



June 21, 2013

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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: #13-086

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 May 9, 2013, the MSDE received a complaint from Mr. XXXXXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of his son. 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 did not provide the complainant with reports of the student’s progress toward achieving the annual Individualized Education Program (IEP) goals for the fourth (4th) quarter of the 2011-2012 school year and the third (3rd) quarter of the 2012-2013 school year, in accordance with 34 CFR §300.320 and COMAR 13A.05.01.09.

INVESTIGATIVE PROCEDURES:

1. Ms. Kathy Stump, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On May 10, 2013, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPS; Ms. LaRhonda Owens,

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Supervisor of Compliance, PGCPs; Ms. Gail Viens, Deputy General Counsel, PGCPs; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPs.

3. On May 13, 2013, Ms. Stump conducted a telephone interview with the complainant to clarify the allegation to be investigated.
4. On May 17, 2013, 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 May 27, 2013, the complainant provided the MSDE with information and documentation to be considered in the investigation, via facsimile.
6. On May 28, 2013, the MSDE requested that the PGCPs provide documentation from the student's educational record, via electronic mail (e-mail).
7. Between May 29, 2013 and June 4, 2013, the complainant and Ms. Stump corresponded, via email, regarding the complainant's concern that the PGCPs had not provided him with the remedy that he proposed in the State complaint.
8. On June 12 and 14, 2013, the PGCPs provided the MSDE with documentation from the student's educational record, via e-mail.
9. 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 the MSDE, received on May 9, 2013;
 - b. IEP, dated March 29, 2012;
 - c. IEP progress reports for the 2011-2012 school year;
 - d. IEP, dated November 12, 2012;
 - e. *Receipt of Parental Rights* form, dated November 12, 2012;
 - f. IEP, dated January 15, 2013;
 - g. IEP, dated February 11, 2013;
 - h. Electronic mail correspondence from the PGCPs to the MSDE, dated June 12, 2013;
 - i. IEP progress reports for the 2012-2013 school year; and
 - j. PGCPs *Student Enrollment History* form.

BACKGROUND:

The student is seven (7) years old, is identified as a student with Autism under the IDEA, and receives special education and related services. From the start of the 2011-2012 school year until March 8, 2013, the student attended XXXXXXXXXXXX, a PGCPs public elementary school. As the result of a change in placement made by the IEP team, the student has attended

XXXXXXXXXXXXXXXXXX, XXXXXXXXXXXXX, a nonpublic separate special education school, since March 11, 2013.

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, d-g, and j).

FINDINGS OF FACTS:

1. The IEP in effect since the fourth (4th) quarter of the 2011-2012 school year requires that the complainant be provided with written reports of the student's progress toward achieving the annual IEP goals on a quarterly basis (Docs. b, d, f, and g).
2. Progress reports have been generated on a quarterly basis, but there is no documentation that the reports for the (4th) quarter of the 2011-2012 school year and the third (3rd) quarter of the 2012-2013 school year were provided to the complainant (Docs. c, h, and i).

DISCUSSION/CONCLUSIONS:

The IEP must include, among other things, a description of how the student's progress toward achieving the annual goals will be measured and when reports will be made of the student's progress to the parent (34 CFR §300.320). The IDEA requires that the public agency ensure that all services described in the IEP are provided in accordance with the IEP (34 CFR §300.101).

Based on the Findings of Facts #1 and #2, the MSDE finds that there is no documentation that the complainant was provided with the reports of the student's progress toward achieving the annual IEP goals for the fourth (4th) quarter of the 2011-2012 school year and the third (3rd) quarter of the 2012-2013 school year as required by the IEP. Therefore, the MSDE finds a violation regarding the allegation.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the PGCPS to provide documentation by July 15, 2013, that progress reports for the fourth (4th) quarter of the 2011-2012 school year and the third (3rd) quarter of the 2012-2013 school year have been provided to the complainant.

Documentation of the corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution 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.

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Please be advised that the complainant and the school system 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 Facts 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 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 Action consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the Findings, Conclusions and Corrective Action 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 (FAPE) for the student, including issues subject to this 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 : Duane Arbogast
Gail Viens
LaRhonda Owens
Kerry Morrison
XXXXXXXXX
Martha J. Arthur
Dori Wilson
Anita Mandis
Kathy Stump