

January 18, 2024

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

RE: [REDACTED]
Reference: #24-076

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 November 20, 2023, MSDE received a complaint from [REDACTED], 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.

MSDE investigated the following allegations:

1. The PGCPS has not ensured that the student is being provided with the dedicated aide¹ required by the Individualized Education Program (IEP), since October 2023, in accordance with 34 CFR §§ 300.101 and .323.
2. The PGCPS has not ensured that the student is being provided with the special education instruction, including adapted physical education and math intervention², as required by IEP, since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323.
3. The PGCPS has not ensured that the student has been consistently provided with the speech and language related services required by the IEP since November 2023, in accordance with 34 CFR §§300.101 and .323.

¹ The IEP requires adult support for the purpose of allowing the student to access curriculum in the general education math classroom.

² The complainant clarified that the IEP requires Math in the general education classroom.

BACKGROUND:

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

FINDINGS OF FACTS:

1. The IEP in effect at the beginning of the 2023-2024 school year requires services for: physical education, pre-academics, speech and language expressive, speech and language receptive language, social emotional/behavioral, and fine motor. The IEP requires monthly speech and language pathology consultation to support the staff and the parent. The IEP requires twenty-two hours and thirty minutes of specialized classroom instruction per week outside of the general education setting. The IEP requires two hours of physical education per year inside of the general education setting. The IEP requires a quarterly adapted physical education consult to the general physical education teacher.
2. The Prior Written Notice (PWN) developed on October 9, 2023, reflects the IEP team decisions made on October 2, 2023. The IEP team proposed and agreed to:
 - Review the private speech evaluation upon receipt from the complainant “to determine if the student requires direct speech and language services instead of speech and language consult.”
 - Amend the IEP to reflect that the student will be provided with a gradual transition into the general education classroom for math instruction.
 - The student “requires an additional adult support especially when he transitions to the general education classroom for math so that his special education services, supplementary aids, and accommodations will still be provided even if he's in the general education classroom.”
3. On October 9, 2023, the IEP was amended to reflect that the student requires daily adult support “because he will be going to a general education classroom for math. An additional adult support will provide him with special education services while he is in the general education and special education classroom.” The IEP requires an additional five hours of specialized instruction per week inside of the general education setting.
4. There is no documentation that the student is being provided with adult support required by the IEP, since October 2023.
5. The PWN developed on November 28, 2023, reflects the IEP team met for the purpose of reviewing the private speech and language assessment. The IEP team determined the student requires direct speech and language service as a related service for four thirty-minute sessions per month. The IEP team agreed that the student continues to require speech and language consultation. Due to the speech and language pathologist vacancy at the school, the IEP team proposed to make up services when the position was filled. Until then the classroom teacher would support the student’s communication needs.
6. On November 28, 2023, the IEP was amended. The speech and language receptive language and speech and language expressive language present levels were updated. The IEP included a receptive language goal and objectives, and an expressive language goal and objectives. The IEP reflects the

continuation of monthly Speech and Language Pathology consultation to support staff and the parent. The IEP requires four thirty-minute sessions per month of speech and language as a related service outside of the general education classroom, to begin on December 5, 2023.

7. The Speech and Language Log reflects:
 - Consult with staff on October 26, 2023, for 15 minutes;
 - Consult with staff on November 9, 2023, for 15 minutes; and
 - Consult with staff and parent on December 21, 2023, for 15 minutes.
8. The Adaptive Physical Education Log, reflects:
 - Email sent to General Physical Education teacher on September 21, 2023, September 28, 2023, October 4, 2023, and December 1, 2023;
 - Direct service for student on October 27, 2023, and January 5, 2024, for 30 minutes; and
 - Conversation with the general education teacher and physical education teacher – no concerns.
9. The student is enrolled in the Autism Program at [REDACTED]. The student's least restrictive environment is a self-contained classroom with no more than eight students. Within the classroom, all students receive specialized instruction, visual supports, a functional communication system, self-regulation support through zones of regulations, frequent reminders, pairing of visual supports with specific interactions, and the use of a 50 core board to support communication.
10. There is no documentation of math instruction in the general education classroom, as required by the IEP since October 2023.
11. There is no documentation of direct speech and language services as required by the IEP since December 5, 2023.

DISCUSSION/CONCLUSIONS:

Allegation #1: PROVISION OF DEDICATED AIDE

Based on the Finding of Facts #2 through #4, MSDE finds that the PGCPs has not ensured that the student has been consistently provided with the adult support as required by the IEP from October 9, 2023, through January 6, 2024, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2 and #3: IMPLEMENTATION OF SPECIAL EDUCATION INSTRUCTION, ADAPTED PHYSICAL EDUCATION, MATH INSTRUCTION IN THE GENERAL EDUCATION CLASSROOM, AND SPEECH AND LANGUAGE SERVICES

Based on the Finding of Facts #1 and #9, MSDE finds that the PGCPs has ensured that the student has been provided with the special education instruction, as required by the IEP outside of the general education setting since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this allegation.

Based on the Finding of Facts #2, #3, #4, and #10, MSDE finds that the PGCPs has not ensured that the student has been provided with math instruction in the general education classroom as required by the IEP since October 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

Based on Findings of Facts #1, #5, #6, and #7, MSDE finds that the PGCPs has ensured that the staff and parent have been consistently provided with the speech and language consultation services as required by the IEP since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based on Findings of Facts #6 and #11, MSDE finds that the PGCPs has not ensured that the student has been consistently provided with the direct speech and language services required by the IEP since December 5, 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include 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.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.³ 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.⁴ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Based

MSDE requires the PGCPs to provide documentation by March 15, 2024, of the steps taken to ensure that the IEP team has taken the following action:

- a. Ensured that the student is provided with direct speech and language services as required by the IEP;
- b. Ensured that the student has the support to participate in the math class as required by his IEP; and
- c. Convene an IEP meeting for the purpose of determining the impact of missed speech and language services since December 5, 2023, and lack of adult support in the math general education classroom from October 9, 2023, through January 6, 2024. The IEP team must discuss if the violations had a negative impact on the student's ability to benefit from the educational 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.

³ 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.

⁴ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

The PGCPs must ensure that the parents are provided with prior 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.

School-Based

MSDE requires the PGCPs to provide documentation by June 1, 2024, that it has identified all students with disabilities under IDEA at the student's school who did not receive speech and language services due to service provider unavailability during the 2023-2024 school year. For those students identified, the PGCPs must ensure that an IEP team convenes and determines the amount and nature of compensatory services or other remedy to be provided to the student for the loss of services and develops a plan for the provision of those services within one year of the date of this Letter of Findings. If a student transfers to another school system prior to the completion of the provision of the remedy, the PGCPs may coordinate with the public agency responsible for the education of the student in order to ensure that the remedy is provided.

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,

Antoine L. Hickman Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/ra

c: Mr. Millard House II, Superintendent, PGCPs
Ms. Lois Jones Smith, Compliance Liaison, PGCPs
Mr. Darnell Henderson, Deputy General Counsel, PGCPs
[REDACTED], Principal, [REDACTED], PGCPs
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Ms. Diane Eisenstadt, Compliance Specialist, MSDE
Ms. Rabiātu Akinlolu, Complaint Investigator, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE