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State Superintendent of Schools

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April 16, 2014

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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: #14-068

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.

ALLEGATIONS:

On February 21, 2014, the MSDE received a complaint from Ms. XXXXXXXXXXXX, 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 allegations listed below:

1. The PGCPS has not ensured that all of the needs that arise out of the student’s disability have been identified and addressed through the Individualized Education Program (IEP) since February 21, 2013,¹ in accordance with 34 CFR §§300.320, and .324. Specifically, it is alleged that the student’s needs related to educational, social/emotional/behavioral, and functional life skills have not been identified and addressed.

¹ While the complainant alleged that violations occurred more than one (1) year ago, she was informed, in writing, that the MSDE has authority to investigate allegations of violations that occurred no more than one (1) year from the date the complaint was received (34 CFR §300.153(c)).

XXX

Mrs. Joan Rothgeb

April 16, 2014

Page 2

2. The PGCPS has not ensured that the IEP team has reviewed the results of assessment procedures within the required timelines, since October 14, 2013, in accordance with COMAR 13A.05.01.06E.
3. The PGCPS has not ensured that the student's IEP has been reviewed at least annually,¹ in accordance with 34 CFR §300.324.
4. The PGCPS has not ensured that the student has been provided with the special education services required by the IEP since the start of the 2013-2014 school year, in accordance with 34 CFR §§300.101 and .323. Specifically, it is alleged that the student has not been provided with the job training and independence training required by the IEP, or to participate in non-academic activities, such as field trips, with non-disabled peers, as required by the IEP.

INVESTIGATIVE PROCEDURES:

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On February 24, 2014, 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 February 24, 2014, Ms. Hartman conducted a telephone interview with the complainant to clarify the allegations to be investigated.
4. On February 26, 2014, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified the PGCPS of the allegations and requested that PGCPS review the alleged violations.
5. On March 18, 2014, Ms. Hartman and Ms. Tyra Williams, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXXXXXX (XXXXXX) to review the student's educational record, and interviewed XXXXXXXXXXXX Assistant Principal, XXXXXX, and XXXXXXXXXXXXXXXX, Transition Coordinator, XXXX. 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 March 18, 20, and 31, 2014, and April 8, 2014, the complainant provided the MSDE with information and documentation, via electronic mail (email).

7. On March 21, 2014, and April 10, 2014, the PGCPS provided the MSDE with information and documentation, 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 complainant to the MSDE, received on February 21, 2014;
 - b. IEP, dated January 28, 2013;
 - c. IEP, dated October 14, 2013;
 - d. IEP, dated January 21, 2014;
 - e. Behavioral Intervention Plans, dated March 1, 2010 and October 14, 2013;
 - f. Student's attendance record;
 - g. Report of Educational Assessment, dated February 4, 2014; and
 - h. Notice of IEP Team Meeting, dated April 1, 2014.

BACKGROUND:

The student is eighteen (18) years old and is enrolled at XXXXXXXXXXXXXXXXXXXX XXXX(XXXX). She is identified as a student with an Intellectual Disability under the IDEA, and has an IEP requiring the provision of 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 procedural safeguards (Docs. a-d, and interviews with the PGCPS staff and the complainant).

ALLEGATIONS #1, #2, and #3: IDENTIFYING AND ADDRESSING THE STUDENT'S NEEDS SINCE FEBRUARY 21, 2013; REVIEWING RESULTS OF ASSESSMENTS WITHIN TIMELINES SINCE OCTOBER 14, 2013; AND REVIEWING THE IEP AT LEAST ANNUALLY

FINDINGS OF FACTS:

1. The IEP in effect at the time period covered by this investigation was developed on January 29, 2013. At that time, the student's identified needs included improving reading comprehension, math calculation, written expression, communication, and gross motor skills. She also had identified needs related to remaining on task, completing work, and improving appropriate interaction with peers (Docs. b and e).
2. The January 29, 2013 IEP contained annual goals for the student to improve skills in the identified areas of need. It also required the implementation of a Behavioral Intervention Plan (BIP) to assist the student with improving her social, emotional, and behavioral

XXX

Mrs. Joan Rothgeb

April 16, 2014

Page 4

- skills. However, while the BIP provided strategies to assist the student with remaining on-task and completing work, it did not address her identified need to improve interactions with peers (Docs. b and e).
3. On October 14, 2013, the IEP team convened and revised the IEP with respect to how the student's progress would be measured on her academic, communication, and social, emotional, and behavioral goals, and recommended that a re-evaluation be conducted to include an updated educational assessment. At that meeting, the IEP team also revised the BIP to address the student's interfering behaviors related to peer interactions (Doc. c).
 4. On January 16, 2014, the IEP team convened to review the student's IEP. At that time, the IEP team determined that, because the student had achieved the goal related to increasing her gross motor skills, the goal would be discontinued. The IEP team also added annual goals for the student to improve her social interaction skills and demonstrate responsible behavior (Doc. d).
 5. At the January 16, 2014 IEP team meeting, the team discussed that the student has a problem with "chronic" absenteeism, which had been an issue since the start of the 2013-2014 school year. However, there is no documentation that the IEP team considered strategies to address the student's interfering behaviors related to not attending school on a regular basis (Docs. d and f).
 6. On January 30, 2014, the educational assessment was conducted, and a report of the results of the assessment was issued on February 4, 2014. An IEP team meeting is scheduled to occur on April 23, 2014 to review the report of the assessment (Docs. c, g, and h).
 7. The PGCPS acknowledges that the student's IEP has not identified and addressed her needs since February 21, 2013,¹ and that the re-evaluation being conducted since October 14, 2013 has not been completed within the required timelines (Interviews with the PGCPS staff).

DISCUSSION/CONCLUSIONS:

Allegation #1: Identifying and Addressing the Student's Needs Since February 21, 2013

In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student. In the case of a student whose behavior impedes the student's learning or that of others, the team must consider the use of positive behavioral interventions and supports and other strategies, to address that behavior (34 CFR §300.324).

Based on the Findings of Facts #1 - #7, the MSDE finds that the PGCPS has not ensured that the student's IEP has identified and addressed her needs since February 21, 2013.¹ Therefore, the MSDE finds that a violation has occurred with regard to this allegation.

Allegation #2: Reviewing Results of Assessments within Timelines Since October 14, 2013

When conducting a reevaluation, the public agency must ensure that assessments are conducted, the results are considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety (90) days of the date the team determines that assessments are required (COMAR 13A.05.01.06E).

Based on the Findings of Facts #3, #6, and #7, the MSDE further finds that the PGCPS has not ensured that the report of the completed assessment recommended on October 14, 2013 has been completed within the required timelines. Therefore, the MSDE finds that a violation has occurred with regard to this allegation.

Allegation #3: Reviewing the IEP at Least Annually

The IEP team must review the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved (34 CFR §300.324).

Based on the Findings of Facts #1 and #3 - #5, the MSDE finds that there is documentation that the IEP team reviewed the IEP at least annually. Therefore, while the MSDE has found that the IEP does not address the student's identified needs, the MSDE does not find a violation with regard to reviewing the IEP at least annually.

ALLEGATION #4: PROVISION OF JOB TRAINING AND INDEPENDENCE SKILLS TRAINING, AND PARTICIPATION IN FIELD TRIPS, SINCE THE START OF THE 2013-2014 SCHOOL YEAR

FINDINGS OF FACTS:

8. The student's IEP contains a post-secondary transition goal to obtain employment after exiting high school with a Maryland High School Certificate of Program Completion. The IEP indicates that the student is enrolled in functional and skill development activities, such as activities of daily living, job sampling, and employment training (Docs. b-d).
9. The transition activities required to assist the student in achieving the transition goal include:
 - Employment training (e.g., practicing interview skills, job shadowing and job sampling, and participating in community based working training activities);

XXX

Mrs. Joan Rothgeb

April 16, 2014

Page 6

- Training in activities of daily living (e.g., conducting bank transactions, grocery shopping, mailing correspondence, preparing her own lunch, and using appropriate table manners); and
 - Academic training (e.g., developing a resume, accessing technology, and managing money) (Docs. b-d).
10. The IEP also requires that the student participate with non-disabled peers during lunch, non-academic classes, and extracurricular activities, such as field trips (Docs. b-d).
11. There is no documentation that the student has been provided with the transition service activities required by the IEP since the start of the 2013-2014 school year, or that she has participated with non-disabled peers during lunch, non-academic classes, and extracurricular activities, including field trips (Review of the student's educational record).

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 and .323). Based on the Findings of Facts #8 - #11, the MSDE finds that there is no documentation that the PGCPS has ensured the implementation of the student's IEP regarding the provision of job training, instruction in functional life skills, and participation with non-disabled peers. Therefore, the MSDE finds that a violation has occurred with regard to this allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation, by June 1, 2014, that the IEP team has reviewed and revised the IEP to address the student's identified academic, social, emotional, and behavioral, and functional life skills needs consistent with the evaluation data. The MSDE requires the PGCPS to also provide documentation by June 1, 2014 that either the IEP team has determined the compensatory services or the parties have agreed to another remedy to redress the violations identified through this investigation. The PGCPS must also document the provision of that remedy no later than one (1) year from the date of 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 order to resolve the dispute, in accordance with IDEA.

School-Based

The MSDE requires the PGCPS to provide documentation by the start of the 2014-2015 school year, of the steps it has taken to ensure compliance by XXXXX staff with the IDEA and related State requirements listed below.

1. That the IEP team reviews and revises, as appropriate, students' IEPs to address interfering behaviors, in accordance with 34 CFR §300.324.
2. That the IEP team reviews the reports of assessments within the required timelines, in accordance with COMAR 13A.05.01.06E.
3. That the IEP team ensures that students receive transition services and the opportunity to participate with non-disabled peers, as required by their IEPs, in accordance with 34 CFR §§300.101 and .323.

Documentation of all corrective actions taken is to be submitted to this office to the attention of the Chief of the Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

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

Please be advised that both the complainant 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. 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 (FAPE) for the

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Mrs. Joan Rothgeb

April 16, 2014

Page 8

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

c: Kevin W. Maxwell
XXXXXXXXXX
Shawn Joseph
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