



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

March 20, 2019

XXX  
XXX  
XXX  
XXX

Ms. Trinell Bowman  
Director of Special Education  
Prince George's County Public Schools  
1400 Nalley Terrace  
Landover, Maryland 20785

RE: XXXXX  
Reference: #19-096

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 January 22, 2019, the MSDE received a complaint from Ms. XXXXXXXXXXXX, 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) has addressed the student’s social, emotional and behavioral needs, since August 2018, in accordance with 34 CFR §§300.101 and .324.
2. The PGCPS has not ensured that the IEP has been implemented during the portion of the 2018 - 2019 school year that the student attended the XXXXXXXXXXXXXXXX School (XXXXXXXXX ES), in accordance with 34 CFR §§300.101 and .323. The complainant specifically alleged that the student was not provided with the behavioral supports, occupational therapy services and counseling services, as required by the IEP.

XXX

Ms. Trinell Bowman

March 20, 2019

Page 2

3. The PGCPS did not ensure that proper procedures were followed when disciplinarily removing the student from school in September 2018, in accordance with COMAR 13A.08.01.11.
4. The PGCPS did not ensure that the parent was provided with Prior Written Notice of the decisions made by the IEP team on September 26, 2018, in accordance with 34 CFR §300.530.
5. The PGCPS did not ensure that the parent was provided with a copy of the IEP document within five (5) business days after the IEP team meeting on September 26, 2018, in accordance with COMAR 13A.05.01.07.

**BACKGROUND:**

The student is six (6) years old and is identified as a student with Multiple Disabilities under the IDEA including Autism and an Emotional Disability. He is in the first (1<sup>st</sup>) grade and has an IEP that requires the provision of special education and related services. The student currently attends The Foundation School, a nonpublic separate special education school, where he was placed by the PGCPS.

**ALLEGATIONS #1 - #3**

**IEP DEVELOPMENT, IEP IMPLEMENTATION, AND DISCIPLINARY REMOVAL IN SEPTEMBER 2018**

**FINDINGS OF FACTS:**

1. On August 21, 2018, the Central Office IEP (CIEP) team convened.<sup>1</sup> The CIEP team discussed that the student “is often unavailable for learning due to his aggressions and elopement” and that he needs supports and services in “a small structured program to address his social/emotional needs as well as academics.” The CIEP team made revisions to the IEP through added supplementary supports and increased related services. They also increased the specialized instruction that the student requires to twenty-two (22) hours of specialized instruction per week in a separate special education classroom.
2. The CIEP team discussed that the proposed services and supports are not available in the neighborhood school that the student was attending, and determined placement for the student in the transition program at XXXXXXXXXXXXXXXX where he could receive behavioral support and also opportunities for participation with nondisabled peers “when appropriate.”
3. At the August 2018 CIEP meeting, the CIEP team also discussed whether a change in identification of the student’s primary disability was appropriate based on the results of recent assessments reviewed by the CIEP team in June 2018. Because a psychologist was

---

<sup>1</sup> In June 2018, the IEP team made a referral to the CIEP team to consider a more restrictive placement for the student for the 2018 – 2019 school year.

XXX

Ms. Trinell Bowman

March 20, 2019

Page 3

not present in the meeting, the CIEP team agreed to reconvene with the participation of a psychologist to address this concern.

4. The CIEP team also agreed to reconvene at the end of the first (1<sup>st</sup>) quarter of the 2018-2019 school year to review the student's progress and to determine whether his program and placement in the transition program at XXXXXXXXXXXXXXX is appropriate.
5. The IEP developed at the August 2018 CIEP meeting documents that the student requires the following:
  - Behavioral supports which include frequent breaks, daily warnings for transitions and changes in routines, weekly social skills training, daily use of a flash pass to access a quiet space, daily provision of positive reinforcers or tangible incentives as soon as the student completes work or demonstrates positive behaviors, frequent changes in activities and opportunities for movement, and calming strategies to assist the student with de-escalation of his behavior and with verbalizing his emotions. The student also requires additional adult support throughout the day to assist in the implementation of behavioral supports.
  - Occupational therapy services four (4) times a month, for thirty (30) minute sessions.
  - Counseling services once a week, for thirty (30) minutes, which is to be provided primarily by a school based mental health provider.
6. The August 2018 IEP also documents that the student requires a Behavior Intervention Plan (BIP) due to behaviors that interfere with his learning, social relationships and school participation. The BIP targets the student's interfering behaviors of leaving his seat without permission, hitting peers and making inappropriate comments, and not consistently following adult directions. The replacement behaviors are for the student to raise his hand for permission to leave his seat, keep his hands to himself, use kind words, and to listen to and comply with adult directions.
7. The BIP requires prevention strategies that include redirection, verbal and nonverbal prompts to remind the student of the rules and classroom expectations, frequent adult check-ins, review of rules and expectations before each activity and transition, and rewards and praise for appropriate behavior.
8. The BIP also requires teaching and response strategies, which include setting clear expectations, social skills instruction, planned ignoring for "low-level inappropriate behavior," and verbal redirection and warnings based on rules and behavior expectations. A daily behavior sheet is also required by the BIP.
9. The student began attending XXXXXXXXXXXXXXX ES at the start of the 2018 – 2019 school year, and started exhibiting interfering behaviors on the first (1<sup>st</sup>) day of school. There is

XXX

Ms. Trinell Bowman

March 20, 2019

Page 4

documentation that his interfering behaviors continued, and escalated, throughout September 2018.

10. On September 26, 2018, the IEP team convened. The IEP team reviewed behavior data, teacher and parent input, and the most recent assessment reports. At the time of the meeting, there was documentation that the student was regularly off task, refusing to complete work, and in the “reflection room,” and that he was frequently using inappropriate language, making threats of injury, and out of his seat.
11. At the September 26, 2018 IEP meeting, the IEP team determined that the student requires a more restrictive placement to address his academic and social and emotional behavior needs, and referred the student to the CIEP team to determine an appropriate placement. However, there is no documentation that the IEP team considered additional supports for the student until a new placement could be obtained.
12. At the September 26, 2018 IEP meeting, the IEP team also determined that the student is a student with Multiple Disabilities, including an Emotional Disability, Attention Deficit Hyperactivity Disorder (ADHD), and Autism. Prior to the September 2018 IEP meeting, the student was identified only as a student an Emotional Disability.
13. Also on September 26, 2018, the student was suspended for ten (10) days as a disciplinary removal for attempting to “stab” a school staff with a knife and possession of a weapon.<sup>2</sup> At the time, the student was in the first (1<sup>st</sup>) grade. There is no documentation of a consultation between the school administration and a school psychologist or mental health professional concerning the decision to suspend the student for ten (10) days.
14. On October 19, 2018, the school staff documented that the student was not making sufficient progress towards mastery on any of the annual IEP goals.
15. On October 31, 2018, the CIEP team convened and determined that the student’s conduct that resulted in his disciplinary removal was a manifestation of his disability.
16. On October 31, 2018, the CIEP team convened. At the time of the meeting, the student had been referred to the “reflection room” eighteen (18) times since the start of the 2018 – 2019 school year due to interfering behaviors that included spitting, inappropriate language, losing self-control, refusing to follow rules and directions, not remaining in his assigned location, thoughts and threats of killing school staff, hitting school staff, destruction of property, making threats of injury to school staff, being rude to school staff and peers, work refusal, and inappropriate language and rude comments.<sup>3</sup>

---

<sup>2</sup> The PGCPS has not provided any documentation that the student returned to XXXXXXXXXXXX after this date.

<sup>3</sup> There is documentation that on one occasion, the student remained in the “reflection room” from 10 a.m. through the end of the school day.

XXX

Ms. Trinell Bowman

March 20, 2019

Page 5

17. At the October 31, 2018 meeting, the CIEP team determined that the student requires an increase in the amount of specialized instruction in a separate special education classroom to twenty-nine (29) hours per week, and an increase in counseling services to twice a week. The CIEP team also decided that the student needs a small, therapeutic program throughout the school day to address his needs and be available for learning, and that the appropriate placement is a private separate day school. The CIEP team agreed to refer the student for admission to XXXXXXXXXXXXXXX and the XXXXXXX - XXXXXXXXXXX.
18. Also at the October 31, 2018 meeting, the CIEP team determined that the conduct that resulted in the student's suspension on September 26, 2018 was a manifestation of his disability.
19. There is documentation that, on some occasions during the time the student attended XXXXXXXXXXXXXXX, he was provided with the behavioral supports of redirection, additional adult support, a daily behavior point sheet and social skills instruction. However, there is no documentation that these supports were provided on a consistent basis, and there is no documentation of the provision of the many other behavior supports that are required by the IEP during this time.
20. There is no documentation that, during the time the student attended the XXXXXXXXXXXXXXX, he was provided with the occupational therapy services required by the IEP. There is also no documentation that the student was provided with the counseling services required by the IEP during this time.
21. In January 2019, the school staff documented that the student, who was attending The Foundation School at the time, was making sufficient progress towards mastery of the IEP social interaction, speech and language, and one (1) of the behavioral goals, and that he had achieved one (1) of the IEP behavioral goals.

## **CONCLUSIONS:**

### **Allegation #1 IEP Development**

Based on the Findings of Facts #1 - #8, the MSDE finds that the IEP in effect at the start of the 2018 -2019 school year addressed the student's identified behavioral needs.

Based on the Findings of Facts #9 and #10, the MSDE finds that the IEP team convened on September 26, 2018 to address the student's escalating interfering behaviors, and recommended a more restrictive placement. However, based on the Findings of Facts #10 - #12, the MSDE finds that the team did not consider additional supports or interventions to address the student's continuing interfering behavior until October 31, 2018, when the CIEP team determined that the student requires additional services and placement in a private separate day school, in accordance with 34 CFR §300.324. Therefore, this office finds a violation occurred from September 26, 2018 to October 31, 2018.

**Allegation #2 IEP Implementation**

Based on the Findings of Facts #5 - #8 and #19, the MSDE finds there is some documentation that the student was occasionally provided with some of the behavioral supports required by the IEP.

However, based on the Findings of Facts #5 - #8, #19 and #20, the MSDE finds that there is no documentation that the student was consistently provided with the behavioral supports, or that he was provided with the occupational therapy and counseling services required by the IEP, while he attended the XXXXXXXXXXXXX, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that violations occurred.

**Allegation #3 Disciplinary Removal**

Based on the Finding of Fact #13, the MSDE finds that the student was in the first (1<sup>st</sup>) grade when he was suspended, and that he was suspended for more than five (5) days. Based on the same Finding of Fact, the MSDE also finds that there is no documentation that the school administration consulted with a school psychologist or other mental health professional, and determined that there was an imminent threat of serious harm to other students or staff that could not be reduced or eliminated through interventions and supports, in accordance with COMAR 13A.08.01.11. Therefore, the MSDE finds that the PGCPS did not follow proper procedures and that a violation occurred.

**ALLEGATIONS # 4 AND #5 PROVISION OF PRIOR WRITTEN NOTICE AND IEP FOLLOWING THE SEPTEMBER 26, 2018 IEP TEAM MEETING**

**FINDINGS OF FACTS:**

22. On September 26, 2018, the IEP team convened and made decisions with respect to the student's identified disability and educational program.
23. There is no documentation that the parent was provided with prior written notice of the decisions made at the September 26, 2018 IEP team meeting.
24. Although the team agreed to changes to the IEP on September 26, 2018, those changes were not incorporated into the IEP document until October 29, 2018. There is documentation that the parent was provided with a copy of the revised IEP dated October 29, 2018 on the same date.

**CONCLUSIONS:**

**Allegation #4 Prior Written Notice**

Based on the Findings of Facts #22 and #23, the MSDE finds that, while the IEP team convened

XXX

Ms. Trinell Bowman

March 20, 2019

Page 7

and made decisions on September 26, 2018, there is no documentation that the parent was provided with prior written notice of the meeting, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #24, the MSDE finds that the parent was provided with notice of the decisions made on September 26, 2018, and therefore no student-specific corrective action is required.

**Allegation #5                      Provision of IEP**

Based on the Findings of Facts #22 and #24, the MSDE finds that there is no documentation that the parent was provided with the completed IEP or a draft IEP within five (5) business days following the September 26, 2018 IEP team meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #24, the MSDE finds that the parent was provided with a copy of the IEP, and therefore no student-specific corrective action is required.

**CORRECTIVE ACTION/TIMELINES:**

**Student-Specific**

The MSDE requires the PGCPS to provide documentation by May 1, 2019, that the IEP team has determined the amount and nature of compensatory services or other remedy to redress the violations identified through this investigation and developed a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

**School-Based**

The MSDE requires the PGCPS to provide documentation by June 1, 2019, of the steps taken to ensure that the XXXXXXXXXXXXX staff implement the requirements for IEP development, IEP implementation, disciplinary removal of students, and provision of prior written notice and IEP documents. The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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.

**TECHNICAL ASSISTANCE:**

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

XXX

Ms. Trinell Bowman

March 20, 2019

Page 8

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 timelines reported in this Letter of Findings.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The complainants 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  
XXXXXXXXXXXX  
Dori Wilson  
Anita Mandis  
K. Sabrina Austin  
Nancy Birenbaum