



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

June 30, 2020

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

RE: [REDACTED]  
Reference: #20-128

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), 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 May 4, 2020, the MSDE received a complaint from Michelle Hall, Esq., hereafter, "the complainant," on behalf of the above-referenced student, and his mother, Ms. [REDACTED]. 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 above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS did not ensure that the student was provided with instructional and assessment accommodations, "specifically, teacher redirections, frequent breaks and reduced distractions, and extended time," as required by the Individualized Education Program (IEP), from the start of the third (3) quarter of the 2019 – 2020 school year until March 16, 2020, in accordance with 34 CFR §§300.101 and .323.
2. The PGCPS did not ensure that the student was provided with "research-based reading interventions, repetition of instruction for assignments, monitoring of independent work,

chunking of assignment, frequent changes in activities, opportunities for movement, redirection by school staff, and use of positive reinforcement,” from the start of the third (3) quarter of the 2019 – 2020 school year until March 16, 2020, in accordance with 34 CFR §§300.101 and .323.

### **BACKGROUND:**

The student is thirteen (13) years old and is identified as a student with an Other Health Impairment, under the IDEA, related to Attention-Deficit Hyperactivity Disorder (ADHD). He has an IEP that requires the provision of special education instruction and related services.

The student is placed at the [REDACTED] School, where he attended school until a March 16, 2020 Statewide closure of all schools as a result of the national COVID-19 pandemic.

### **FINDINGS OF FACTS:**

1. The student’s IEP in effect on January 27, 2020, which was the start of the third quarter of the 2019 - 2020 school year, required that he be provided with instructional and assessment accommodations, such as, “teacher redirections, reduced distractions, and extended time.”
2. On February 25, 2020, the IEP team convened to review and revise the student’s IEP, as appropriate. The IEP meeting summary reflects that the team reviewed the student’s behavioral and suspension data, attendance data, teacher and parent reports, as well as his performance on classroom-based and national assessments. Based on that review, the team revised the supplementary aids to include “repetition of instruction for assignments, monitoring of independent work, chunking of assignment, frequent changes in activities, opportunities for movement, redirection by school staff, and the use of positive reinforcement.”
3. There is documentation that the school staff attempted to redirect the student on several occasions when he displayed interfering behaviors while in school from January 27, 2020 to March 16, 2020. However, there is no documentation to support the student being consistently provided with all of the instructional and assessment accommodations, and supplementary aids required by the IEP from January 27, 2020 to March 16, 2020.
4. At the February 25, 2020 IEP team meeting, the team also determined that the student would be provided with a “research-based reading intervention in the general education classroom for up to eleven (11) hours and forty-two (42) minutes each month, for the remainder of the 2019 - 2020 school year and for the 2020 - 2021 school year.
5. The student’s 2019 - 2020 school class schedule reflects that he was assigned to an academic resource class for reading intervention on every other school day. There is also documentation that the student was either “tardy or absent” during his academic resource class five (5) times between February 25, 2020 and March 12, 2020. However, there is no documentation to reflect that the student was consistently provided with a research-based reading intervention when he did attend the academic resource class, as required by the IEP, from February 25, 2020 to March 16, 2020.

## **CONCLUSIONS:**

### **Allegation #1: The Provision of Instructional and Assessment Accommodations and Supplementary Aids and Services**

Based on the Findings of Facts #1 - #3, the MSDE finds that the documentation does not reflect that the student was consistently provided with all the instructional and assessment accommodations, and supplementary aids required by the IEP, from January 27, 2020 to March 16, 2020, in accordance with §§300.101 and .323. Therefore, this office finds that violations occurred with respect to this allegation.

### **Allegation #2: The Provision of a Research-Based Intervention**

Based on the Findings of Facts #4 and #5, the MSDE finds that there is no documentation to support that the student was consistently provided with a research-based reading intervention, from February 25, 2020 to March 16, 2020, in accordance with §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

## **CORRECTIVE ACTIONS/TIMELINE:**

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.<sup>1</sup> This office will follow up with the public agency to ensure that it completes the required actions.

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 Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770.

### **Student-Specific**

The MSDE requires the PGCPS to provide documentation that the instructional and assessment accommodations, supplementary aids, and reading intervention are being provided once schools resume normal operation.

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<sup>1</sup> 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.

<sup>2</sup> The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

The MSDE also requires the PGCPS to convene an IEP team meeting to determine whether the violations related to the lack of the provision of accommodations, supplementary aids, and reading intervention had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violations and develop a plan for the provision of those services.

### **School-Based**

The MSDE requires the PGCPS to provide documentation of the steps taken to ensure that the violations do not recur at [REDACTED] School, and to monitor the effectiveness of those steps.

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.

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

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[REDACTED]  
Monica Goldson  
Gwendolyn Mason  
Barbara VanDyke  
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Gail Viens  
Albert Chichester  
Dori Wilson  
Anita Mandis