



Mohammed Choudhury
State Superintendent of Schools

July 26, 2022




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

RE: 
Reference: #22-168

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 May 27, 2022, the MSDE received a complaint from Mr.  hereafter, "the complainant," on behalf of 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 the Individualized Education Program (IEP) developed for the student reflected IEP team decisions on May 28, 2021, in accordance with 34 CFR §300.324.
2. The PGCPS has not ensured that the IEP team addressed the parents' concerns and other information related to the student's behavior, raised at the May 28, 2021, IEP team meeting, in accordance with 34 CFR §300.324.

[REDACTED]
Ms. Trinell Bowman

July 26, 2022

Page 2

3. The PGCPS has not provided Prior Written Notice of the IEP team's May 28, 2021, decisions, in accordance with 34 CFR §300.503.
4. The PGCPS did not ensure that the IEP team meeting convened on May 28, 2021, for the student included the required IEP team members, in accordance with 34 CFR §300.321.
5. The PGCPS has not ensured that the student has been provided with appropriate services from a Therapeutic Behavioral Aide (TBA) since May 28, 2022, in accordance with 34 CFR §§300.101 and 323.
6. The PGCPS did not ensure that proper procedures were followed in conducting a reevaluation under the IDEA since May 28, 2022, in accordance with 34 CFR §§300.301 - .306, and COMAR 13A.05.01.04 - .06.

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.

ALLEGATION #1:

DEVELOPING THE STUDENT'S IEP

FINDINGS OF FACTS:

1. On May 28, 2021, the IEP team met for the student. During the IEP team meeting, the IEP team determined that it would provide a daily reporting of the student's bowel movements, collect data on the student's behavior of skin picking, record the student's behavior on an ABC chart, provide training to the student's therapeutic behavioral aide on collecting data in the student's ABC chart, and provide the student with training by the social worker on washing his hands and wearing a mask.
2. The IEP team decisions regarding daily reporting of the student's bowel movements, collecting data on the student's behavior of skin picking, recording the student's behavior on an ABC chart, provide training to the student's therapeutic behavioral aide on collecting data in the student's ABC chart, and providing the student with training by the social worker on washing his hands and wearing a mask were not included in the student's May 28, 2021, IEP.

CONCLUSIONS:

Based on Findings of Facts #1 and #2, the MSDE finds that there is no documentation that the PGCPs has ensured that student's IEP was revised to reflect the IEP team decisions made during the IEP team meeting convened on May 28, 2021, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation has occurred with respect to this allegation.

ALLEGATION #2

ADDRESSING CONCERNS RELATED TO THE STUDENT'S BEHAVIOR

FINDINGS OF FACTS:

3. During the May 28, 2021, IEP team meeting, the student's parents shared concerns related to the student placing inedible objects in his mouth 29:00, the student echoing responses for requests and frequently selecting the first choice, that he be frequently offered water to drink, that the parents be informed of the student's need for additional clothing, that the student picks his skin, that the student requires direct occupational therapy, and that the student inappropriately touches objects and others.
4. During the IEP team meeting, the parents shared concerns that the student confuses hot and cold water and that the student cannot socially distance. The IEP team agreed to train the student on handwashing and social distancing with social stories.
5. During the IEP team meeting, the parents proposed that the student receive social skills training during ESY. The IEP team discussed at the time that it was unclear at the time if the student would attend ESY.

CONCLUSIONS:

Based on Findings of Facts #3 to #5, the MSDE finds that there is no documentation that the PGCPs has ensured that the concerns related to the student's behavior were addressed by the IEP team during the IEP team meeting convened on May 28, 2021, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation has occurred with respect to this allegation.

ALLEGATION #3:

PROVISION OF PRIOR WRITTEN NOTICE

FINDINGS OF FACTS:

6. During the IEP team meeting, the IEP rejected proposals from the students' parents that he be provided with toilet training. There is no documentation that the student's parents were provided with prior written notice of this IEP team decision.

Ms. Trinell Bowman

July 26, 2022

Page 4

7. During the IEP team meeting, in response to the parents' concerns regarding toileting, the IEP team determined that it would revise the students goals to include a new toileting skill. The IEP team did not document this decision in the prior written notice provided to the parents following the IEP team meeting.
8. During the IEP team meeting, the IEP team agreed to collect information regarding the student's toileting abilities, to collect toileting data for the student, to track the student's skin picking behaviors, to introduce new goals related to the student's ability to request items, record additional behaviors in his ABC chart, train the student's therapeutic behavioral aide in tracking the student's behavior, and to change other goals of the student. The IEP team did not provide prior written notice of the IEP team determinations regarding these decisions.

CONCLUSIONS:

Based on Findings of Facts #6 to #8, the MSDE finds that there is no documentation that the PGCPs has ensured that the student's parents have been provided with prior written notice of each of the IEP team's decisions made on May 28, 2021, in accordance with 34 CFR §300.503 Therefore, this office finds that a violation has occurred with respect to this allegation.

ALLEGATION #4:

APPROPRIATE IEP TEAM MEETING ATTENDEES

FINDINGS OF FACTS:

9. The May 28, 2021, IEP team meeting was attended by three PGCPs central office staff members, two speech language pathologists, the school principal, a social worker, an occupational therapist, a special educator, a transition coordinator, and a school nurse.
10. During the May 28, 2021, IEP team meeting, the IEP team reviewed the results of the student's speech language assessment report and adopted many of the instructional recommendations of the report.

CONCLUSIONS:

Based on Finding of Fact #9 to #10, the MSDE finds that the IEP team meeting convened on May 28, 2021, for the student included the required IEP team members, in accordance with 34 CFR §300.321. Therefore, this office does not find that a violation occurred with respect to this allegation.

Ms. Trinell Bowman

July 26, 2022

Page 5

ALLEGATION #5:

SUPPORT FROM THE STUDENT'S TBA

FINDING OF FACT:

11. During the May 28, 2021, IEP team meeting the IEP team determined that the student would receive assistance on his toileting needs from his TBA. School-based staff members reported that the student's aide was provided with training and materials to assist them in implementing the student's IEP. There is not, however, documentation that the TBA was provided the training in this area as indicated by the IEP team.

CONCLUSIONS:

Based on Finding of Fact #11, the MSDE finds that there is no documentation that the PGCPs has ensured that the student's TBA has received the appropriate training as indicated by the IEP team since May 28, 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this allegation.

ALLEGATION #6:

EVALUATION PROCEDURES

FINDING OF FACT:

12. There is no documentation that an evaluation was initiated for the student during the IEP team meeting convened on May 28, 2021.

CONCLUSIONS:

Based on Finding of Fact #12, the MSDE finds that there is no documentation that the PGCPs has not ensured that proper procedures were followed in conducting a reevaluation under the IDEA since May 28, 2022, in accordance with 34 CFR §§300.301 - .306, and COMAR 13A.05.01.04 - .06. 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.

Ms. Trinell Bowman

July 26, 2022

Page 6

The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.¹ 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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

The MSDE requires the PGCPs to provide documentation that:

- The student's IEP has been revised to reflect the IEP team's decisions following the May 28, 2021 IEP team meeting;
- The parents have been provided with prior written notice of each of the team's decisions from May 28, 2021;
- The IEP team has convened to consider concerns related to the student's behavior discussed at the May 28, 2021 IEP team meeting; and
- The student's TBA is provided with training and/or other materials designed to assist them in implementing the student's IEP.

The PGCPs must ensure that the parents are provided with written notice of the team's decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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 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

¹ 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.

² 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.

[REDACTED]
Ms. Trinell Bowman

July 26, 2022

Page 7

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, 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:gl

c: Monica Goldson
Barbara VanDyke
Keith Marston
Darnell Henderson
Alison Barmat
Diane Eisenstadt
Gerald Loiacono