



October 9, 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: #14-010

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 August 14, 2013, the MSDE received a complaint from Mr. XXXXXXXXXXXXX and Mrs. XXXXXXXXXXXX, hereafter "the complainants," on behalf of their son, the above-referenced student. In that correspondence, the complainants 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 follow proper procedures to ensure the provision of Home and Hospital Teaching (HHT) to the student from May 8, 2013 to May 18, 2013, when he was unable to attend school, due to a physical or emotional condition, in accordance with COMAR 13A.03.05.03 and 13A.05.01.10(C)(5).

INVESTIGATIVE PROCEDURES:

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On August 15, 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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Mrs. Joan Rothgeb

October 9, 2013

Page 2

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

3. On September 4, 2013, Ms. Hartman conducted a telephone interview with the student's mother to clarify the allegation to be investigated.
4. On September 11, 2013, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the PGCPs of the allegation and requested that the PGCPs review the alleged violation.
5. On September 23, 2013, Ms. Hartman and Ms. Anita Mandis, Chief, Complaint Section, Family Support and Dispute Resolution Branch, MSDE, conducted a site visit at the Special Education Central Office to review the student's educational record, and interviewed Ms. Carolyn Ellis-Holloman, Nonpublic Special Education Instructional Specialist, PGCPs, and Ms. Barbara Nelson-Lewter, Home and Hospital Teaching Specialist, PGCPs. Ms. Morrison attended the site visit as a representative of the PGCPs and to provide information on the PGCPs policies and procedures, as needed.
6. On September 27, 2013, the PGCPs provided the MSDE with documentation related to the allegation contained in the complaint, via electronic mail (email).
7. On October 1, 2013, the student's mother provided the MSDE with additional information regarding the allegation contained in the complaint, via email.
8. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Correspondence and attachments from the complainants to the MSDE, received on August 14, 2013;
 - b. Individualized Education Program (IEP), dated January 14, 2013;
 - c. Email correspondence from the complainants to the PGCPs staff, dated May 2, 2013;
 - d. Email correspondences between the complainants and the PGCPs staff, dated May 3, 2013;
 - e. HHT application and physician's verification, dated May 13, 2013;
 - f. Email correspondences among the PGCPs school staff, dated May 20 and 21, 2013; and
 - g. A computer printout of the student's PGCPs enrollment history.

BACKGROUND:

The student is twenty-one (21) years old and was identified as a student with an Emotional Disability under the IDEA prior to his August, 2013 graduation from high school with a Maryland High School Diploma. During the 2012-2013 school year, he attended XXXX XXX, XXX, a nonpublic, separate, special education school located in Montgomery County, where he

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Mrs. Joan Rothgeb

October 9, 2013

Page 3

had been placed by the PGCPS and where he received special education instruction and related services.

The complainants participated in the education decision-making process and were provided with written notice of the procedural safeguards during the 2012-2013 school year (Docs. a, b and g, and interviews with the student's mother and the PGCPS staff).

FINDINGS OF FACTS:

1. On May 2, 2013, the complainants notified the PGCPS staff that the student had been hospitalized at the XXXXXXXXXX in XXXXXXXXXXXXXXXXXXXX, and that they would be making an application for HHT services (Docs. b and c).
2. On May 3, 2013, the PGCPS contacted staff at the XXXXXXXXX and the XXXXXXXXX County Public Schools in XXXXXXXXX to determine whether either had staff whom the school system could use to provide the HHT services to the student while he was in the hospital (Doc. d, interviews with the PGCPS staff, and review of the handwritten notes of telephone contacts made by the Nonpublic Special Education Instructional Specialist, PGCPS).
3. On May 13, 2013, the complainants provided the school staff with verification that the student was hospitalized for an emotional condition and could not attend a school-based program (Doc. e).
4. On May 17, 2013, the PGCPS staff visited XXXXXXXXX in order to obtain instructional materials for use at the hospital. At that time, XXXXXXXXX staff informed the PGCPS staff that the student had visited the school earlier in the day and informed them that he had discharged himself from the hospital (Doc. f).
5. The student resumed his attendance at XXXXXXXXX following his hospitalization, and has subsequently been awarded a Maryland High School Diploma (Docs. f and g, and interviews with the student's mother and the PGCPS staff).

DISCUSSION/CONCLUSIONS:

When a student cannot attend school due to a medical or emotional condition, the public agency responsible for ensuring a Free Appropriate Public Education (FAPE) for the student must determine whether that student requires HHT services. Before the public agency may provide HHT services, it must have verification from a physician, psychiatrist or psychologist of the medical or emotional condition preventing the student from attending school (COMAR 13A.03.05.03 and 13A.03.05.04).

Once it is has been verified that a student requires HHT services, those services must be initiated within ten (10) school days of the date of the verification of need. The public agency may provide these services directly, or they may contract with private providers or other local school systems to deliver the instructional services (COMAR 13A.03.05.03 and 13A.03.05.04).

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XXX

Mrs. Joan Rothgeb

October 9, 2013

Page 4

In this case, the complainants allege that the PGCPS was required to provide HHT services to the student from May 8, 2013 to May 18, 2013, and did not do so because he was hospitalized in Virginia (Doc. a).

Based on the Findings of Facts #1 - #5, the MSDE finds that the PGCPS was not permitted to provide HHT services to the student until receipt of the verification of his inability to attend a school-based program on May 13, 2013. Based on the same Findings of Facts, the MSDE finds that the school system was required to begin providing HHT services within ten (10) school days of that date, but that, prior to that time, the student discharged himself from the hospital and was able to return to school. Therefore, the MSDE does not find that a violation occurred.

Please be advised that both the complainants and the PGCPS 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.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The complainants 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 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 a due process complaint.

Sincerely,

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

MEF/ch

cc: Kevin W. Maxwell
Monique Whittington Davis
Duane Arbogast
Gail Viens
LaRhonda Owens
Kerry Morrison

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Dori Wilson
Anita Mandis
Christine Hartman
Sarah Spross
Cynthia Amirault