



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

October 11, 2019



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

RE: [REDACTED]
Reference: #20-016

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 August 13, 2019, the MSDE received a complaint from Ms. [REDACTED] hereafter, "the complainant," on behalf of her 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 provide written invitations to the Individualized Education Program (IEP) team meetings held in January, February, March, and June 2019, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D.
2. The PGCPS did not provide prior written notice of the decisions made by the IEP team in January, February, March, and June 2019, in accordance with 34 CFR §300.503.
3. The IEP team did not follow proper procedures when disciplinarily removing the student from school during the 2018 - 2019 school year, in accordance with 34 CFR §§300.530 – 300.536.

4. The PGCPS did not ensure that the student's Behavioral Intervention Plan (BIP) was implemented during the 2018 - 2019 school year, in accordance with 34 CFR §§300.101 and .323.
5. The PGCPS did not ensure that a reevaluation of the student was completed within the required timelines, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06.
6. The PGCPS did not provide quarterly reports on the student's progress toward achieving the annual IEP goal during the first and second quarters of the 2018 - 2019 school year, in accordance with 34 CFR §300.101 and .323.
7. The PGCPS did not provide required documents at least five (5) business days in advance of the IEP team meeting held on June 19, 2019, in accordance with COMAR 13A.05.01.07.

BACKGROUND:

The student is fourteen (14) years old and is identified as a student with an Other Health Impairment under the IDEA, related to Attention Deficit Hyperactive Disorder (ADHD). He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The BIP in effect at the start of the 2018 - 2019 school year addressd "off-task and rebuttal to directions." The BIP included preventative strategies to address the behaviors, such as an incentive chart, parental correspondence, and a self-monitor chart for the student. The BIP also included response strategies by the school staff to assist with managing the student's behavior, and required the collection of data using a behavior chart and student work samples for monitoring its implementation.
2. The student's IEP has an annual behavior goal to address his inability to comply with directions, to refrain from "verbal defiance," and to remain in designated areas.
3. On September 18, 2018, the student was disciplinarily removed from school for a period of one (1) day as a result of "disruptive behavior."
4. On January 16, 2019, the IEP team convened to review and revise the student's IEP, as appropriate. There is documentation that prior written notice of the decisions made by the team was generated, and the IEP sign-in sheet reflects that the complainant participated in the IEP meeting. However, there is no documentation that the complainant was provided with a written invitation to the IEP team meeting or with the prior written notice document that was generated.

5. On February 13, 2019, the student was disciplinarily removed from school for a period of seven (7) days as a result of a “physical attack on staff, disrespect, and insubordination.”
6. On February 25, 2019, the IEP team convened to review the student’s IEP and academic progress. There is no documentation that the complainant was provided with a written invitation to the IEP team meeting, but the IEP sign-in sheet reflects that she participated in the meeting. The IEP prior written notice document was generated, which reflects that the team proposed that school staff utilize a computer-based document to “track the student’s behavior and struggles throughout the school day.” However, there is no documentation that the complainant was provided with the prior written notice document that was generated.
7. On March 27, 2019, the IEP team convened for a reevaluation. There is no documentation that the complainant was provided with a written invitation to the IEP team meeting, but the IEP sign-in sheet reflects that she participated in the meeting. The team determined that the student remained eligible for special education services, but also recommended updated cognitive, educational, and functional behavioral assessments (FBA) to determine appropriate supports and services. The IEP prior written notice document that was generated, states that the team “discussed the lack of implementation of the BIP, but could not discuss compensatory services in the absence of a representative from PGCPS compliance office.” The team opted to reconvene to determine if compensatory service were warranted for the student. There is documentation that the complainant was provided with prior written notice of the team decisions.
8. The reports of the student’s progress towards achievement of the annual IEP goal states that, in April 2019 and June 2019, “the student was making sufficient progress toward achieving the goal by January 2020. However, the reports made in April 2019 and June 2019 state that the student “struggles almost daily to comply with directions, completing classwork and remaining in class, and there has been a noticeable decline in his ability to avoid verbal defiance when given instructions or redirection from adults.”
9. On June 3, 2019, the IEP team reconvened. There is no documentation that the complainant was provided with a written invitation to the IEP team meeting, but the IEP sign-in sheet reflects that she, along with a PGCPS Central Office staff, participated in the meeting. The IEP team reviewed assessment results, behavioral observations, and teacher reports, and determined that the student “did not require compensatory services for the lack of implementation of the BIP, because his grades reflected that he was passing in all classes.” However, there is no documentation that the team considered the student’s progress on his annual goal. The team decided to reconvene on June 19, 2019 to revise the IEP. There is documentation that the complainant was provided with prior written notice of the IEP team decisions from the meeting.

10. On June 19, 2019, the IEP team reconvened to revise the student's IEP. There is no documentation that the complainant was provided with a written invitation to the IEP team meeting, but the IEP sign-in sheet reflects that she participated in the meeting. The prior written notice documentation indicates that, although a draft IEP had been prepared, it had not been provided to the complainant at least five (5) business days before the scheduled IEP team meeting, and therefore, she was not "prepared" to participate in the meeting. Thus, the school system staff and complainant decided to reschedule the IEP meeting in August. There is documentation that the complainant was provided with the prior written notice of that decision.
11. The IEP required that the complainant be provided with the student's goal progress reports "in writing" on a quarterly basis. The prior written notice, dated June 19, 2019, reflects that the complainant requested to be provided with student's 2018 - 2019 annual goal progress reports. There is documentation that the complainant was provided with the progress reports for the third and fourth quarters, but was not provided with the progress reports for the first and second quarters of the 2018 - 2019 school year, because the progress reports were never generated.
12. On August 27, 2019 the IEP team reconvened to review and revise the student's IEP, FBA, and BIP. The team also agreed to convene at a later date to make any additional revisions to the BIP and IEP with input from his current teachers and the additional behavior data being collected by school staff.

CONCLUSIONS:

Allegation #1: IEP Team Meeting Invitations

Based on the Findings of Facts #4, #6, #7, #9, and #11, the MSDE finds that there is no documentation that the PGCPS provided the complainant with a written invitation to the IEP team meetings held in January 2019, February 2019, March 2019, and June 2019, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the same Findings of Facts, the MSDE finds that the complainant participated in all IEP team meetings since January 2019. Therefore, the violation did not impact the complainant's ability to participate in the IEP team meetings, and no further student-specific corrective action is required to remediate the violation.

Allegation #2: Prior Written Notice

Based on the Findings of Facts #4, #6, and #7, the MSDE finds that there is no documentation that the PGCPS provided the complainant with prior written notices of the IEP team decisions in January 2019 and February 2019, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #3: Disciplinary Procedures

Based on the Findings of Facts #2 and #5, the MSDE finds that the student was not disciplinarily removed for more than ten (10) school days in a school year, and therefore, was not entitled to the IDEA disciplinary protections, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #4: Implementation of the BIP

Based on the Findings of Facts #1, #2, #6, #7 - #9, #11 and #12, the MSDE finds that there is documentation that the PGCPS did not ensure that the student's BIP was implemented during the 2018 - 2019 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #5: Reevaluation Timeline

Based on the Findings of Facts #7, #9, #10, and #12, the MSDE finds that the PGCPS did not ensure that the reevaluation process was completed within the ninety (90) day required timeline, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the same Findings of Facts, the MSDE finds that the delay occurred and was also rectified during the summer of 2019. As a result, an IEP was in place for the student at the start of the 2019 - 2020 school year. Therefore, no further student-specific corrective action is required to remediate the violation.

Allegation #6: Provision of Progress Reports

Based on the Findings of Facts #2 and #11, the MSDE finds that the complainant was not provided with the student's annual goal progress report for the first and second quarters of the 2018 - 2019 school year, in accordance with 34 CFR §300.101, .323, and .324. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Findings of Facts #1 - #12, the MSDE finds that the IEP team convened frequently to discuss the student's progress throughout the school year. Therefore, this office finds that the violation did not impact the complainant's ability to participate in the IEP team process, and no further student-specific corrective action is required to remediate the violation.

Allegation #7: IEP Documents Prior to the June 19, 2019 IEP Team Meeting

There is the requirement to provide the parent with documents to be reviewed at an IEP team meeting at least five (5) business days before the team meeting. However, if the school system does not meet the requirement, it must provide the parent with the option of rescheduling the meeting.

Based on the Findings of Facts #10 and #12, the MSDE finds that the school system took the proper steps to reschedule the June 19, 2019 IEP team meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office does not find that a violation occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by December 31, 2019 that the student's BIP is being implemented, and that the complainant is provided with prior written notice documents from the January 2019 and February 2019 IEP team meetings.

The MSDE also requires the PGCPS to provide documentation by December 31, 2019 that the IEP team has determined whether the violation related to the lack of implementation of the BIP during the 2018 - 2019 school year had a negative impact on the student's progress as reported on the April 2019 and June 2019 reports.

If the IEP 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 violation and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

School-Based

The MSDE requires the PGCPS to provide documentation by January 30, 2020 of the steps taken to ensure that the violations identified through this investigation do not recur at [REDACTED] School.

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.

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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/Special Education Services

MEF:ac

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