

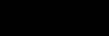


Karen B. Salmon, Ph.D.
State Superintendent of Schools

April 3, 2020



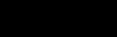
Ms. Trinell Bowman
Executive Director
Department of Special Education
Prince George's County Public Schools
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 20785

RE: 
Reference: #20-094

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 of the final results of the investigation.

ALLEGATIONS:

On February 5, 2020, the MSDE received a complaint from Ms.  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) with respect to the student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the Individualized Education Program (IEP) is designed to meet the student’s academic needs and enable him to make progress in the general curriculum since February 5, 2019, in accordance with 34 CFR §§300.304, .320, and .324.
2. The PGCPS did not ensure that an IEP was provided within five (5) business days of the December 11, 2019 IEP team meeting, in accordance with COMAR 13A.05.01.07.

3. The PGCPS did not ensure that the student was provided with special education instruction by both general and special education teachers in English class during the first (1st) semester of the 2019-2020 school year, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

Exceptional Circumstance Timeline Extension

While the IDEA requires that complaint investigations be completed within sixty (60) days of receipt of the State complaint, it permits an extension of the timeline if exceptional circumstances exist with respect to a particular complaint.

In this case, the MSDE has determined that exceptional circumstances exist with respect to Allegation #3, which require the extension of the timelines for completion of this Allegation. Specifically, the PGCPS has indicated that documentation exists to demonstrate compliance with the requirements related to Allegation #3, but that the school system does not currently have access to the documentation due to the closure of schools in response to the COVID-19 outbreak.

Therefore, the timelines for completion of Allegation #3 are being extended to fifteen (15) days after the reopening of schools within the PGCPS. Because there is sufficient documentation to complete the investigation of the remaining allegations, this report contains the results of the investigation into those allegations. A separate Letter of Findings addressing Allegation #3 will be issued within fifteen (15) days after the reopening of schools within the PGCPS.

BACKGROUND:

The student is seventeen (17) years old and is identified as a student with an Other Health Impairment (OHI) under the IDEA. He has an IEP that requires the provision of special education and related services.

The student attends ██████████ High School (██████████ HS). However, since March 16, 2020, there has been a Statewide closure of all schools as a result of a national outbreak of respiratory disease caused by a new coronavirus named coronavirus disease 2019 (COVID 19).

ALLEGATION #1 IEP DEVELOPMENT

FINDINGS OF FACTS:

1. The IEP in effect on February 5, 2019 was developed on October 4, 2018.
2. The October 2018 IEP identifies that the student has needs in the area of reading comprehension and includes an annual goal in this area. However, the IEP does not include information about the student's present levels of performance in reading.
3. The October 2018 IEP includes information about the student's written language expression skills and an annual goal in this area, but does not include sufficient information on his grade level of performance. While the IEP states that the student's written language expression skills do not impact his academic achievement and/or functional performance, the team

developed a goal for him to improve his skills in this area reportedly at the request of the complainant.

4. On April 11, 2019, the IEP team conducted the annual review of the student's educational program. However, the IEP team did not update the information about the student's present levels of performance, and the IEP continued to reflect data obtained in October 2018 about the student's levels of performance.
5. At the April 11, 2019 meeting, the IEP team revised the annual goals. Each of the goals requires achievement to be demonstrated by 80% accuracy on classroom based assessments.
6. The IEP requires that progress towards achievement of the annual goals be reported on a quarterly basis. The reports dated November 2, 2018, January 27, 2019 and March 27, 2019 reflect that progress was reported on goals that were not in effect until April 11, 2019.
7. The school staff developed progress reports on the IEP goals on June 17, 2019, November 22, 2019, and February 10, 2020. The reports reflect that progress was measured based on the student's grades and his passing of classes and does not reflect that it was measured based on the percentage of accuracy on classroom based assessments, as required by the IEP.
8. On March 5, 2020, the IEP team began the annual review of the student's IEP. The team reviewed the results of educational and psychological assessments that were conducted in February 2020. The parties are currently in the process of finalizing revisions to the IEP.

CONCLUSIONS:

Based on the Findings of Facts #1 - #5 and #8, the MSDE finds that, since February 5, 2019, the PGCPS has not ensured that reading and written language IEP goals have been based on the student's present levels of performance, in accordance with 34 CFR §300.320.

In addition, based on the Findings of Facts #5 - #7, the MSDE finds that, since February 5, 2019, the PGCPS has not ensured that progress on the IEP goals has been monitored in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds violations with respect to this allegation.

ALLEGATION #2 PROVISION OF IEP WITHIN FIVE (5) DAYS FOLLOWING DECEMBER 11, 2019 IEP MEETING

FINDINGS OF FACTS:

9. On December 11, 2019, the IEP team convened. The invitation notice for the meeting states that the purpose of the meeting was to review, and if appropriate, revise the IEP.
10. However, at the meeting, the IEP team determined that additional information was needed about the student's academic performance and cognitive functioning before the IEP could be reviewed.

CONCLUSION:

Based on the Findings of Facts #9 and #10, the MSDE finds that the IEP team did not review and revise the IEP as it planned to do at the December 11, 2019 IEP meeting. Therefore, the MSDE finds that there was no requirement to provide the IEP following the meeting, and does not find a violation with respect to the allegation.

CORRECTIVE ACTIONS/TIMEFRAMES:

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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.¹ This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that the timeframe may not be met, or if any of the parties seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770.

Student-Specific

The MSDE requires the PGCPS to provide documentation that the IEP is based on current data about the student's present levels of performance, and that progress is being measured consistent with the description in the IEP goals.

The PGCPS must also ensure that the IEP team has determined the amount and nature of compensatory services or other remedy to redress the violations identified in this investigation.

School-Based

The MSDE requires the PGCPS to provide documentation of the steps it has taken to ensure that the [REDACTED] HS staff understand and implement the IDEA requirements for the

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must 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 The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

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development of IEPs that are based on present levels of performance and that progress on IEP annual goals is monitored in the manner described in the goals.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention and Special Education Services, MSDE.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timeframes 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. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Early Intervention
and Special Education Services

MEF/ksa

c: Monica Goldson
Gwendolyn Mason
Barbara Vandyke
■
Jeffrey Krew
Dori Wilson
Anita Mandis
K. Sabrina Austin
Nancy Birenbaum