

January 10, 2025

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

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: #25-130

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, you alleged that a manifestation determination meeting was not conducted after the tenth day of disciplinary removal, in accordance with 34 CFR §§ 300.530, .531, COMAR 13A.08.03, and COMAR 13A.05.01.10.
2. The PGCPS did not provide the student with a free and appropriate public education (FAPE) since the student’s 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 addressed the student’s identified behavioral needs since January 8, 2024, in accordance with 34 CFR §§ 300.101 and .324.

4. The PGCPs did not follow proper procedures when determining the student's educational placement since January 8, 2024, in accordance with 34 CFR §§ 300.114 -.116.
5. The PGCPs has not provided the student with special education and related services in the placement required by the IEP since June 17, 2024, in accordance with 34 CFR §§ 300.114, and .116.

BACKGROUND:

The student is 14 years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. During the 2023- 2024 school year, the student attended [REDACTED] ([REDACTED]). The student currently attends [REDACTED] ([REDACTED]) and has an IEP that requires the provision of special education instruction and related services.

SUMMARY OF FINDINGS AND CONCLUSIONS:

In its written response, the PGCPs acknowledges that a violation occurred with respect to the allegations. Specifically:

1. The PGCPs acknowledged that they had not followed proper procedures when disciplinarily removing the student from school since November 2023. Specifically, a manifestation determination meeting was not conducted after the tenth day of disciplinary removal.
2. The PGCPs acknowledged that they did not provide the student with a FAPE since the student's disciplinary removal from school since November 2023.

FINDINGS OF FACTS:

3. The IEP in effect during January 2024, created on December 19, 2023, identifies needs in math calculation, math problem solving, reading comprehension, reading phonics, written language expression, self-management, and social interaction skills. Goals within the IEP address these areas of concern.
4. The December 19, 2023, IEP states that the student requires 23 hours and 45 minutes per week of specialized instruction within the general education classroom, along with 30 minutes per week of counseling outside the general education classroom.
5. The December 19, 2023, IEP required the student to receive instructional support, program modifications, and social/behavioral support to access a modified general education curriculum. In terms of social/behavioral support, the student requires:
 - A home-school communication system;
 - Strategies to initiate and sustain attention;
 - Positive behavior reinforcement through non-verbal/verbal communication;
 - Encouragement for appropriate behavior in academic and non-academic setting;
 - Frequent activity changes or movement opportunities; and
 - Weekly social skills training to improve peer interactions and use strategies for emotional regulation (e.g., zones of regulation).

6. The December 19, 2023, IEP reflects the student's behavioral goal in the area of social interaction skills. The goal states: "During group share time, [Student] will choose (2-3) other students to orally share (2-3) sentences of appreciation feedback to and will refrain from making negative comments (e.g. teasing, taunting, or cursing) during (4 out of 4) group discussions in 4 out of 5 trials."
7. The progress reports for the student's annual social interaction skills goal dated April 2024, June 2024, and November 2024 indicate the student is "not making sufficient progress to meet the goal." The lack of progress is attributed to the student not attending class, making the goal unmeasurable, or requiring additional support in this area. The reports note that the IEP team should convene to address the insufficient progress and the need for "additional behavior interventions."
8. The December 19, 2023, IEP reflects the student's behavioral goal in the area of self-management. The goal states: "When assigned an academic task to complete during whole group instruction (e.g. solve math problems during teacher-led guided practice), [Student] will independently remain on-task (i.e. actively working on the task, minimal disruption to self/others, asking relevant questions of peers/teacher) in 4 out 5 trials."
9. The progress reports for the student's annual self-management goal dated April 2024, June 2024, and November 2024 indicate the student is "not making sufficient progress to meet the goal." This is attributed to the student not attending class, which made the goal unmeasurable, or to the student requiring additional support in this area. The report suggests that the IEP team needs to convene to address the insufficient progress.
10. On January 11, 2024, the student received a three-day suspension due to the use of profanity and failure to follow school rules.
11. On February 15, 2024, the student received a three-day suspension due to disrupting the learning environment and failing to follow school rules.
12. On May 10, 2024, the student received a four-day suspension due to a physical attack on a student.
13. On May 16, 2024, the IEP team convened to review and revise the IEP, conduct a manifestation determination, and discuss reevaluation and assessments. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team proposed to revise the eligibility and supplementary aid portions of the IEP. However, the amended IEP does not reflect changes to supplementary aids. The team also proposed and obtained verbal parental consent during the meeting for a Functional Behavior Assessment (FBA). There is no documentation indicating the IEP team reviewed and revised the student's behavioral IEP goals to address her lack of progress, as noted in prior progress reports.

Additionally, during the meeting, the team recommended referring the student to the Central IEP (CIEP) team to assist in addressing her academic and behavioral needs. The team agreed with the recommendation and planned to involve the CIEP team for the 2024- 2025 school year.

14. On June 4, 2024, the student received a four-day suspension due to a physical attack on a student.
15. On June 6, 2024, the IEP team convened to review and revise the IEP as appropriate. The PWN reflects that, based on the nature and severity of the student's disability, the team determined a recommendation to the CIEP team is necessary to assist in addressing her academic and behavioral needs based on the prior meeting held on May 16, 2024. This information was added to the Least Restrictive Environment (LRE) page of the IEP. The team reviewed and discussed the draft FBA and Behavior Intervention Plan (BIP). The Special Considerations page of the IEP was updated to reflect her need for both an FBA and BIP.
16. On June 17, 2024, the IEP team convened for a Manifestation Determination Review (MDR), Compensatory Services, and CIEP Referral. During the IEP meeting, it was noted the student was suspended from school for a total of 19 days during the 2023- 2024 school year. The IEP team determined to complete a referral packet for CIEP.
17. On August 20, 2024, the IEP team convened to discuss placement. The PWN reflects the IEP team used most recent IEP and supporting documentation, assessment reports, medical documentation, attendance, academic data including data from research-based interventions, benchmark/district assessments, teacher/staff observations, disciplinary data, functional behavior assessment and behavior intervention plan, summary and analysis of behavior data, input from the parent/guardian, student, and school team to determine the student requires placement into a separate school private day school to address her academic and behavioral needs.

The PWN reflects the IEP team determined that the student required:

- 29.5 hours of special education services weekly, outside of the general education classroom;
 - Curb to Curb transportation services to and from school as a related service; and
 - LRE- Private Separate Day School.
18. During the meeting, the parent requested placements at [REDACTED] and [REDACTED]. The PWN reflects that additional referrals may be made by PGCPs. It also notes that until a separate day school placement is finalized, the student will be placed in the student's boundary [REDACTED] at [REDACTED]. The PWN reflects the parent requested that the student not attend the [REDACTED]; however, PGCPs noted that the [REDACTED] at [REDACTED] is the closest to her home and can provide her FAPE while she awaits an acceptance letter for an alternate placement. The parent was also informed that if the student is not accepted into a private day school, they will be contacted to discuss alternative placement options.
 19. On October 11, 2024, the IEP team met to review the student's BIP and progress since the start of the school year in the [REDACTED] at [REDACTED]. The team determined to maintain the targeted behaviors on the BIP and continue the non-public school referrals. The PWN noted that the student was placed on the waitlist for [REDACTED], with PGCPs promising to follow up on the status the following week.
 20. On September 17, 2024, PGCPs was informed that the student was not accepted into the [REDACTED].

21. On October 10, 2024, the parent was notified that the student was not accepted into [REDACTED] in [REDACTED].
22. On October 21, 2024, the parent and PGCPs were notified that the student was not accepted into the [REDACTED].
23. On October 30, 2024, the parent via email was notified that [REDACTED] had received the students' referral and invited them to come in for a tour. On October 31, 2024, the parent replied "We respectfully will not be selecting a date to come in for a tour and to learn more about your program. We are looking into another middle school program at this time." There is documentation that the referral to this school has been closed.
24. On November 14, 2024, the parent was notified that PGCPs had resubmitted a referral to [REDACTED] and a referral to [REDACTED]: [REDACTED].
25. On November 20, 2024, PGCPs received notification that the student was not accepted into the [REDACTED].
26. On November 25, 2024, the parent received correspondence from the [REDACTED], [REDACTED], notifying the parent that the student was not accepted.
27. There is no documentation to reflect that the student has been accepted into a non-public school placement as required by her IEP.
28. There is no documentation the IEP has met prior to December 18, 2024, to update the annual IEP.

DISCUSSION AND CONCLUSIONS:

ALLEGATION #3

AN IEP THAT ADDRESS THE STUDENT'S BEHAVIORAL NEEDS

It is the public agency's responsibility to ensure that the IEP team reviews the student's IEP to address any lack of expected progress toward the annual goals (34 CFR §300.324).

Based on the Findings of Fact #3 through 20, and #28, MSDE finds that the PGCPs has not developed an IEP that addressed the student's identified behavioral needs since January 8, 2024, in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that a violation has occurred concerning this allegation.

ALLEGATION #4

PLACEMENT

In this case, the IEP team began discussions regarding a referral to the CIEP team for placement in May 2024. The referral was completed in June 2024, but the team did not reconvene until August 2024 to finalize the student's placement for the 2024-2025 school year. The student is still not in a placement as required by the IEP.

Based on the Findings of Fact #13, #15 through #19, MSDE finds that the PGCPs did not follow proper procedures when determining the student's educational placement since May 13, 2024, in accordance with 34 CFR §§ 300.114 -.116. Therefore, this office finds that a violation has occurred concerning this allegation.

ALLEGATION #5

PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES

Based on the Findings of Fact #17 through #27, MSDE finds that the PGCPs has not provided the student with special education and related services in the placement required by the IEP since June 17, 2024, in accordance with 34 CFR §§ 300.114, and .116. Therefore, this office finds that a violation has occurred concerning this allegation

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Annual Review

A public agency shall ensure that the IEP team meets periodically, but not less than annually, to review and revise the IEP (34 CFR § 300.324).

Based on the Finding of Fact #28, MSDE finds that the has not ensured that the IEP team has convened to review the student's IEP before December 18, 2024, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. Therefore, MSDE finds that a violation occurred.

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 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, 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.

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.

Student-Specific

MSDE requires the PGCPs to provide documentation by March 31, 2025, that the IEP team has:

- a. Convened an IEP team meeting to update the annual IEP and determine whether her current IEP services meet the required standards for providing FAPE;
- b. Determined if additional assessments are needed to clarify the services she requires;
- c. Determine whether adjustments are necessary to ensure she receives comparable services while awaiting placement in a special education program; and
- d. 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.

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

School-Based

MSDE requires the PGCPs to provide documentation by March 21, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the implementation of proper procedures for disciplinary removal of students, including conducting manifestation determinations; developing IEPs that address identified behavioral needs; and proper procedures for determining educational placement under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance. Monitoring activities must include a submission of 10 students with IEPs who have been disciplinarily removed from their educational settings to ensure compliance with all requirements, including notice to families, manifestation meetings, appropriate services, and behavioral supports. Full compliance is required for the submission which is due on or before March 30, 2025.

Specifically, the PGCPs must provide a monitoring report for five randomly selected students at [REDACTED], reflecting data demonstrating compliance with timely convening manifestation determination meetings by February 21, 2025, and April 22, 2025.

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 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/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
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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, Monitoring and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
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