

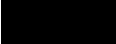


**Mohammed Choudhury**  
State Superintendent of Schools

December 30, 2021




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

RE:   
Reference: #22-054

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 November 2, 2021, the MSDE received a complaint from  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 has not ensured that the student’s Individualized Education Program (IEP) in effect since November 2, 2020 contains measurable annual goals in the areas of reading, in accordance with 34 CFR §§300.320 and .324.
2. The PGCPS has not ensured that the reports of the student’s progress towards achievement of his annual IEP reading goals were consistent with the data since November 2, 2020, in accordance with 34 CFR §300.324.

3. The PGCPS has not ensured that the student's IEP addresses his identified needs in the area of reading since November 2, 2020, in accordance with 34 CFR §§300.101 and .324.
4. The PGCPS did not follow proper procedures when determining the student's educational placement for the 2021 - 2022 school year, in accordance with 34 CFR §§300.114 - .116.

**BACKGROUND:**

The student is twelve (12) years old and is identified as a student with a Specific Learning Disability (SLD) under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. The student's IEP in effect on November 2, 2020, reflects that he has identified needs in the area of reading phonics and reading comprehension. The IEP includes specialized instruction, supports, and annual goals to assist the student with improving his skills in these areas.
2. The student's present level of performance in reading phonics indicates that the student will "work on syllabication rules and vowel pattern pronunciations, that includes words with two syllables (VCCV), and/or words that follow the CVCe, CVVC, or CCVC pattern." It also reflects that he was on a "late first grade, early second grade" instructional level in this area.
3. The student's annual reading phonics goal states that, "after direct teaching and review of syllabication rules and vowel pattern pronunciations, when given an instructional level text that includes words with two syllables (VCCV), and/or words that follow the CVCe, CVVC, or CCVC pattern, [the student] will identify and apply the syllabication and vowel pattern pronunciation rules to read the text with 80% accuracy, on 4 out of 5 trials, as measured by teacher observations and/or informal assessments."
4. The progress reported on the student's annual reading phonics goal, dated November 5, 2020, reflects that the student was making sufficient progress to achieve the goal by June 11, 2021. The report states that "the skill [was] not yet introduced," although the IEP reflects that the goal was to be implemented "when school reopened for the 2020 - 2021 school year."
5. The student's present level of performance in reading comprehension indicates that the student "needs to continue working on instruction that targets reading comprehension skills such as understanding story elements and evaluating key ideas and details." It also reflects that he was on a "second grade" instructional level in this area.

6. The student's annual reading comprehension goal states that, "after listening to a grade-level text, and/or read an instructional level text, [the student] will correctly answer 3 out of 4 questions about the story or article and cite details and examples from the text to support his answers on 4 out of 5 trials as measured by observations, informal assessments, or classroom-based assessments."
7. The progress reported on the student's annual reading comprehension goal, dated November 5, 2020, reflects that the student was making sufficient progress to achieve the goal by June 11, 2021. However, the information contained in the report does not demonstrate that the goal was being measured in the manner described in the goal.
8. On December 15, 2020, the IEP team convened to review the student's progress. The team reviewed the student's reading needs and determined that his classes would be changed to enable him to receive reading support in a dedicated reading intervention class to "bolster his reading skills," consistent with the data.
9. On February 3, 2021, the IEP team convened to address the complainant's concerns related to the student's reading and comprehension skills. The team reviewed the student's IEP, grades, testing data, attendance, teacher comments, and parent input. Based on this review, the team determined that the student would benefit from "extra" support in reading and that he "would receive compensatory education services for educational impact due to his need for additional tutoring in reading. The IEP team agreed that [the student] would be provided with four and a half (4.5) hours of tutoring in the area of reading for eighteen (18) weeks."
10. The progress reported on the student's reading phonics and reading comprehension goals on January 27, 2021 and April 9, 2021, state that the student was making sufficient progress to achieve the annual IEP goals. However, the information contained in the reports do not demonstrate that the goals were being measured in the manner described in the goals.
11. On June 14, 2021, the IEP team convened for an annual review of the student's IEP. The student's teacher reported that the student was "making progress and has more confidence with his reading skills." However, the IEP team decided to continue to address the same skills through the student's reading phonics goal and decreased the target accuracy for the student's performance in reading phonics and reading comprehension without an explanation for the basis of their decision. There is no documentation indicating whether the reading goals were achieved by the student.
12. The June 14, 2021 IEP prior written notice reflects that the team also discussed the student's educational placement for the 2021 - 2022 school year. The complainant indicated that she believed the student required a smaller class setting to demonstrate success. The IEP team reviewed the student's educational record, former assessments, IEP, grades, testing and intervention data, attendance, and medical history. Based on this

review, the team determined that the appropriate placement for which the student's IEP could be implemented was within the general education environment with additional supports along with the use of supplemental aids, services and accommodations. The team also determined that the student requires a general education classroom that will provide for small group instruction, slower pacing, extended time, lots of repetition, and the use of a multi-sensory approach in order to access the general education curriculum. The IEP reflects that the team determined that there were no harmful effects to the student as a result of him being placed in the general education classroom with supports.

13. There is no documentation that progress was reported on the student's reading phonics and reading comprehension goals in June 2021.
14. The PGCPS acknowledges that the reports of the student's progress towards achievement of his annual IEP reading goals were not consistent with the data since November 5, 2021.
15. The progress reported on the student's annual reading phonics and reading comprehension goals, dated November 16, 2021, reflects that the student was making sufficient progress to achieve the goal by June 13, 2022. However, the information contained in the report does not demonstrate that the goal was being measured in the manner described in the goals.

## **CONCLUSIONS:**

### **Allegation #1: Measurable IEP Reading Goals**

Based on the Findings of Facts #1 - #3, #5 and #6, the MSDE finds that the student's IEP contains measurable annual goals in the area of reading phonics and reading comprehension, in accordance with 34 CFR §§300.320 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

### **Allegation #2: Progress Reports Consistent with the Data**

Based on the Findings of Facts #4, #7, #10, #13 - #15, the MSDE finds that the PGCPS has not ensured that progress reported towards achievement of the student's annual IEP reading goals was consistent with the data since November 2, 2020, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

### **Allegation #3: An IEP that Addresses the Student's Reading Needs**

Based on the Findings of Facts #1 - #11, and #13 - #15, the MSDE finds that the progress reported on the annual IEP goals do not demonstrate that the goals were being measured in the manner described in the goals, and thus, the PGCPS could not ensure the goals were being achieved by the student, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation occurred with respect to the allegation.

#### **Allegation #4: Placement Determination**

Each public agency must ensure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. In selecting the Least Restrictive Environment (LRE), consideration must be given to any potential harmful effect on the student or on the quality of services that he or she needs, and a student with a disability must not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum (34 CFR §§300.114 and .116).

Based on the Finding of Fact #12, the MSDE finds that the PGCPS followed proper procedures when determining the student's educational placement for the 2021 - 2022 school year, in accordance with 34 CFR §§300.114 - .116. Therefore, this office does not find that a violation occurred with respect to the 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.

The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>1</sup> This office will follow up with the public agency to ensure that it completes the required actions consistent with the MSDE Special Education State Complaint Resolution Procedures.

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

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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.

implementation of the action.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770 or by email at nancy.birenbaum@maryland.gov.

### **Student-Specific**

The MSDE requires the PGCPS to provide documentation that the IEP team has convened and taken the following action:

- a. Determined the student's present level of functioning and performance in reading; and revise the IEP, as appropriate, and
- b. Determined whether the violations related to the investigation 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 violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The school system must ensure that the IEP team considers the difference between the student's present and expected level of performance when determining the services needed to remediate the violations.

The school system must ensure that the parent is provided with written notice of the team's decisions.

### **School-Based**

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


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,

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<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.


  
Ms. Trinell Bowman  
December 30, 2021  
Page 7

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: Monica Goldson  
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