



Mohammed Choudhury
State Superintendent of Schools

December 23, 2021



Ms. Trinell Bowman
Associate Superintendent-Special Education
Prince George's County Public Schools
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 2078

RE: [REDACTED]
Reference: #22-049

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 October 25, 2021, the MSDE received correspondence from [REDACTED] hereafter, "the Complainant," on behalf of his son, 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 did not follow proper procedures when amending the student's Individualized Education Program (IEP) on May 28, 2021, in accordance with 34 CFR §300.324;

2. The PGCPs has not ensured that the student's emergency care plan was properly implemented on October 11, 2021, in accordance with 34 CFR §300.323.

BACKGROUND:

The student is sixteen (16) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services.

The student is placed by the PGCPs at [REDACTED] a nonpublic, separate, special education school.

FINDINGS OF FACTS:

ALLEGATION #1: REVISIONS TO THE STUDENT'S IEP

1. The student's IEP, in effect prior to May 28, 2021, required the following transition activities be conducted with the student:
 - [The student] will meet with the Transition Coordinator (via google classroom) once per week to complete career research;
 - [The student] will use virtualjobshadow.com to complete job shadowing experiences once per week;
 - [The student] will identify 10 new common community signs per quarter;
 - [The student] will meet with the Transition Coordinator (via google classroom) once per week to complete 2 interest inventories per quarter in order to find a consistent career choice;
 - [The student] will meet with the Transition Coordinator (via google classroom) to practice putting information into electronic forms once every month; and
 - [The student] will use a set of picture directions to use a washing machine 5 times per quarter.
2. Following the IEP team meeting on May 28, 2021, the student's IEP was revised to include the following transition activities:
 - [The student] will complete the referral for Pre-ETS by the next annual IEP review;
 - [The student] will complete 4 career interest inventories by the next annual IEP reviews;
 - [The student] will participate in on-campus situational job sampling by the next annual IEP review;
 - [The student] will complete 4 simple job-related forms by the next annual IEP review;

- [The student] will make a purchase in a store during community-based instruction by the next annual IEP review; and
 - [The student] will use a set of picture directions to use 4 kitchen appliances by the next annual IEP review.
3. A review of the audio recording of the May 28, 2021 IEP team meeting does not support that the revisions in the student's IEP were consistent with the IEP team decisions.
 4. The Prior written notice developed following the May 28, 2021 meeting states that the "Transition plan remains in place."

ALLEGATION #2: IMPLEMENTATION OF THE EMERGENCY CARE PLAN

5. The Student's emergency care plan, reviewed and accepted by the IEP team on January 8, 2021 requires the following with respect to the student's medication:

“ [O]ne dose shall be placed in a small labeled bag such as a fanny bag and that bag will be hooked onto the outside of the [student's] bookbag/backpack. The parent will hand the book bag with the fanny bag attached to the bus staff each day. The bus staff will store it away from student [sic] during transport. It will be handed to school staff [sic] upon arrival to school and returned to the transportation staff upon departure from school.”

6. On October 11, 2021, the student had a behavioral incident that resulted in the student accessing the pouch containing his medicine and throwing it towards the front of the bus. The bus incident report states that, “[The student] took his green pouch off his bookbag and threw it at the front windshield as the bus was moving”.

DISCUSSION/CONCLUSIONS:

Allegation 1: Revising the Student's IEP

Based on Findings of Facts #1-#4, the MSDE finds that the IEP developed for the student is not consistent with the decisions made during the IEP team meeting, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2: Implementation of the Emergency Care Plan

Based on Findings of Facts #5 and #6, the MSDE finds that the PGCPS did not ensure that the student's emergency care plan was properly implemented on October 11, 2021, in accordance with 34 CFR §300.323. Therefore, this office finds that a violation occurred with respect to this allegation

CORRECTIVE ACTIONS/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, 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 below 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 or via email at nancy.birenbaum@maryland.gov.

The MSDE requires the PGCPS to provide documentation that an IEP team has convened for the student to

- a. Review and revise the student's transition activities, as appropriate, to ensure that the activities recommended for the student reflect the decisions of the IEP team.
- b. Review the components of the emergency care plan that were not in place on October 11, 2021 and consider whether revision must be made to ensure that the violation identified above does not reoccur.

¹ The 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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- c. The IEP team must also determine whether there has been an educational impact to the student as a result of the violation and whether any compensatory services, or other remedy, are needed to redress the violation.

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 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/
Special Education Services

- c: Monica Goldson
Barbara Vandyke
Keith Marston
Gail Viens
Nancy Birenbaum
Gerald Loiacono