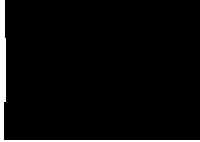




February 24, 2023



Ms. Trinell Bowman
Associate Superintendent Special Education
Prince George's County Public School
John Carroll Center
1400 Nalley Terrace
Landover, Maryland 20785

RE: [REDACTED]
Reference: #23- 118

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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 December 29, 2022, MSDE received a complaint from Mr. [REDACTED] and Ms. [REDACTED] hereafter, "the complainants," on behalf of their son, 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) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The PGCPS did not provide the student with the Extended School Year (ESY) services required by the Individualized Education Program (IEP) during the summer of 2022-2023, in accordance with 34 CFR §§300.101 and .323.
2. The PGCPS did not follow proper procedures when responding to a request for an IEP team meeting on February 19, 2022, in accordance with 34 CFR §§300.503.
3. The PGCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the March 31, 2022, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.

4. The PGCPS has not ensured that the IEP team has addressed the student's behavioral, elopement, feeding, and assistive technology (AT) needs since October 27, 2022, in accordance with 34 CFR §300.324.
5. The PGCPS has not ensured that the student was provided with the appropriate assistive technology device and modified assignments as required by the IEP since October 27, 2022, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is six (6) years old and is identified as a student with a developmental delay under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1:

PROVISION OF ESY SERVICES

FINDINGS OF FACTS:

1. The student's IEP, developed on November 29, 2021, reflects that the student was not eligible for ESY.
2. The Prior Written Notice (PWN) generated after the April 27, 2022, IEP team meeting reflects that the IEP team determined that the student is eligible for ESY services in academics and communication. However, the IEP team did not revise the student's IEP to reflect this change.
3. The PGCPS acknowledges that the student was not provided with ESY services for the summer of 2022- 2023.

CONCLUSIONS:

The public agency is required to ensure that the student is provided with the special education and related services required by the IEP (34 CFR §§300.101 and .323). In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data. In developing each student's IEP, the public agency must ensure that it includes a statement of the student's present levels of performance, including how the disability affects the student's progress in the general curriculum. The IEP must also include measurable annual goals designed to meet the needs that arise out of the student's disability and the special education instruction and related services required to assist the student in achieving the goals (34 CFR §§300.101, .320).

Based upon the Findings of Facts #1- #3, MSDE finds that while the student's IEP did not require that he be provided with ESY services in accordance with 34 CFR §§300.101 and .323, the PGCPS did not ensure that the student's IEP was revised to reflect the decision of the IEP team on April 27, 2022, in accordance with 34 CFR §§300.101 and .320. Therefore, MSDE finds that a violation occurred with respect to this allegation.

ALLEGATION #2:

RESPONSE TO THE REQUEST FOR AN IEP TEAM MEETING

FINDINGS OF FACTS:

4. There is email documentation that the complainant made a request for an IEP team meeting with PGCPs staff on February 19, 2022, to discuss the student's assistive technology needs.
5. On March 31, 2022, the IEP team met to discuss the student's assistive technology needs.

CONCLUSIONS:

Based upon the Findings of Facts #4 and #5, MSDE finds that the PGCPs followed proper procedures when agreeing to the complainant's February 19, 2022, request to convene an IEP team meeting in accordance with 34 CFR §300.503. No prior written notice is required prior to an IEP team meeting being convened if the team agrees to hold the meeting as requested. Therefore, this office does not find a violation occurred with respect to allegation #2.

ALLEGATION #3:

PROVISION OF IEP DOCUMENTS

FINDINGS OF FACTS:

6. The PWN generated after the March 31, 2022, IEP team meeting reflects the purpose of the meeting was to discuss and document the findings of the assistive technology consultation.
7. There is no documentation of the provision of the IEP documents, including a copy of the assistive technology consult report, to the complainants five days prior to the IEP team meeting.

CONCLUSIONS:

Based upon the Findings of Facts #6 and #7, MSDE finds that the PGCPs did not ensure that the parent was provided with accessible copies of each document that the IEP team planned to discuss at the March 31, 2022, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds a violation occurred with respect to allegation #3.

ALLEGATIONS #4 AND #5:

IEP TEAM ADDRESSING STUDENT'S NEEDS AND PROVISION OF AN ASSISTIVE TECHNOLOGY DEVICE

FINDINGS OF FACTS:

8. The Present Level of Academic Achievement and Functional Performance reported on the student's IEP, developed on November 29, 2021, reflects behavior: social-emotional/ behavioral, self-management, and adaptive functioning as areas that are affected by the student's disability.
9. The student's IEP, developed on November 29, 2021, reflects that the student requires an AT device but does not require AT services.

“The student requires low-tech AT supports throughout the school day, such as the core vocabulary board, picture symbols and photos, picture schedule, simple sign language, and gestural prompts.”

10. The supplementary aids, services, program modifications, and supports reported on the student’s IEP that was developed on November 29, 2021, require social/behavioral and physical environmental supports: frequent reminders of rules, frequent eye contact/ proximity control, strategies to initiate and sustain attention, use of positive concrete reinforcers, other first/then chart with pictures, provide manipulatives and/or sensory activities to promote listening and focusing skills, provide frequent changes in activities or opportunities for movement, and providing deep pressure.
11. The student’s IEP, developed on November 29, 2021, reflects that the student has a social-emotional/ behavioral goal.
12. The Present Level of Academic Achievement and Functional Performance reported on the student’s IEP developed on November 28, 2022, reflects the student’s behavior: social-emotional/ behavioral, self-management, and adaptive functioning as areas that are affected by the student’s disability.
13. There is documentation that on March 23, 2022, an assistive technology consultation report was completed.
14. The student’s IEP, developed on November 28, 2022, reflects that the student continues to require an AT device but does not require AT services.

“Per a collaborative AT and Speech-Language Pathologist consultation in March 2022, the student requires a variety of AAC/ AT supports throughout the school day, such as the core vocabulary board, static display, dynamic-featured communication system navigated via categories, picture symbols, and photos, picture schedule, simple/ approximated sign language, and gestural prompts.”

“The student’s parents have requested a trial of a dynamic display, voiced tablet with a specific communication app (TouchChat). The team will collect data on the success of this communication intervention.”

15. The supplementary aids, services, program modifications, and supports reported on the student’s IEP, developed on November 28, 2022, require social/behavioral and physical environmental supports: frequent reminder of rules, frequent eye contact/ proximity control, first/ then chart with pictures, provide manipulative to promote listening and focusing skills, provide frequent changes in activities or opportunities for movement, provide deep pressure, toileting schedule, use of positive concrete reinforcement, strategies to initiate and sustain attention, provide manipulatives and/or sensory activities to promote listening and focusing skills. In addition, school personnel/ parental support is required, including semi-annual assistive technology consults and monthly occupational therapy consults.
16. The student’s IEP, developed on November 28, 2022, reflects behavioral self-management and social-emotional/ behavioral goals.
17. There is documentation that on December 6, 2022, and May 31, 2022, an assistive technology “loan

agreement” was completed between the PGCPs and the student’s parent.

18. There is email documentation between PGCPs, the student’s private behavioral provider, and the student’s parents reflecting the discussion of “priority areas (communication and social/emotional/behavioral) to collaborate and target to ensure fidelity of implementation.”
19. The PWN generated after the November 28, 2022, IEP team meeting reflects that the student was given a “communication device via the school assistive technology team.” It further reflects that the IEP team considered the parent-provided Observation Report by the student’s private provider.
20. The PWN generated after the January 5, 2023, IEP team meeting reflects that the IEP team discussed a change to the student’s eligibility code from developmental delay to autism. The parent did not agree to this change. It also reflects that the IEP team reviewed assessments and determined that they would review the Functional Behavior Assessment at a continuation meeting.
21. There is documentation of the PGCPs staff collecting data regarding behavior since October 17, 2022. This documentation includes the date, time, duration, antecedent, behavior, consequence, and possible function of each observed behavior. In addition, this documentation includes two incidents of elopement with the “consequences” that resulted.
22. There is no documentation that the parents or school staff have raised concerns regarding the student’s feeding needs.

CONCLUSIONS:

ALLEGATION #4: IEP TEAM ADDRESSING STUDENT’S NEEDS

Based upon the Findings of Facts #8- #22, MSDE finds that the PGCPs has ensured that the IEP team has addressed the student’s behavioral, elopement, feeding, and assistive technology (AT) needs since October 27, 2022, in accordance with 34 CFR §300.324. Therefore, this office does not find a violation occurred with respect to allegation #4.

ALLEGATION #5: PROVISION OF ASSISTIVE TECHNOLOGY DEVICE

Based upon the Findings of Facts #9, #14, and #17, MSDE finds that the PGCPs has ensured that the student was provided with the appropriate assistive technology device and modified assignments as required by the IEP since October 27, 2022, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office does not find a violation occurred with respect to allegation #5.

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.

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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 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.

Student Specific

MSDE requires the PGCPs to provide documentation by April 28, 2023, that the IEP team has convened and determined whether the violation related to the lack of ESY services during the summer of 2021 and the delay in providing the complainant with documents to be reviewed by the IEP team 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 remedies 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.

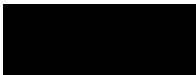
School Based

MSDE requires the PGCPs to provide documentation of the steps taken to ensure that the violations regarding the lack of ESY services and the provision of documents to parents in advance of IEP team meetings do not recur at [REDACTED] School. Those steps must include staff development, as well as tools created to document and monitor the determination to provide students with ESY services and provision of documents to be considered by the IEP team in advance of IEP team meetings to the parents. MSDE further requires the submission of the completed monitoring tool for a random sample of ten students by April 28, 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 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.

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 MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.


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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 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

DMF: sd

c: Monica Goldson
 Keith Marston
 Darnell Henderson
 Henry Johnson
 
 Alison Barmat
 Gerald Loiacono
 Diane Eisenstadt
 Sarah Denney