



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

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October 10, 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: #14-012

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 February 19, 2013 to March 1, 2013, and from August 19, 2013 to September 5, 2013, when he was unable to attend school due to an emotional condition, in accordance with COMAR 13A.03.05.03 and 13A.05.01.10.

INVESTIGATIVE PROCEDURES:

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.

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Mrs. Joan Rothgeb

October 10, 2013

Page 2

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, 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 9 and 13, 2013, and October 1, 2013, the complainants provided the MSDE with additional information and documentation regarding the allegation contained in the complaint, via electronic mail (email).
5. 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.
6. 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 PGCPs' 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.
7. On September 25, 2013, and October 2, 4, and 7, 2013, the PGCPs provided the MSDE with information and documentation related to 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 February 11, 2013;
 - c. IEP and Prior Written Notice document, dated September 3, 2013;
 - d. A computer printout of the student's PGCPs enrollment history;
 - e. Email correspondences between the complainants and the PGCPs staff, dated between February 17, 2013 and August 20, 2013;
 - f. Student's transcript from XXXXXXXXXXXXXXXX, XXXXXXXXXXXX, dated August 7, 2013;
 - g. Student's attendance record for the month of September 2013;
 - h. Email correspondence from the PGCPs staff to the MSDE staff, dated October 2, 2013; and
 - i. Initial Contact and Referral for HHT and physician's statement regarding the student's need for HHT, dated August 20, 2013.

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Mrs. Joan Rothgeb

October 10, 2013

Page 3

BACKGROUND:

The student is nineteen (19) years old, is identified as a student with an Emotional Disability under the IDEA, and receives special education instruction and related services. At the start of the 2012-2013 school year, he attended XXXXXXXXXXXX, a nonpublic, separate, special education school located in Montgomery County where he was placed by the PGCPs (Docs a-d, and interviews with the student's mother and the PGCPs staff).

In March 2013, the student was admitted to a Residential Treatment Center (RTC) in XXXXX, where he received instruction and earned credits towards his high school diploma (Docs. d-f, and interviews with the student's mother and the PGCPs staff).

On September 3, 2013, upon his return to Maryland, the PGCPs again placed the student at XX XXXXXXXX (Docs. c-e and g).

The complainants participated in the education decision-making process and were provided with written notice of the procedural safeguards during the time period covered by this investigation (Docs. b and c, and interviews with the student's mother and the PGCPs staff).

FINDINGS OF FACTS:

1. On February 17, 2013, the complainants notified the PGCPs staff that the student had been hospitalized at Prince George's Hospital Center, and submitted an application for HHT services. While there is documentation of the application, there is no documentation that verification by a physician, psychologist or psychiatrist of the student's need for HHT services was submitted by the complainants at that time (Docs. e and h, and review of the student's educational record).
2. On February 20, 2013, the complainants notified the PGCPs staff that they were withdrawing their request for HHT services because the student was not expected to remain at the hospital (Docs. e).
3. On March 2, 2013, the student was privately placed at a RTC in XXXXX. As a result of his move to XXXXX XXXX, he was removed from the enrollment of the PGCPs (Docs. d-f).
4. On July 29, 2013, the student returned to Maryland following his discharge from the RTC (Doc. e and interview with the student's mother).
5. On August 19, 2013, the complainants re-enrolled the student in the PGCPs (Doc. d).

On August 20, 2013, the complainants provided the school system staff with a document signed by the student's physician, indicating that the student could not attend school for a one year period due to diagnoses of "Mood Disorder, Bipolar Disorder, [and] Reactive

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Mrs. Joan Rothgeb

October 10, 2013

Page 4

Attachment Disorder” which requires him to “stabilize [his] mood, improve coping skills, and be involved in individual and group therapy daily.” The document reflects that the physician deferred making recommendations regarding the types of activities the student could participate in pending his evaluation by a psychiatrist or psychologist (Doc. i).

6. On September 3, 2013, the IEP team convened. At that meeting, the complainants explained that they were only seeking HHT services for the student until he could return to XXXXXXXXXXXX. In response, the school system staff verified that the student could be placed back at XXXXXXXXXXXX without delay (Doc. c and interviews with the student’s mother and the PGCPs staff).

7. On September 6, 2013, the student returned to XXXXXXXXXXXX (Doc. g).

DISCUSSION/CONCLUSIONS:

The public agency is responsible for making HHT services available to a student who is unable to attend school due to a medical or emotional condition. However, before the public agency is permitted to provide a student with HHT services, it must receive verification that the student cannot attend a school-based program as a result of a medical or emotional condition. The verification of a *medical condition* that prevents the student from attending school must be made by a physician. The verification of an *emotional condition* that prevents the student from attending school must be made by either a psychiatrist or a psychologist (COMAR 13A.03.05.03 and 13A.03.05.04).

HHT may not be used as an instructional setting for a student with a disability waiting for placement in a nonpublic special education school or for a change of placement (COMAR 13A.05.01.10).

In this case, the complainants allege that the PGCPs was required to provide HHT services to the student from February 19, 2013 to March 1, 2013, and from August 19, 2013 to September 5, 2013, but did not do so. The complainants assert that the loss of services was caused by the school system’s practice of withdrawing students from the nonpublic, separate, special education schools they attend during the periods of time that they are not attending those schools.

February 19, 2013 to March 1, 2013

Based on the Finding of Fact #1, the MSDE finds that, while the complainants submitted an application for HHT services, they did not provide the school system with verification of the student’s need for these services. Based on the Finding of Fact #2, the MSDE finds that the complainants withdrew their request for HHT services three (3) days later. As a result, the MSDE finds that the PGCPs was prohibited by State law from providing HHT services to the student from February 19, 2013 to March 1, 2013, and, therefore, does not find a violation occurred with regard to this aspect of the allegation.

August 19, 2013 to September 5, 2013

Based on the Findings of Facts #3 - #7, the MSDE finds that there is no documentation that the school system was provided with verification of the student’s need for HHT due to either a

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Mrs. Joan Rothgeb

October 10, 2013

Page 5

medical condition, verified by a *physician*, or an *emotional condition*, verified by a *psychiatrist* or *psychologist*. As a result, the MSDE finds that the PGCPs was prohibited by State law from providing HHT services to the student from August 19, 2013 to September 5, 2013, and, therefore, does not find a violation occurred with regard to this aspect of the allegation.

Based on the Findings of Facts #1 - #8, the MSDE finds that there is no documentation to support the complainants' allegation that the PGCPs has a practice that delays the provision of HHT services. Therefore, the MSDE does not find a violation occurred with regard to this aspect of the allegation.

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 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 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