



Bernard J. Sadusky, Ed.D.
Interim State Superintendent of Schools

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December 12, 2011

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Mrs. Joan Rothgeb
Director of Special Education
Prince George's County Public Schools
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 20785

RE: XXXXX
Reference: #12-029

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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 October 20, 2011, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter. 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 allegation that the PGCPS has not ensured that the student has been provided with the assistance of a “dedicated aide” as required by her Individualized Education Program (IEP) since the start of the 2011-2012 school year, in accordance with 34 CFR §300.101.

INVESTIGATIVE PROCEDURES:

1. Ms. Kathy Stump, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On October 20, 2011, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPS; Ms. LaRhonda Owens, Supervisor of Compliance, PGCPS; and Ms. Gail Viens, Deputy Associate Counsel, PGCPS.

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3. On October 25, 2011, Ms. Stump attempted unsuccessfully to reach the complainant by telephone to clarify the allegation to be investigated.
4. On October 26, 2011, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified Mrs. Rothgeb of the allegation and requested that her office review the alleged violation.
5. On October 27, 2011 and November 17, 2011, Ms. Stump conducted telephone interviews with the complainant about the allegation to be investigated.
6. On November 15, 2011, Ms. Stump and Ms. Christine Hartman, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXXXXXX (XXXXXX) to review the student's education record, and interviewed the following PGCPS personnel:
 - a. Ms. Chrystal Bolden, Special Education Instructional Specialist, PGCPS;
 - b. Ms. XXXXXXXXX, Special Education Chairperson, XXXXX;
 - c. XXXXXXXXXXXXX, School Resource Officer, XXXXXXX; and
 - d. Ms. XXXXXXXXXXX, Principal, XXXXXXX.

Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPS, attended the site visit as a representative of the PGCPS and to provide information on the PGCPS policies and procedures, as needed.

7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Correspondence and attachments from the complainant to MSDE, received on October 20, 2011;
 - b. IEP, dated August 11, 2011;
 - c. *Parent Call Log* dated between the start of the 2011-2012 school year and September 23, 2011;
 - d. XXXXXXX *Record of Parent Contact*, dated between the start of the 2011-2012 school year and October 5, 2011;
 - e. IEP, dated October 11, 2011;
 - f. IEP team meeting invitation for the October 25, 2011 IEP team meeting;
 - g. IEP team meeting summary for the October 25, 2011 IEP team meeting;
 - h. IEP, dated October 25, 2011;
 - i. PGCPS application for Home and Hospital Teaching, dated October 28, 2011;
 - j. Written statement from the student's teacher, undated; and
 - k. Student's attendance record for the 2011-2012 school year.

BACKGROUND:

The student is nineteen (19) years old and is identified as a student with multiple disabilities under the IDEA, related to an intellectual disability and a hearing impairment. From the start of

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the 2011-2012 school year until September 26, 2011, the student received special education instruction and related services at XXXXX. Since September 26, 2011, the student has not been attending school and has had hospital admissions as a result of emotional difficulties. During the period of time addressed by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. a, b, e, g, h, k, and interviews with complainant).

ALLEGATION:

PROVISION OF A “DEDICATED AIDE”

Findings of Facts:

1. The IEP in effect at the start of the 2011-2012 school year required that the student be provided with a “dedicated aide” to assist the student with “transitioning” throughout the school day (Docs. b and e).
2. A “dedicated aide” has been assigned to the student and has been present since the start of the 2011-2012 school year. However, the “dedicated aide” allowed the student to travel on the elevator unescorted (Doc. g and on-site review of personnel documents).
3. On September 23, 2011, the “dedicated aide” permitted the student to go the restroom unaccompanied by an adult. The student did not immediately return from the restroom and was unescorted in the school building for approximately one (1) hour until one of the student’s teachers found her “wandering” in the hallway (Docs. c, d, and j).

Discussion/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). In this case, the complainant alleges that the “dedicated aide” has not been providing the services required by the IEP since the start of the 2011-2012 school year. Specifically, the complainant alleges that the “dedicated aide” has not been providing supports during times of transition throughout the school day and has left the student unsupervised (Doc. a).

Based on the Findings of Facts #1 - #3, the MSDE finds that the student has not been consistently provided with the assistance of the “dedicated aide,” as required by the IEP. Therefore, the MSDE finds a violation regarding the allegation.

ADDITIONAL VIOLATION:

HOME AND HOSPITAL TEACHING SERVICES

Findings of Facts:

4. The IEP team convened on October 25, 2011 at the request of the complainant. At the meeting, the complainant informed the IEP team that the student had been hospitalized due to an emotional crisis. There is no documentation that the school system took steps to obtain consent from the complainant to obtain information about whether the student was able to receive instruction in the hospital (Docs. f-h, and interview with school staff).

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5. On October 28, 2011, the complainant filed an application for home and hospital teaching (HHT) services which has been approved. However, there is no documentation that the team determined the HHT services to be provided and developed a plan for the student's return to a school-based program (Docs. g, h and i).

Discussion/Conclusions:

Each local school system must make HHT services available to students who are unable to attend school due to a medical or emotional condition within ten (10) days of receipt of verification that the student is unable to attend school. The local school system may provide the instructional services directly to the student in the hospital, may contract with private providers to deliver the instructional services, or may contract with other local school systems to provide instructional services (COMAR 13A.03.05.03).

The IEP team must meet to review and revise the student's IEP and determine the instructional services to be provided to the student as long as the medical restrictions apply, and develop a plan for returning the student to a school-based program. When the period of treatment or convalescence ends, the IEP team shall review and revise the IEP and determine the appropriate placement in the least restrictive environment (COMAR 13A.05.01.10(C)(5)).

Based on the Findings of Facts #4 and #5, the MSDE finds that there is no documentation that the PGCPS has ensured that steps have been taken to determine whether the student is available to receive educational services and, if so, ensure that an IEP team meeting be held to determine the services to be provided. Therefore, the MSDE finds that a violation has occurred since October 25, 2011.

CORRECTIVE ACTIONS/TIMELINES:

Student-specific

The MSDE requires the PGCPS to provide documentation by January 15, 2012, that the IEP team has determined the HHT services to be provided to the student and developed a plan for the student's return to a school-based program. In addition, the MSDE requires the PGCPS to provide documentation by January 15, 2012 of the steps taken to ensure that the student is provided with a "dedicated aide" as required by the IEP upon her return to school.

In addition, the MSDE requires the PGCPS to provide documentation by February 15, 2012 that the IEP team has determined the nature and amount of *compensatory services*¹ or other remedy necessary to redress the violations identified in this Letter of Findings.

¹ Compensatory services, for the purposes of this letter, mean the determination by the IEP team as to how to remediate the denial of appropriate services to the student (34 CFR §300.151).

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The PGCPS must provide the complainant with proper written notice of the determinations made at the IEP team meeting including a written explanation of the basis for the determinations, as required by 34 CFR §300.503. If the complainant disagrees with the IEP team's determinations, she maintains the right to request mediation or file a due process complaint, in accordance with the IDEA.

School-based

The MSDE requires the PGCPS to provide documentation by February 15, 2012, of the steps it has taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern of noncompliance at XXXXX.

Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine if the regulatory requirements are being implemented and must provide documentation of the results of this review to the MSDE. If the school system reports compliance with the requirements, the MSDE staff will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented, the school system must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the initial date that the school system determines non-compliance.

Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of The United States Department of Education, Office of Special Education Programs. Additionally, the findings in the Letter of Findings will be shared with the MSDE's Office of Quality Assurance and Monitoring for Continuous Improvement for its consideration during present or future monitoring of the PGCPS.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

Please be advised that both parties have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of fact or conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings. If additional information is provided, it will be reviewed and the MSDE will determine if a reconsideration of the conclusions is necessary. Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, set forth

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additional findings and conclusions, or enter new findings and conclusions. Pending the decision on a request for reconsideration, the school system must implement any corrective actions consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The complainant and the school system 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 for the student, including issues subject to a State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or due process.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Special Education/Early Intervention Services

MEF:ks

cc : William R. Hite
Bonita Coleman-Potter
Gail Viens
LaRhonda Owens
Kerry Morrison
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Martha J. Arthur
Kathy Stump