




Mohammed Choudhury
State Superintendent of Schools

January 7, 2022




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

RE: 
Reference: #22-055

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 10, 2021, the MSDE received correspondence from  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 has not ensured that the Individualized Education Program (IEP) developed for the student reflected IEP team decisions regarding transition activities and independent living goals for the student, since February 5, 2021, in accordance with 34 CFR §300.324.¹
2. The PGCPS did not ensure that the student was provided transition services, as required by his IEP, and that service providers were informed of their responsibility to implement the student's IEP, from December 18, 2020 to July 29, 2021², in accordance with 34 CFR §300.323 and COMAR 13A.05.01.09.
3. The PGCPS did not ensure that the IEP team meeting convened on July 14, 2021, included the required participants, in accordance with 34 CFR §300.321.
4. The PGCPS did not follow proper procedures when responding to a request to amend the student's record on July 14, 2021, in accordance with 34 CFR §§300.618 and .619.

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:

1. The student's IEP, in effect prior to February 5, 2021, required that the student meet weekly with the transition coordinator to assist the student in completing transition activities.
2. On February 5, 2021, the IEP team met for the student to review and revise his IEP, as appropriate, including a discussion of transition and postsecondary planning for the student. During the IEP team meeting, the IEP team determined that the transition coordinator would be the service provider responsible for providing the student with transition services. The IEP team further decided that the transition coordinator would meet with the student for 30 to 60 minutes per week.

¹ The MSDE previously addressed allegations made by the complainant related to transition services decisions made by the IEP team during the development of the May 28, 2021 IEP in Letter of Finding #22-049.

² This alleged violation was first identified by the MSDE as occurring since December 18, 2020. Following additional discussions with the complainant, he clarified that this allegation only referred to the period of December 18, 2020 to July 29, 2021

3. The IEP developed for the student following the February 5, 2021 IEP team meeting requires that the transition coordinator meet with the student weekly, but it does not reflect the IEP team's decision that the transition coordinator will meet with the student for 30 to 60 minutes per week.
4. While there is some documentation that transition services have been provided to the student, there is no documentation to support that the student was provided with all of the transition services required by his IEP.
5. On June 28, 2021, the complainant provided consent for the PGCPs staff to invite adult agency representatives to the IEP team meetings convened for the student.
6. On June 30, 2021, the PGCPs staff sent an email to adult agency representatives for the purposes of inviting them to an IEP team meeting planned for July 14, 2021. The adult agency staff declined to attend the meeting.
7. On July 14, 2021, the IEP team met to review and revise the student's IEP, as appropriate, including a review of the student's transition plan and services. During the IEP team meeting, the IEP team agreed to include a postsecondary goal proposed by the parent that would require the student to brush his teeth and prepare himself for work each day in adulthood and to revise information that indicated that the student was able to log on to a distance learning platform independently.
8. The IEP developed for the student following the July 14, 2021 IEP team meeting does not reflect the decisions of the IEP team regarding the student's ability to independently log on to the distance learning platform or the inclusion of the postsecondary goal proposed by the complainant.

DISCUSSION/CONCLUSIONS:

Allegation 1: Revising the Student's IEP

Based on Findings of Facts #2,-#3, #7, and #8, the MSDE finds that the IEPs developed for the student are not consistent with the decisions made during the IEP team meetings regarding the student's transition needs, since February 5, 2021, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation 2: Implementation of Transition Activities

Based on Findings of Facts ##1, #2, and #4, the MSDE finds that there is no documentation to support the student being consistently provided with the transition services required by his IEP

from December 18, 2020 to July 29, 2021, in accordance with 34 CFR §300.323 and COMAR 13A.05.01.09. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #3: Required IEP Team Members

Based on Findings of Facts #5 and #6, the MSDE finds that the PGCPs invited representatives from adult services agencies for the IEP meeting convened on July 14, 2021, in accordance with 34 CFR §300.321. Therefore, this office does not find that a violation occurred with respect to this allegation.

Allegation #4: Amendment of the Student's Educational Record

Based on Findings of Facts #7 and #8, the MSDE finds that the request to change information in the student's IEP was made as part of a discussion of the student's abilities and was not a request to amend the student's educational record, in accordance with 34 CFR §§300.618 and .619. Therefore, this office does not find 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.³

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.⁴ Dr. Birenbaum can be reached at (410) 767-7770 or via email at nancy.birenbaum@maryland.gov.

³ 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.

⁴ The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

The MSDE requires the PGCPS to provide documentation that an IEP team has convened for the student to review and revise the student's transition activities, as appropriate, to ensure that the activities, frequency of services and transition goals recommended for the student reflect the decisions of the IEP team.⁵

The MSDE further requires the PGCPS to provide documentation that the IEP team has convened and determined whether the violations 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.

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
Darnell Henderson
Nancy Birenbaum
Gerald Loiacono

⁵ This review must be conformity with the previous corrective action included in the Letter of Finding #22-049