



July 11, 2013

XXX
XXX
XXX

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: #13-092

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 14, 2013, the MSDE received a complaint from XXXXXXXXX hereafter, "the complainant," on behalf of her daughter, 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 student.

The MSDE investigated the allegation that the PGCPS did not ensure that the student was provided with the instructional supports required by the Individualized Education Program (IEP) in her XXXXXXXX class during the 2012 - 2013 school year, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.

XXX

Mrs. Joan Rothgeb

July 11, 2013

Page 2

2. On May 15, 2013, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPS; Ms. Gail Viens, Deputy General Counsel, PGCPS; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPS.
3. On May 30, 2013, Ms. Moyo conducted a telephone interview with the complainant. On the same day, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. The MSDE also notified the PGCPS of the allegation and requested that the PGCPS review the alleged violation.
4. On June 6 and 7, 2013, Ms. Moyo received electronic mail correspondence (e-mail) from the complainant including additional information and documentation related to the allegation being investigated.
5. On July 1, 2013, Ms. Moyo met with Ms. Morrison and Ms. Peggy Besanko, Special Education Instructional Specialist, PGCPS at XXXXXXXXXXXX (XXXXXXXXXX) and reviewed the student's educational record. On the same date, the PGCPS staff provided Ms. Moyo with documentation from the student's educational record.
6. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated December 21, 2011;
 - b. IEP team meeting notes, dated May 14, 2012;
 - c. XXXXXXXX class registration forms, dated August 29, 2012;
 - d. E-mails between school staff and PGCPS staff, dated September 25 and 26, 2012;
 - e. IEP team meeting notes, dated October 3, 2012;
 - f. E-mails between the complainant and the XXXXXXXX teacher, dated October 16 and 29, 2012;
 - g. E-mail from the complainant to PGCPS staff, dated October 31, 2012;
 - h. E-mails between the complainant and school staff, dated December 7 and 10, 2012;
 - i. E-mails between PGCPS staff and the complainant, dated December 11 and 12, 2012;
 - j. XXXXXXXX class assignment log, from October 3, 2012 to December 12, 2012;
 - k. IEP, dated December 13, 2012;
 - l. Consent for assessment, dated December 13, 2012;
 - m. IEP team meeting notes, dated December 20, 2012;
 - n. IEP team meeting notes, dated March 27, 2013;
 - o. E-mail between the complainant and the XXXXXXXX teacher, dated April 11, 19, and 22;

XXX

Mrs. Joan Rothgeb

July 11, 2013

Page 3

- p. IEP and IEP team meeting notes, dated April 23, 2013;
- q. Correspondence and attachments from the complainant to the MSDE, received on May 14, 2013;
- r. E-mail from the complainant to the MSDE staff, dated June 7, 2013;
- s. Class schedule for the 2012-2013 school year; and
- t. The PGCPS XXXXXXXX *Courses: A Guide for Students and Parents*.

BACKGROUND:

The student is sixteen (16) years old and attends XXXXXXXXXXXXXXXX. She is identified as a student with Autism under the IDEA, and receives special education instruction and related services. 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 IEP team decisions and notice of the procedural safeguards (Docs. a – c, e, k – n, p, q, and s).

FINDINGS OF FACTS:

1. The IEP in effect during the 2012-2013 school year requires that the student receive special education in both a general and special education classroom. It further requires that she be provided with instructional accommodations and supports, including extended time to complete assignments, organizational aids to assist with maintaining class notes and homework, the chunking of assignments, and frequent and immediate feedback from teachers to assist her with staying on task. From the start of the 2012-2013 school year until April 18, 2013, when the IEP was revised, the IEP also required a dedicated aide to provide the student with organizational strategies and supports and to “guide her through her school day” (Docs. a, k, and p).
2. On August 29, 2013, the necessary paperwork was completed in order for the student to participate in an XXXX XXXX III during the 2012-2013 school year. The PGCPS permits students to take XXXXX classes during the regular school day if the course is not offered in the student’s school¹ (Doc. c, t, and interviews with MSDE and PGCPS staff).
3. On September 27, 2012, the IEP team met and determined that the student would receive this XXXX instruction during her Academic Resource class where she would receive assistance from the school staff in the classroom (Doc. e).
4. On October 29, 2012, the complainant contacted the student’s XXXXX teacher and requested information about additional support that could be provided to assist the student in the class since she was the “only student in the school taking the course.” The teacher suggested that the student use Visual Education (VIS-ED) cards, which are language study

¹ The course was administered through the XXXXXXX XXXXXXXXXXXXXXXX which is approved by the MSDE Division of XXXXXXXXXXX (Docs. and interviews with MSDE and PGCPS staff).

XXX

Mrs. Joan Rothgeb

July 11, 2013

Page 4

cards that provide vocabulary and grammatical information to assist the student with the development of these skills. She also indicated that the student should ask the teacher for assistance and resubmit assignments in order to improve her grades and to learn from her mistakes (Doc. f and www.vis-ed.com).

5. On October 31, 2012 and December 7, 2012, the complainant contacted school staff and indicated that she had spoken to the student's XXXX teacher and that the teacher had suggested that the use of VIS-ED cards would assist the student with her studying. The complainant further indicated that the student was not receiving any assistance from a school-based XXXXX teacher (Docs. g and h).
6. On December 10, 2012, the school staff responded to the complainant and indicated that they would not be able to provide the student with the VIS-ED cards nor would the school-based XXXXX teacher be able to assist the student, due to funding and "contractual limitations." However, school staff indicated that the student could receive additional help from the XXXXX teacher as well as "time extended as part of her IEP accommodations" to complete her assignments. School staff further indicated that additional options could be discussed at the IEP team meeting scheduled for later in the week (Doc. h).
7. On December 13, 2012, the IEP team, including the XXXXX teacher who participated by telephone, determined that "extra tutoring" would be provided to the student by the XXXXX teacher (Docs. i and k).
8. There is no documentation that instructional supports were provided to the student while she participated in the class. Further, there is no documentation that the student accessed the class on a regular basis after December 2012, nor is there documentation that, to date, she completed the course (Docs. j, r, interview with PGCPs staff and review of the educational record).

DISCUSSION/CONCLUSIONS:

The public agency is required to ensure that students are provided with the special education and related services required by the IEP (34 CFR §300.101 and .323). In this case, the complainant asserts that the student was not provided with the supports and accommodations required by the IEP, including the use of VIS-ED cards, in order to successfully complete her XXXXX course.

Based on the Findings of Facts #1, #4, and #5, the MSDE finds that while the student's XXXX teacher suggested the use of the VIS-ED cards to assist her with her vocabulary and grammar skills, the IEP did not require the provision of this study tool. However, based on the Findings of Facts #2, #3, and #8, the MSDE finds that the XXXX class was not made available to the student at the start of the school year, nor is there documentation that the student consistently participated in the class after December 2012. Further, based on the Findings of Facts #1 - #8,

XXX
Mrs. Joan Rothgeb
July 11, 2013
Page 5

the MSDE finds there is no documentation that the student was consistently provided with access to the class or with the instructional accommodations and supports required by the IEP. Therefore, the MSDE finds that violations occurred with respect to this allegation.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the PGCPs to provide documentation by the start of the 2013-2014 school year that the IEP team has convened and determined the nature and amount of compensatory services² necessary to redress the violations identified in this Letter of Findings.

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 IDEA.

Documentation of all corrective actions taken must be submitted to this office no later than the start of the 2013-2014 school year, to the attention of the 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.

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 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 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.

² 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).

XXX

Mrs. Joan Rothgeb

July 11, 2013

Page 6

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 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/km

cc: Duane Arbogast
Gail Viens
LaRhonda Owens
Kerry Morrison
XXXXXXXXX
Dori Wilson
Anita Mandis
Martha J. Arthur
Koliwe Moyo