



February 3, 2023

Mr. Levi Bradford, Esquire  
Ms. Monisha Cherayil, Esquire  
Public Justice Center  
201 N. Charles Street  
Suite 1200  
Baltimore, Maryland 21201

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

RE: [REDACTED]  
Reference: #23-106

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and 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.

**ALLEGATION:**

On December 6, 2022, MSDE received a complaint from Mr. Levi Bradford and Ms. Monisha Cherayil, hereafter, "the complainants," on behalf of the above-referenced student. In that correspondence, the complainants alleged that the Prince George's County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements with respect to the above-referenced student.

MSDE investigated the allegation that the PGCPS did not follow proper procedures when disciplinarily removing the student from school on October 4, 2022, in accordance with 34 CFR §§300.530, COMAR 13A.08.02, COMAR 13A.08.03, COMAR 13A.08.01.11<sup>1</sup>, and the Maryland Student Records System Manual.

**BACKGROUND:**

The student is five years old and attends kindergarten at [REDACTED]. He is identified as a student with an Other Health Impairment under the IDEA and has an IEP that requires the provision of special education instruction and related services.

---

<sup>1</sup> This citation was erroneously omitted from the allegation as identified in the December 15, 2022 correspondence to the parties.

Mr. Levi Bradford, Esquire  
Ms. Monisha Cherayil, Esquire  
Ms. Trinell Bowman  
February 3, 2023

**FINDINGS OF FACTS:**

1. On October 4, 2022, following an incident involving the student, the school principal called the student's parents and informed them that the administration would "have to do a two-day suspension for him for insubordination and recklessness."
2. There is no documentation that the PGCPs recorded the disciplinary removal of the student in the student's record or that the administration at the student's school consulted with a school psychologist or other mental health professional in order to determine whether the student's behavior constituted an imminent threat of serious harm to students or staff that could not be eliminated with the use of interventions or supports prior to removing him.

**DISCUSSION/CONCLUSIONS:**

With few exceptions, Maryland law prohibits the suspension or expulsion of a child enrolled in a public prekindergarten program or in kindergarten, first or second grade without first consulting with a school psychologist or other mental health professional, to determine that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports. Maryland law further prohibits the suspension of students in second grade or below for more than five days unless required by federal law (COMAR 13A.08.01.11).

In order to ensure proper student records management, the local public agencies in Maryland are required to maintain educational records consistent with the Maryland Student Records System Manual (COMAR 13A.08.02.09). The Maryland Student Records System Manual (2020) requires the local school system to maintain school discipline records, including information, which verifies and/or supports the suspension or expulsion of a student. This includes documentation of the consultation between school administration and a school psychologist (or other mental health professional) to determine that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

The complainants alleged that the PGCPs did not ensure that school officials consulted with a school psychologist or other mental health professional to assess the threat posed by the student's behavior and to reduce or eliminate that harm without suspending them. The complainants further alleged that the PGCPs did not maintain documentation of the student's disciplinary removal as required by State law.

Based on the Finding of Facts #1- #3, MSDE finds that there is no documentation that the PGCPs followed proper procedures prior to the disciplinary removal of the student on October 4, 2022. Further, based on those same Findings of Facts, MSDE finds that the PGCPs did not maintain proper documentation of the student's suspension, since October 4, 2022, in accordance with the Maryland Student Records System Manual. Therefore, this office finds that violations 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, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

Mr. Levi Bradford, Esquire  
Ms. Monisha Cherayil, Esquire  
Ms. Trinell Bowman  
February 3, 2023

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>2</sup> This office will follow up with the public agency to ensure that it completes the required actions consistent with 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.<sup>3</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

### **Student Specific**

MSDE requires the PGCPs to provide documentation by March 15, 2023, that the IEP team has convened and determined whether the violation related to the student's disciplinary removal 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 PGCPs must ensure that the complainants are provided with written notice of the team's decisions.

The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

### **School and System Based**

MSDE requires the PGCPs to conduct an audit at [REDACTED] to determine if there are similarly situated students with Individualized Education Programs (IEPs), and provide documentation to MSDE by May 1, 2023, of the results of the audit. Further, the PGCPs must inform MSDE of the steps taken to ensure that the violation does not recur at [REDACTED]

Additionally, the PGCPs must:

1. Ensure that the PGCPs' administrators have regular and prompt access to a school psychologist or other mental health professional trained on the provisions of the Maryland law, who can respond to behavior incidents, including those involving students in grades prekindergarten through second grade.
2. Provide training for the PGCPs' administrators and related staff on the provisions of Maryland law to prevent any future unlawful suspensions for students in prekindergarten through second grade.

---

<sup>2</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, 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>3</sup> MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

Mr. Levi Bradford, Esquire  
Ms. Monisha Cherayil, Esquire  
Ms. Trinell Bowman  
February 3, 2023

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, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins  
Deputy Superintendent  
Office of the Deputy Superintendent of Teaching and Learning

DMC/gl

c:     Monica Goldson  
       Keith Marston  
       Darnell Henderson  
       Henry Johnson  
       Diane Eisenstadt  
       Gerald Loiacono  
       Rabiatu Akinlolu