special education services under IDEA, since November 2023, in accordance with 34 CFR §§ 300.111, and .301-.311.

BACKGROUND:

The student is 16 years old and is identified as a student with Emotional Disability (ED) and is eligible for special education services under the IDEA. The student attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On December 7, 2023, the student's parent provided the PGCPs with an outside diagnosis for the student. The document reflects the student was diagnosed with "disruptive mood dysregulation disorder; major depressive disorder, recurrent severe without psychotic features; post-traumatic stress disorder, unspecified; [and] Personal history of self-harm."
2. In its written response, the PGCPs acknowledged that it did not follow proper procedures in the identification and evaluation of the student to determine if they require special education services under IDEA, since November 2023, in accordance with 34 CFR §§ 300.111, and .301-.311.
3. The student's discipline profile reflects that on February 9, 2024, the student received a two-day out-of-school suspension for "Profane/Inappropriate Language" from February 12, 2024, to February 13, 2024.
4. On April 4, 2024, a "Notice of Student's Suspension" reflects that the student received a 10 day out-of-school suspension for fighting from April 4, 2024, to April 19, 2024. The "Guidance/Administrative/Disciplinary Procedures" utilized prior to the suspension does not reflect that any of the PGCPs procedures were utilized.
5. There is no documentation that a manifestation determination meeting was held prior to the student's 10th day of suspension.
6. On August 9, 2024, the IEP team convened to determine the student's eligibility. The prior written notice (PWN) generated after the meeting reflects that the IEP team determined that the student is eligible for special education as a student with ED whose social-emotional behavioral needs are impacted by her disability. It was reported that the IEP "would address the areas of impact that [affect] her educationally..."
7. On October 3, 2024, the IEP reconvened to review and revise the student's draft IEP and determine Extended School Year services. The PWN reflects the IEP team proposed to update the student's eligibility to ED; determine that the student is on track to receive a high school diploma; review the IEP impact statement and revise the transition plan. The parent accepted these proposals, and the meeting ended early at the parent's request. The IEP team agreed to reconvene to complete the IEP review on October 16, 2024.
8. On October 16, 2024, the IEP team reconvened to complete the review of the student's initial IEP. The PWN reflects the IEP team reviewed and agreed upon the student information, eligibility, graduation requirements/status, present levels of academic achievement and functional performance (PLAAFP), IEP goals, supplemental aids and services, accommodations and modifications, special education services, appendix, ESY, and the least restrictive environment (LRE). It was reported that the student was failing all classes except one, had been absent 4.5 days, and had been tardy to class during the school day 44 times. The student attended the meeting and said she felt that the IEP would help her improve her grades.

9. The IEP developed at the October 16, 2024, IEP meeting reflects ED as the student's primary disability as ED with cognitive, math calculation, written language express, and social emotional/behavioral as the areas affected by the disability.

The present level of academic achievement and functional performance (PLAAFP) reflects the student as performing at the following instructional social emotional/behavioral grade level:

- Below expectation: PLAAFP data reflects the student's full-scale IQ falls within the very low range. The measure of socioemotional functioning from the Behavior Assessment System for Children 3rd edition (BASC-3) reflects "clinically significant concerns for internalizing problems, somatization, learning problems, and study skills... at-risk concerns for aggression, conduct problems, depression, attention problems, withdrawal, adaptability, and leadership." The student self-reported "clinically significant concerns for attitude to school, attitude to teachers, school problems, locus of control, anxiety, depression, sense of inadequacy, somatization, internalizing problems, attention problems, hyperactivity, emotional symptoms, relations with parents, and self-esteem" as well as "at-risk concerns for social stress and personal adjustment."

The disability impact statement reflects the student "presents significant emotional concerns that impact her ability to focus during instruction and class assignments, complete assignments within the timeframe provided, respond appropriately to reasonable request[s] from adults when in crisis, absenteeism from school, difficulties coping with real and perceived conflicts under normal circumstances, a significant volume of somatic complaints that result in being absent from class, and frequent suicidal ideation resulting in threat assessments, frequent work avoidance, and a heightened sensitivity to environmental factors. Due to the impact of her disability in the educational environment, [the student] requires specialized instruction, supports, and accommodations."

The instructional and assessment accommodations required by the IEP include the following:

- Redirect student;
- Small group;
- Frequent breaks;
- Reduce distraction to self; and
- Extended time.

The IEP requires the following social/behavioral supplementary aids, services, program modifications, and supports:

- Reinforce positive behavior through non-verbal/verbal communication, daily: "[The student] requires frequent positive reinforcement when she demonstrates efforts to resolve social conflicts with peers and adults in the school building, makes an effort to remain on task, and utilize coping strategies that help her regulate her emotions in the classroom setting;"
- Social skills training, daily: "[The student] requires opportunities to review social conflicts she may be involved in with peers at school and adults and discuss her role in them, what she could have done to improve the outcome, and acknowledgment from adults when she is seen implementing strategies and alternative approached discussed."
- Strategies to initiate and sustain attention, daily: "[The student] requires instruction and support in her development of strategies to initiate and sustain attention in order to increase her ability to [attend] to task and assignment through completion."
- "[The student] requires the listed supports in response to her social emotional and processing deficits."

The IEP requires the following social emotional/behavioral goals:

- “By September 2024, during a [40]-minute class period, given an academic task (e.g., silent reading, test-taking), [the student] will independently remain on-task (i.e., actively working on the task, minimal disruption to self/others, asking relevant questions of peers/teacher), for at least 40 minutes or until the task is completed as directed, in (4 out of 5) academic tasks.”
 - Method of measurement: observation record
 - Criteria (Mastery and Retention with 3 out of 4 trials)
- “By September 2025, when presented with daily school activities that historically causes [the student] anxiety and stress, [the student] will physically demonstrate/practice (1) preferred self-calming technique (e.g. deep breathing, self-talk) for (20) seconds, for (4 out of 5) opportunities, as measured by an observation tool.”
 - Method of measurement: observation record
 - Criteria (Mastery and Retention with 3 out of 4 trials)

The IEP requires the following special education services:

- Five, one-hour and 30-minute sessions of classroom instruction in general education, weekly; and
- Five, one-hour and 30-minute sessions of classroom instruction in general education, weekly.
- “[The student] will receive specialized instruction and support in the general education setting in a class with a smaller teacher to student ratio to address her defects in reading comprehension, math calculation, math problem solving, and social-emotional regulation.”
- “[The student] will receive specialized instruction and supports and services in the general education setting in a class with a general education teacher and a special education teacher for history and science classes to address her defects in reading comprehension, math calculation, math problem solving, and social-emotional regulation.”

The IEP requires the related service of 2, 30-minute sessions of counseling services outside general education monthly.

- “[The student] requires two, 30-minute[sic] [sessions] of counseling monthly outside of the general education setting to address social-emotional needs and instruction on coping skills that cannot be adequately address[ed] in the general education setting.”

The LRE required by the IEP is inside general education 80% or more of the school day.

- “The IEP team agreed [the student’s] most appropriate placement is general education setting with specialized supports and services as well as related services provided outside of the general education setting.”
- “[The student] will remain in the general education setting throughout the school day daily with [the] exception of 2 30-minute [sic] sessions of counseling that cannot be adequately provided in the general education setting.”

10. On November 1, 2024, PGCPs staff emailed the student’s parent requesting her to sign and return the finalized IEP. The email reflected that once the signed IEP was received it would reflect the date consent was provided and an updated copy of the IEP would be sent to the parent.
11. On November 16, 2024, PGCPs staff emailed the student’s parent sharing that the PGCPs had not received signed consent for the student’s initial IEP and was unable to implement the document until written consent was received.

12. On November 18, 2024, the student's IEP was amended to reflect the following changes:
 - Secondary transition and IEP goals were updated to reflect a completion date of November 2025; and
 - The dates for the provision of supplementary aids, services, program modifications, supports and special education instruction and related services were updated to November 18, 2024, to November 17, 2025.
13. There is no documentation that the student received special education instruction and related services while suspended from school from April 4, 2024, to April 19, 2024.
14. There is no documentation that the student has received the math intervention, social skills training or counseling services required by the IEP.
15. There is documentation that the student was suspended for 12 days during the 2023-2024 school year.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION #1 MANIFESTATION PROCEDURES

A student who has not yet been determined to be eligible for special education and related services, but who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if the public agency had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

Basis of knowledge. A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred:

- (1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
- (2) The parent of the child requested an evaluation of the child pursuant to §§ 300.300 through 300.311; or
- (3) The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency. (34 CFR 300.536).

In this case, the student's parents submitted a clinical diagnosis to the school and the IEP team created a referral, convened a meeting, and drafted a consent to evaluate the student starting in December 2023. The PGCPs acknowledges that proper eligibility determination procedures were not followed at that time, however, that process triggered the student's disciplinary protections moving forward.

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or If the conduct in question was the direct result of the LEA's failure to implement the IEP. (34 CFR § 300.530).

In this case, the student's 10-day suspension on April 4, 2024, caused her to be removed from school for 12 days. There is no documentation that a manifestation determination meeting was held before the 10th day of removal.

Based on the Findings of Fact #2 through #5, and #15, MSDE finds that the PGCPs has not followed proper procedures when disciplinarily removing the student from school since November 2023. Therefore, this office finds that a violation occurred concerning the allegation.

**ALLEGATION #2 PROVISION OF SPECIAL EDUCATION INSTRUCTION, SUPPORTS, AND
RELATED SERVICES DURING DISCIPLINARY REMOVAL**

In this case, the student's parents submitted a clinical diagnosis to the school and the IEP team created a referral, convened a meeting, and drafted a consent to evaluate the student starting in December 2023. PGCPs acknowledges that proper eligibility determination procedures were not followed at that time, however, that process triggered the student's disciplinary protections, including the provision of appropriate educational services, moving forward.

A child with a disability who is removed from the child's current placement must continue to receive educational services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. (34 CFR §§ 300.530).

A change of placement occurs if the child has been subjected to a series of removals that constitute a pattern because the series of removals total more than 10 school days in a school year. (34 CFR §300.536).

In this case, the student's 10-day April 4, 2024, suspension created a change of placement. However, there is no documentation that the student received the special education services during the removal as required by the IEP.

Based on the Findings of Fact #2, #3, and #15, MSDE finds that the PGCPs did not provide the student with a free appropriate public education (FAPE) during the disciplinary removal from school in April 2024, in accordance with 34 CFR §§ 300.101, .530 - .536. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3 AN IEP THAT ADDRESSES THE STUDENT'S BEHAVIORAL NEEDS

In developing each child's IEP, the IEP team must consider the strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child. In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. (34 CFR §§ 300.324).

In this case, the student was suspended for 12 days during the 2023-2024 school year with 10 of those days for fighting and the student had been tardy to class for 44 days as of October 16, 2024. The IEP team determined the student was eligible for special education services under the ED disability code on August 9, 2024. The initial IEP developed provides social/behavioral supports and counseling services.

Based on the Findings of Fact #9, MSDE finds that the PGCPs has developed an IEP that addresses the student's identified behavioral needs since October 2024, in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that a violation occurred concerning the allegation.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

DEVELOPMENT OF THE IEP

If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§ 300.320 through 300.324. (34 CFR § 300.306). Each public agency must ensure that a meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services. (34 CFR § 300.323).

In this case, the student was deemed eligible for special education services on August 9, 2024, but the initial IEP was not developed until October 16, 2024.

Based on the Findings of Fact #5 through #8, MSDE finds that the PGCPs did not follow proper procedures when identifying and evaluating the student to determine if the student is a student with a disability requiring special education and related services, from August 2024 to October 2024, in accordance with 34 CFR §§ 300.301-.311, and .323. Therefore, this office finds that a violation occurred.

PROVISION OF SPECIAL EDUCATION INSTRUCTION AND RELATED SERVICES

As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

Based on the Findings of Fact #14, MSDE finds that the PGCPs has not provided the student with the math intervention, social skills training, or counseling services required by the IEP since November 2024, in accordance with 34 CFR §§ 300.101, and .323. Therefore, this office finds that a violation occurred.

ALLEGATION #4 PLACEMENT DETERMINATION

Each public agency must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled. In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. (34 CFR §§ 300.114 -.116).

Based on the Finding of Fact #8, MSDE finds that the PGCPs has followed proper procedures when determining the student's educational placement since November 2023, in accordance with 34 CFR §§ 300.114 -.116. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #5 EVALUATION PROCEDURES

Based on the Findings of Fact #1 and #2, MSDE finds that the PGCPs did not follow proper procedures in the identification and evaluation of the student to determine if they require special education services under IDEA, since November 2023, in accordance with 34 CFR §§ 300.111, and .301-.311. Therefore, this office finds that a violation occurred concerning the 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.

Student-Specific

By March 10, 2025, MSDE requires the PGCPs to provide documentation that the school system has:

- Provided the math intervention, social skills training, and counseling services to the student;
- Conducted an FBA to determine if a BIP is needed; and
- Convened an IEP team meeting and determined the amount and nature of compensatory services or other remedies to redress the violations herein 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 March 10, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly executes the requirements for the implementation of Child Find; disciplinary removal of students, including manifestation determinations; the provision of special education services including during disciplinary removal; and the development of IEPs that address behavioral needs under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance.

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

¹ The 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.

compelling reason for 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/ebh

c: Millard House II, Superintendent, 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, [REDACTED], PGCPs
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE