



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

May 21, 2021




Ms. Trinell Bowman  
Associate Superintendent for Special Education  
Prince George's County Public Schools  
John Carroll Administration Building  
1400 Nalley Terrace  
Landover, Maryland 20785

Re:   
Reference: #21-072

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 March 23, 2021, the MSDE received a complaint from Ms.  hereafter, "the complainant," on behalf of her daughter, 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 Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the student has been provided with an Individualized Education Program (IEP) that addresses her reading and math needs since April 23, 2020, in accordance with 34 CFR §300.324. This includes the following:
  - a. The PGCPS has not ensured that the IEP is based on all relevant data from the student's previous school; and
  - b. The PGCPS has not ensured that the IEP team has considered parent concerns about the student's lack of expected progress towards achievement of the annual IEP goals and the need for compensatory education/recovery services, and revised the IEP to address the lack of expected progress.

2. The PGCPS has not ensured that the student has been provided with the special education instruction and supplementary aids and services and supports required by the IEP since April 23, 2020, in accordance with 34 CFR §§300.101 and .323.
3. The PGCPS did not ensure that notice of the participants of the December 21, 2020 IEP team meeting was provided, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
4. The PGCPS did not ensure that proper procedures were followed in determining the student's need for Extended School Year (ESY) services following the 2019-2020 school year, in accordance with 34 CFR §300.106 and COMAR 13A.05.01.08.

**BACKGROUND:**

The student is twelve (12) years old, is identified as a student with a Specific Learning Disability under the IDEA, and has an IEP that requires the provision of special education instruction.

From the start of the 2019-2020 school year until the Statewide closure of school buildings in March 2020 and initiation of virtual learning, the student attended [REDACTED] School ([REDACTED]).

At the start of the 2020-2021 school year, the student was to begin attending [REDACTED] ([REDACTED]). Since March 1, 2021, the student has been receiving instruction both at the school and virtually.

**ALLEGATIONS #1 AND #2**

**IEP DEVELOPMENT AND IMPLEMENTATION**

**FINDINGS OF FACTS:**

1. The IEP in effect on April 23, 2020 was developed on April 15, 2020 as an initial IEP while the student was attending [REDACTED] ES. The IEP identifies needs in the areas of reading phonics, comprehension, math calculation, and problem solving and includes goals and services to assist the student in achieving the goals in these areas.
2. On June 12, 2020, the IEP was amended with agreement of the parent to add evidenced-based reading and math interventions to the IEP.
3. There is documentation that, during the 2019-2020 school year, the student did not consistently log onto the computer to access virtual learning. There is documentation that the teacher attempted to meet with the student, but the student was often unresponsive and did not complete assignments. However, there is no documentation that the IEP team convened to address the student's interfering behavior.

4. On October 15, 2020, an IEP team meeting was held at [REDACTED]. At that time, the IEP team documented that the student was not consistently accessing virtual learning due to problems with the family's internet connection. The IEP team decided to provide the family with equipment to assist with accessing the internet and to assist the student with making up assignments that were missed due to the inability to access virtual learning.
5. On November 11, 2020, the physical file containing the student's record was transferred from [REDACTED] to [REDACTED]. There is evidence that school staff previously had access to the file electronically but that the physical file could not be transferred previously because the [REDACTED] ES building was closed due to the COVID-19 pandemic. There is no evidence that the IEP team at [REDACTED] reviewed and revised the IEP without considering data from [REDACTED].
6. On November 15, 2020, the IEP team met and considered information from the teacher that the student had missed a "significant amount" of virtual learning, but did not document the reason she continued to miss instruction, or the steps taken to address the problem.
7. On December 21, 2020, February 17, 2021, and April 9, 2021, the IEP team conducted an annual review. The team decided that the student was making sufficient progress towards achieving the goals while acknowledging that there was not sufficient data about the student's progress due to her lack of class attendance. The revised IEP includes a statement of present levels of performance that reflects skills regression in all areas of academics.
8. An IEP team meeting is scheduled for June 2, 2021 to consider whether the student requires compensatory education/recovery services since the initiation of virtual learning.

### **CONCLUSIONS:**

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

Based on the Findings Of Facts #4 - #7, the MSDE finds that there is no evidence that the IEP team at [REDACTED] MS reviewed and revised the IEP without considering data from [REDACTED] in accordance with 34 CFR §§300.324. Therefore, this office does not find a violation with respect to this aspect of Allegation #1.

Based on the Finding Of Fact #8, the MSDE also finds that the PGCPS IEP team has taken steps to meet and consider the need for compensatory education/recovery services since the initiation of virtual learning, in accordance with 34 CFR §§300.101, .320, and .324. Therefore, this office does not find a violation with respect to this aspect of Allegation #1.

Based on the Findings Of Facts #1 and #2, the MSDE finds that the IEP in effect on April 23, 2020 was designed to address the student's identified needs, in accordance with 34 CFR §300.324.

However, based on the Findings of Facts #3 and #6, the MSDE finds that the PGCPS did not ensure that the IEP addressed the student's interfering behavior during the 2019-2020 school year, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of Allegation #1.

Further, based on the Findings of Facts #6 - #7, the MSDE finds that while the IEP team addressed the inability to access virtual learning at the start of the 2020-2021 school year, it did not address the student's continued lack of class attendance following the October 15, 2020 IEP team meeting, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of Allegation #1.

#### **Allegation #2                    IEP Implementation**

Based on the Findings of Facts #1 - #6, the MSDE finds that the PGCPS did not ensure that the student was provided with the services required by the IEP, since April 2020, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds a violation occurred with respect to Allegation #2.

#### **ALLEGATION #3                    PROVISION OF NOTIFICATION OF DECEMBER 21, 2020 IEP TEAM MEETING**

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

9.        The review of the video recording of the IEP team meeting held on December 21, 2020, reflects the complainant agreed to the participation of the PGCPS Special Education Compliance Specialist in the meeting, despite the fact that written notice of the meeting did not include this staff member. A review of IEP team meetings notices reflects that the same PGCPS Compliance Specialist has consistently served on the IEP team for this student. There is no evidence that the participation of the PGCPS Compliance Specialist negatively impacted the complainant's participation in the meeting.
  
10.      On January 25, 2021, the IEP team met to discuss IDEA requirements and develop a school based protocol to ensure the appropriate documents would be provided to the complainant before and after each meeting.

#### **CONCLUSIONS:**

Based on the Finding of Fact #9, the MSDE finds that the PGCPS did not ensure that the written notice of the December 21, 2020 IEP team meeting indicated that the PGCPS Compliance Specialist would participate, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Findings of Facts #9-#10, the MSDE finds that the violation did not negatively impact the complainant's ability to participate in the IEP team meeting and steps have been taken to ensure that the violation does not recur. Therefore, no corrective action is required to remediate the violation.

**ALLEGATION #4                      PROPER PROCEDURES IN DETERMINING ESY SERVICES**

**FINDINGS OF FACTS:**

11. On April 15, 2020, the IEP team determined that the student did not need ESY services. The team documented that it considered all of the required factors and used the proper standard when making the decision.
12. However, on April 9, 2021, the IEP team considered the same information and decided that the student does require ESY services, without explanation for what had changed since April 15, 2020. Specifically, the team determined on April 15, 2020 that the IEP goals did not address critical life skills, when it determined on April 9, 2021 that the goals, which addressed the same skills, were related to critical life skills. Additionally, on April 9, 2021, the IEP team documented that a basis for the decision that the student requires ESY services is that there was a delay in identifying her as a student with a disability under the IDEA. While this same circumstance existed at the time of the April 15, 2020 ESY services decision, the team did not find this to be a basis for the need for ESY services at that time.
13. The PGCPS acknowledges that they did not ensure proper procedures were followed in determining the student's need for ESY services at the IEP team meeting held on April 15, 2020. As a result, there is documentation that on May 7, 2021, the PGCPS held a mandatory district-wide training on special education processes for all Elementary School IEP Chairpersons to address ESY services decision making.

**CONCLUSIONS:**

Based on the Findings of Facts #11 -#12, the MSDE finds that the PGCPS did not ensure that the IEP team followed proper procedures when determining the student's need for ESY services for the 2019-2020 school year, because the team's decision was not consistent with the data documented when making the 2020-2021 ESY decision, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this allegation.

Notwithstanding the violation, based on the Finding of Fact #13, the staff at [REDACTED] subsequently participated in a mandatory district-wide training to address ESY services decision making. Therefore, no school-specific corrective action is required to remediate the violation.

**CORRECTIVE ACTIONS/TIMEFRAME:**

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 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.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770 and [nancy.birenbaum@maryland.gov](mailto:nancy.birenbaum@maryland.gov).

**Student-Specific:**

The MSDE requires the PGCPS to provide documentation that the IEP team has reviewed and revised the IEP to address the student's lack of access to instruction and determined the amount and nature of compensatory services or other remedy for the violations identified through this investigation.

The MSDE also requires the PGCPS to provide documentation that the student is being provided with the special education services required by the IEP.

**School-Based:**

The MSDE requires the PGCPS to provide documentation of the steps taken at [REDACTED] and [REDACTED] to ensure the violations do not recur.

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

---

<sup>1</sup> The Office of Special Education Programs (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.

<sup>2</sup> The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

  
Ms. Trinell Bowman

May 21, 2021

Page 7

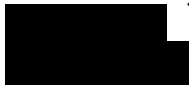
a request for reconsideration, the public agency must implement any corrective actions within the timeframes reported in this Letter of Findings.

The parties maintain the right to request mediation or to file a due process complaint, if they disagree with identification, evaluation, placement, or provision of a Free and 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

MEF/sf

c: Monica Goldson  
Barbara Vandyke  
  
Dori Wilson  
Anita Mandis  
Sharon Floyd  
Nancy Birenbaum