



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

September 10, 2019

Ashley S. VanCleaf, Esq.  
Law Office of Brian K. Gruber, P.C.  
6110 Executive Boulevard, Suite 220  
Rockville, Maryland 20852

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

RE: [REDACTED]  
Reference: #20-002

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 July 12, 2019, the MSDE received a complaint from Ashley S. VanCleaf, Esq., hereafter, "the complainant," on behalf of Mr. [REDACTED] and Mrs. [REDACTED], and their 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 above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS did not ensure that an appropriate Individualized Education Program (IEP) was in effect at the start of the 2018 - 2019 school year that addressed the student's lack of expected progress with math problem solving skills, in accordance with 34 CFR §300.324
2. The PGCPS did not ensure that the IEP team convened to review and revise the student's IEP, as appropriate, to address lack of expected progress toward achieving the written language content goal in January 2019, in accordance with 34 CFR §300.324.

3. The PGCPS did not ensure that the student was placed in “co-taught” classes during the first week of the 2018 - 2019 school year, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.
4. The PGCPS did not ensure that the student was provided with the amount of research-based reading and math interventions required by the IEP, from the start of the 2018 - 2019 school year until January 2019, in accordance with 34 CFR §§300.101 and .323.
5. The PGCPS did not ensure that the decision regarding the amount of research-based interventions to be provided, which was made in January 2019, was based on the student’s needs in accordance with 34 CFR §300.324.

**BACKGROUND:**

The student is thirteen (13) years old and attends [REDACTED] Middle School. He is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATION #1: ADDRESSING THE LACK OF EXPECTED PROGRESS  
IN MATH PROBLEM SOLVING SKILLS**

**FINDINGS OF FACTS:**

1. The IEP in effect at the start of the 2018 - 2019 school year was developed on January 22, 2018. The report of progress towards achievement of the annual goal to improve math problem skills, which was generated in June 2018, stated that the student was not making sufficient progress to achieve the goal. However, the report made in November 2018 reflects that the student was making sufficient progress at that time.
2. The progress reports reflect that progress towards achievement of the math problem solving skills was measured based on the grade the student earned in math class at the time of the reporting and was not measured as described it would be, in the IEP. The school staff report that they discovered the error and provided the school staff who generated the reports with training on progress monitoring. This is evidenced in subsequent reports, which measure progress in accordance with the IEP.
3. The school staff report that the IEP team did not convene to consider lack of expected progress towards achievement of the math goal at the start of the 2018 - 2019 school year because the data that should have been used to measure progress demonstrated that progress was sufficient. This is evidenced by the January 15, 2019 progress report that indicates that the student demonstrated achievement of the goal using the data required by the IEP.

## **CONCLUSIONS:**

### **Allegation #1: Math Problem Solving Goal**

Based on the Findings of Fact #1, the MSDE finds that the IEP team did not convene prior to the start of the 2018 - 2019 school year, when insufficient progress in math problem solving was reported, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Findings of Facts #2 and #3, the MSDE finds that the student was in fact, making sufficient progress using the method dated in the IEP for measuring progress, and steps have been taken to ensure that progress is measured properly in the future. Therefore, no corrective action is required.

### **ALLEGATION #2: ADDRESSING THE LACK OF EXPECTED PROGRESS IN WRITTEN LANGUAGE CONTENT**

#### **FINDINGS OF FACTS:**

4. On January 15, 2019, the student's progress report indicated that the student was not making sufficient progress towards achievement of the goal to improve written language skills.
5. On January 16, 2019, the IEP team reviewed and revised the IEP, including the goal to improve written language skills.

## **CONCLUSION:**

### **Allegation #2: Written Language Content Goal**

Based on the Findings of Facts #4 and #5, the MSDE finds that the IEP team did convene to address the student's lack of progress in written language, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to the allegation.

### **ALLEGATION #3: INSTRUCTION PROVIDED BY A GENERAL AND SPECIAL EDUCATION TEACHER**

#### **FINDINGS OF FACTS:**

6. The IEP in effect at the start of the 2018 - 2019 school year required that the student be provided with special education instruction in a classroom taught by both general and special education teachers for English, math, and science.

7. As a result of a scheduling error, there is documentation that the student was assigned to a classroom taught by only a general education teacher, from September 5, 2018 to September 11, 2018. This error was identified and corrected during the first week of school and there is no evidence that it impacted the student's ability to benefit from his education program.

### **CONCLUSION:**

Based on the Findings of Facts #6 and #7, the MSDE finds that the student was not placed in his appropriate reading, math, and science classes, as required by the IEP, due to a scheduling error, in accordance with 34 CFR §§300.101, and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Finding of Fact #7, the MSDE finds that the error was immediately corrected and there is no evidence that the student's opportunity to access the general education curriculum was impacted during this time period. Therefore, no corrective action is required.

### **ALLEGATIONS #4 AND #5:**

### **FINDINGS OF FACTS:      DETERMINATION AND IMPLEMENTATION OF INTERVENTIONS**

8. The MSDE has been working with school systems throughout the State to promote the adoption and implementation with fidelity of evidence-based practices to narrow school readiness and achievement gaps. The MSDE is assisting the school systems with utilizing an evidence-based, data-informed decision-making process to develop effective local action plans.
9. The PGCPS Department of Special Education developed a plan that addresses the improvement of academic achievement with the implementation of evidence-based practices and specially designed instruction. As part of the plan, the PGCPS has created a list of evidence-based reading and mathematics interventions that align with the school system's core curriculum to assist schools in identifying and purchasing supplemental instructional materials. Each year, the list will be updated by a team that includes staff from the PGCPS Department of Special Education.
10. Through an intervention selection process, schools select targeted interventions to address individual student needs and submit them to the PGCPS Central Office along with the data used as a basis for determining the need for the interventions. Based on the data submitted by the school, the PGCPS Central Office Staff provide recommendations on which interventions are most appropriately matched to students' needs. The PGCPS Central Office staff review the intervention data in the Maryland Online IEP System to confirm that evidence-based interventions are documented within supplementary aids and services and students have an IEP goal linked to the identified areas of need.

11. During the 2018 - 2019 school year, the PGCPS Division of Special Education and Student Services provided all principals with a list of professional learning opportunities for administrators, special educators, general educators, related services staff providers and paraprofessional educators on a variety of topics. These topics included training in the use of evidence-based reading and mathematics interventions, along with follow up coaching sessions. The PGCPS also provides teachers with web-based resources to assist with the use of these interventions.
12. The PGCPS' 2019 - 2020 school year Action Plan reflects that the PGCPS Central Office staff will attend every special education chairperson's meeting in order to provide training on select IEP design and implementation skills to special education department chairpersons. The training will be aligned with the MSDE's guidance on the provision of specially designed instruction, and will include information on the various dimensions of research-based interventions, including:
  - a. Strength – evidence that the intervention works;
  - b. Dosage – number of opportunities to respond and receive feedback and amount of time engaged in instruction specific to target skill area;
  - c. Alignment – match to the skills targeted in the IEP goals and grade level standards;
  - d. Transfer – connections between the intervention focus and skills learned in other contexts and environments;
  - e. Comprehensiveness – comprehensive array of explicit instruction principals;
  - f. Behavioral Support – strategies that support students with behaviors that impact learning; and
  - g. Individualization – ongoing use of progress monitoring data and diagnostic data sources to intensify and individualize the intervention based on student needs.
13. The descriptions of some of the evidence-based interventions that are used by the PGCPS reflect that they are to be implemented on a daily basis. Some of the PGCPS middle schools operate on schedules that make it difficult to fit daily interventions into student schedules. If the IEP team for a student with a disability in one of these schools decides that the student requires participation in a research-based intervention on a daily basis, this can be accomplished by revising the student's or the school's schedule, or considering a change in location to a school in which the IEP can be implemented.
14. The IEP in effect at the start of the 2018 - 2019 school year required that the student be provided with evidence-based math and reading interventions in a separate special education classroom on a daily basis. The IEP team did not identify a specific intervention program to be used.

15. The student's report card reflects that he was provided with a math intervention during the first and second quarters of the 2018 - 2019 school year and a reading intervention during the third and fourth quarters of the 2018 - 2019 school year. The school staff reported that the student was provided with the *i-Ready Instruction Program*<sup>1</sup> math and reading interventions which requires forty-five (45) minutes per week of the intervention for eighteen (18) weeks. It does not indicate that the forty-five (45) minutes are to be provided in a specific amount or frequency during the week or require that the intervention be implemented on a daily basis. However, there is no documentation that the student was provided with the math and reading interventions at the frequency or the amount that is required by the IEP.
16. On January 7 and 16, 2019, the IEP team reviewed and revised the IEP. It considered the results of a private neuropsychological assessment that demonstrates that the student's skills have decreased across all areas. It also considered the results of a reading inventory that had been administered to the student, which demonstrates a decrease in his reading skills. The IEP team recommended that the student continue to participate in a separate reading intervention class that would be provided every other day on an A/B day class schedule.
17. At the meeting, the student's parent requested that the intervention be provided on a daily basis, due to the student's regression in skills. The IEP team decided that the intervention would be provided according to the guidelines for the intervention, but did not document consideration of the frequency with which the guidelines indicate that the interventions are to be provided and whether the student requires individualization of the dosage of the interventions.
18. At the same meeting, the IEP team also considered the parent's request that the student continue to participate in a separate math intervention class. The IEP team determined that the student does not require a separate math intervention class because he "is a grade level behind in math and improved by two grade levels in one year according to *i-Ready*."<sup>1</sup> The team decided that the student does need supplementary aids, accommodations and services along with the an in class math intervention in order to access the general education setting.

## CONCLUSIONS:

### **Allegation #4: The Provision of Math and Reading Interventions**

Based on the Findings of Facts #15, the MSDE finds that there is no documentation that the student was provided with the amount of math and reading intervention required by the IEP during the 2018 - 2019, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation, and that the student was not provided with a Free Appropriate Public Education (FAPE).

---

<sup>1</sup> The *i-Ready* is a research-based program that meets the criteria for the *Every Student Succeeds Act* (ESSA) as an intervention for accelerating student growth and progress toward proficiency in reading and math.

### **Allegation #5: Amount of Reading and Math Interventions Based on the Student's Needs**

In this case, the complainant alleges that the team's decisions were based on administrative convenience, and were not based upon the unique needs of the student.

Based on the Findings of Fact #8 - #18, the MSDE finds that the IEP team did not document that it considered the parent's request of individualization of the reading intervention in order to make a decision based on the student's needs, in accordance with 34 CFR §§300.101, .324, and .503. Therefore, this office finds that a violation occurred with respect to the allegation.

### **CORRECTIVE ACTIONS/TIMELINES:**

#### **Student-Specific**

The MSDE requires the PGCPS to provide documentation by November 1, 2019 that the following actions have been taken:

- a. The IEP is being implemented in accordance with the IEP requirements and the program implementation guidelines.
- b. The IEP team has considered whether the student requires individualization of the reading intervention and reviewed and revised the IEP, as appropriate.
- c. The IEP has determined the compensatory services or other remedy to redress the violation of a FAPE identified in this Letter of Findings.

The IEP team must also have 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 January 1, 2020 of the steps it has taken to determine if the violation is related to the determination of the individualization of evidence-based interventions<sup>2</sup> is unique to this case or if they represent a pattern of non-compliance at the [REDACTED] School.

Specifically, a review of student records, data, or other relevant information must be conducted in order to determine if the regulatory requirements are being implemented and documentation of the results of this review must be provided to the MSDE. If compliance with the requirements is reported, the MSDE staff will verify compliance with the determinations found in the initial report.

---

<sup>2</sup> The MSDE has requested that the PGCPS take similar actions with respect to implementation of interventions at [REDACTED] School through another State complaint investigation (#20-003).

Ashley S. VanCleaf, Esq.  
Ms. Trinell Bowman  
September 10, 2019  
Page 8

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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.


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 complainant and the school system 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 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/Special Education Services

MEF:ac

c:			Anita Mandis
	Monica Goldson	Monica Wheeler	Albert Chichester
	Gwendolyn Mason	Jeffrey Krew	Nancy Birenbaum
	Barbara Vandyke	Dori Wilson	Anne Wheeler