

January 10, 2025

Mr. Levi Bradford
Public Justice Center
201 North Charles Street
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 2078

RE: [REDACTED]
Reference: #25-131

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report on the final results of the investigation.

ALLEGATIONS:

On November 12, 2024, MSDE received a complaint from Mr. Levi Bradford, hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Prince Georges' County Public School (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements concerning the above-referenced student.

MSDE investigated the following allegations:

1. The PGCPS has not followed proper procedures when disciplinarily removing the student from school since March 11, 2024, specifically you allege that a manifestation determination meeting was not conducted after the tenth day of a discipline removal, in accordance with 34 CFR §§ 300.530 and .531, COMAR 13A.08.03, and COMAR 13A.05.01.10.
2. The PGCPS did not provide the student with a free appropriate public education (FAPE) since their disciplinary removal from school since November 2023, in accordance with 34 CFR §§ 300.101, .323, .530, .531 and .536.
3. The PGCPS has not developed an Individualized Education Program (IEP) that addressed the student's identified behavioral needs since March 11, 2024, in accordance with 34 CFR §§ 300.101 and .324.
4. The PGCPS did not follow proper procedures when determining the student's educational placement since March 11, 2024, in accordance with 34 CFR §§ 300.114 -.116.

BACKGROUND:

The student is 14 years old and is a student with Other Health Impairment (OHI) under the IDEA. During the 2023-2024 school year, the student attended [REDACTED]. He currently attends [REDACTED] and has an IEP that requires the provision of special education.

FINDINGS OF FACT:

1. The IEP in effect in March 2024, was developed on May 5, 2023. The IEP reflects the following areas affected by disability: math problem-solving, reading comprehension, written language content, and social-emotional/behavioral. The IEP requires transition activities, goals in reading comprehension, math calculation, social-emotional/behavioral, math problem solving, and written language content.

The IEP reflects a Functional Behavior Assessment (FBA) was completed on September 19, 2022.

The IEP reflects a Behavior Intervention Plan (BIP) was developed on September 19, 2022.

The IEP requires instructional and assessment accessibility features, accommodations, supplementary aids, services, program modifications and supports.

The IEP requires 11 hours and 40 minutes per week of special education instruction inside the general education setting to be provided by the special education teacher and/or instructional assistant. The IEP requires two 30-minute sessions per month of counseling as a related service outside of the general education setting.

2. On February 5, 2024, a Central IEP (CIEP) team meeting occurred. The PWN reflects the meeting was held in response to the IEP team's referral for a more restrictive placement for the 2023-2024 school year. The PWN reflects the parent did not participate. The PWN reflects the school-based team proposed "Least Restrictive Environment: Separate Class Program. Based on [the student's] identified needs, the team proposed the Social Emotional Academic Development [REDACTED]. Based on the family's current address, the boundary program is located at [REDACTED]."
3. The amended IEP requires 27 hours per week of special education instruction inside the general education setting to be provided by the special education teacher and/or instructional assistant. The IEP also requires transportation.
4. On February 12, 2024, the student was suspended for three days for violating the student code of conduct. The "Notice of Student Suspension form" generated following the incident reflects the student was suspended for "attack on student." The notification also reflects the following procedures were utilized prior to the suspension:
 - guidance procedures that were utilized prior to the suspension: teacher/student conference, teacher/parent conference or contact, teacher/counselor conference, teacher/administrator conference, counselor/student conference and functional behavior assessment/behavior Intervention Plan (FBA/BIP);
 - administrative procedures were utilized prior to the suspension: administrator/student conference and administrator/parent conference; and
 - disciplinary procedures were utilized prior to the suspension: detention hall, temporary removal from class, previous suspensions, and In-School Suspension Center (ISSC).

The notification further reflects that a reentry meeting was scheduled to take place on February 6, 2024, at 8:45 am. The form reflects the parent was provided with a copy of the procedural safeguards.

5. On March 8, 2024, the student was suspended for three days for violating the student code of conduct. The "Notice of Student Suspension form" generated following the incident reflects the student was suspended for "bullying/harassment/intimidation." The notification also reflects the following procedures were utilized prior to the suspension:
 - administrative procedures that were utilized prior to the suspension: administrator/student conference, administrator/parent conference; and referral to community resource; and
 - disciplinary procedures were utilized prior to the suspension: detention hall, temporary removal from class, previous suspensions, and In-School Suspension Center (ISSC).

The notification further reflects a reentry meeting was scheduled to take place on March 14, 2024, at 9:00 am. The form reflects the parent was provided with a copy of the procedural safeguards.

6. There is documentation that the following text message was sent to the parent on March 14, 2024, at 8:41 am. "Good morning [REDACTED], Per [the principal the student] is suspended for 10 days. I will send you a new notification. If you are able to pick him up, he is in the Main Office."

There is no additional documentation regarding a March 14, 2024, suspension.

7. On March 18, 2024, the student was withdrawn from the PGCPs. The parents emailed the withdrawal letter and the procedural safeguards.
8. On April 19, 2024, the student was enrolled at [REDACTED].
9. The IEP developed on May 15, 2024, reflects the following areas affected by disability: math problem solving, reading comprehension, written language content, and social-emotional/behavioral. The IEP requires transition activities, goals in reading comprehension, math calculation, social-emotional/behavioral, math problem solving, and written language content.

The IEP reflects a Functional Behavior Assessment (FBA) was completed on March 17, 2023.

The IEP reflects a Behavior Intervention Plan (BIP) was developed on March 17, 2023.

The IEP requires instructional and assessment accessibility features, and accommodations, supplementary aids, services, program modifications and supports.

The IEP requires four hours and 40 minutes per day of special education instruction outside the general education setting daily to be provided by the special education teacher and/or instructional assistant. The IEP requires two 30-minute sessions per week of counseling as a related service outside of the general education setting.

The IEP requires transportation.

The IEP reflects LRE is the [REDACTED] at [REDACTED].

There is no documentation that the student has needs that were not addressed in the IEPs in effect since March 2024.

DISCUSSIONS AND CONCLUSIONS:

Disciplinary Removal

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or if the conduct in question was the direct result of the LEA's failure to implement the IEP. (34 CFR § 300.530).

Based on the Findings of Fact #3 through #5, MSDE finds that the PGCPs did not follow proper procedures when disciplinarily removing the student from school since March 11, 2024. Specifically, the IEP team did not conduct a manifestation determination meeting after the tenth day of a discipline removal, in accordance with 34 CFR §§ 300.530 and .531, COMAR 13A.08.03, and COMAR 13A.05.01.10. Therefore, this office finds that a violation did occur concerning this allegation.

Provision of Services During Disciplinary Removal

A child with a disability who is removed from the child's current placement must continue to receive educational services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

Based on the Findings of Fact #3 through #5, MSDE finds that the PGCPs did not provide the student with appropriate services since their disciplinary removal from school since March 20, 2024¹, in accordance with 34 CFR §§ 300.101, .323, .530, .531 and .536. Therefore, this office finds that a violation did occur concerning this allegation.

IEP Development

Based on the Findings of Fact #1 and #2, MSDE finds that the PGCPs has developed an Individualized Education Program (IEP) that addressed the student's identified behavioral needs since March 11, 2024, in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that a violation did not occur concerning this allegation.

Placement

Based on the Finding of Fact #2 and #7, MSDE finds that the PGCPs did follow proper procedures when determining the student's educational placement since March 11, 2024, in accordance with 34 CFR §§ 300.114 -.116. Therefore, this office finds that a violation did not occur concerning this allegation.

¹ The student was removed from school on March 14, 2024. March 20, 2024, would be the student's 10th day of removal since November 2023.

CORRECTIVE ACTIONS AND 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.

MSDE has established reasonable timeframes below to ensure that noncompliance is corrected in a timely manner.² 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. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.³ Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE required the PGCPs to provide documentation by March 15, 2025, 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 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. The PGCPs must ensure that the complainant is 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-Based

The PGCPs is required to provide professional development to the staff at [REDACTED] regarding disciplinary removals for students with disabilities, including administrative staff responsible for students with IEPs. This training must take place on or before February 28, 2025.

² 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.

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

Systemic

MSDE requires the PGCPs to provide documentation by March 21, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the implementation of proper procedures for disciplinary removal of students, including conducting manifestation determinations; These steps must include staff development, as well as tools developed to monitor compliance. Monitoring activities must include a submission of 10 students with IEPs who have been disciplinarily removed from their educational settings to ensure compliance with all requirements, including notice to families, manifestation meetings, appropriate services, and behavioral supports. Full compliance is required for the submission which is due on or before March 30, 2025.

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 why the documentation was not made available during the investigation. Requests for reconsideration must be sent to Tracy Givens, Section Chief, Dispute Resolution Branch, at Tracy.Givens@maryland.gov. 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: Millard House II, Superintendent, PGCPs
Keith Marston, Compliance Instructional Supervisor, PGCPs
Lois Jones Smith, Compliance Liaison, PGCPs
Darnell Henderson, General Counsel, PGCPs
William Fields, Associate General Counsel, PGCPs
Dr. Robert Reese-Johnson, Compliance Specialist, PGCPs
Monica Wheeler, Compliance Specialist, PGCPs
[REDACTED], Principal, [REDACTED], PGCPs
[REDACTED], School Principal, [REDACTED], PGCPs
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
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