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State Superintendent of Schools

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September 8, 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: #14-102

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 July 10, 2014<sup>1</sup>, the MSDE initiated a State complaint investigation following the receipt of a complaint filed by Mr. XXXXXXXXXX and Mrs. XXXXXXXXXX, hereafter, “the complainants,” on behalf of their daughter. 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 above-referenced student.

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<sup>1</sup> On May 28, 2014 the MSDE received a State complaint; on May 29, 2014, the MSDE received information from the Office of Administrative Hearings (OAH) indicating that the complainants had also filed a due process complaint to address the same issue. Based on this information, the State complaint investigation was placed in abeyance. On July 10, 2014, the MSDE received information from the OAH that the complainants had withdrawn their due process complaint and the MSDE initiated this State complaint investigation.

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Mrs. Joan Rothgeb

September 8, 2014

Page 2

The MSDE investigated the allegation that the PGCPS did not ensure that the student was provided with the supports required by the Individualized Education Program (IEP) during the 2013-2014 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.
2. On May 29, 2014, 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 June 16, 2014, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and indicated that the State complaint investigation would be held in abeyance pending the outcome of the due process complaint.
4. On July 10, 2014, the MSDE received correspondence from the OAH indicating that the due process complaint had been withdrawn.
5. On July 25, 2014, the MSDE sent correspondence to the complainants that indicated a State complaint investigation had been initiated 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 office review the alleged violation.
6. On August 11, 2014, Ms. Moyo and Ms. Janet Jacobs, Monitoring and Accounting Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX to conduct a review of the student's educational record, and interviewed Ms. XXXXXXXXXXXX, Principal and Ms. XXXXXXXX, Teacher. Ms. Morrison was present at the document review as a representative of the PGCPS and to provide information on the PGCPS policies and procedures, as needed. On the same date, the PGCPS provided the MSDE with documentation from the student's educational record.
7. On August 13, 2014, Ms. Moyo conducted a telephone interview with the student's mother.
8. On August 15, 2014, the MSDE received additional documentation from the complainants, via United States Mail.

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XXX

Mrs. Joan Rothgeb

September 8, 2014

Page 3

9. On August 18, 19, 27, and 29, 2014, the MSDE received information and documentation from the complainants via electronic mail (email), for consideration during the investigation.
10. On August 27 and 29, 2014, Mrs. XXXXXX provided Ms. Moyo with additional information, via email, to be considered related to the State complaint investigation.
11. On September 3, 2014, Ms. Moyo conducted another telephone interview with the student's mother.
12. 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 June 16, 2014 and August 15, 2014;
  - b. IEP and prior written notice, dated April 23, 2013;
  - c. IEP and prior written notice, dated March 27, 2014;
  - d. Revised March 27, 2014 IEP team meeting notes, dated April 11, 2014;
  - e. Email correspondence between the complainant and PGCPs staff between March 2014 and June 2014;
  - f. Prior written notice, dated June 5, 2014;
  - g. Reports of student progress toward achieving the annual goals generated during the 2013-2014 school year;
  - h. Student work samples and agenda book for the 2013-2014 school year; and
  - i. Report card for the 2013-2014 school year.

### **BACKGROUND:**

The student is eight (8) years old and attends XXXXXXXXXXXXXXXXXXXX. She is identified as a student with a Specific Learning 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 student's parents participated in the education decision-making process and were provided with written notice of the procedural safeguards (Docs. a – d and f - i).

### **FINDINGS OF FACTS:**

1. The IEP in effect at the start of the 2013-2014 school year required that the student be provided with supports to assist her with improving her focus, remaining on task, organizing her thoughts, and improving her reading comprehension skills. The supports on the IEP included the provision of a visual schedule, card or calendar on her desk or in

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Mrs. Joan Rothgeb

September 8, 2014

Page 4

the classroom to remind her of daily tasks and to assist her with completing those tasks. The IEP also required that the student be closely monitored while completing her work, provided with the use of a calculation device for math, extended time to complete assignments, prompts to begin assignment and tests, repetition of information and directions, checks for understanding, redirection to return to a task, and a supplemental reading intervention program for one (1) hour each week. The IEP indicates that the supports are to be provided by the special and general educator teachers in both the general education and separate special education classrooms (Doc. c).

2. The student's agenda book indicates that each day the teacher sent the book home with the student for the complainants to review. The agenda book was utilized to document the tasks completed by the student during the school day, list homework assignments, and to communicate any concerns that the teacher or the parent had regarding the student (Doc. h and interviews with school staff and the complainants).
3. In October 2013, the complainants expressed concern that the student often had to bring unfinished assignments home to complete because she was not being provided with extra time to complete assignments, as required by the IEP. The teacher acknowledged that occasionally the student did not finish her work or refused to complete her work in class, but indicated that she had been provided with extra time and prompting in class (Doc. h).
4. The reports of the student's progress toward achieving the annual goals, which were completed on November 7, 2013 and February 5, 2014, indicate that the student was making progress on all of her goals with the provision of positive reinforcement, prompts to re-check her work, checks for understanding, and extended time to complete tasks. The progress reports also indicate that the student's attention span began to improve during the first quarter of the 2013-2014 school year and that she increased the amount of time that she could maintain her focus (Doc. g).
5. On March 27, 2014, the IEP team convened to conduct the annual review of the student's IEP. At the meeting, the complainant's expressed concern that the student was losing assignments and other materials between home and school because of her distractibility and disorganization. The complainants also indicated that they believed that the supports in the IEP were not being provided to the student, as required, and that they did not fully address her organizational needs (Docs. c and d).
6. At the meeting, the team also considered the student's progress reports, grades, work samples, informal assessment data, and reports from the teachers. The teachers' reports and performance data gathered since the start of the 2013-2014 school year, indicated that with the provision of reminders, prompts, frequent checks for understanding, and the reading intervention program the student had increased her ability to remain engaged, focused, and attentive in class. The IEP indicates that the use of the supports had assisted

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Mrs. Joan Rothgeb

September 8, 2014

Page 5

the student with completing more assignments, improving “self-management,” producing “better quality work,” and improving her understanding of the content being taught in her classes (Docs. c and d).

7. Based on its review at the March 27, 2014 IEP team meeting, the team revised the IEP to require that the student be provided with additional supports, including daily checks of the student’s book bag by the special education teacher to ensure that she has all the materials required to complete her work at home. The IEP also requires that the teacher check the student’s desk on a weekly basis to ensure that it is organized. The team also agreed that the special and general education teachers would ensure that the student received a peer buddy to assist with organization, “brain breaks” at regular intervals to allow the student to stretch, a binder with color-coded folders, reduced distractions, and positive reinforcement to encourage her progress. The team decided to meet on June 5, 2014 to review the student’s progress with the provision of the additional supports (Docs. c and d).
8. There is no documentation indicating that the IEP required that school staff modify or reduce the student’s class or homework assignments (Docs. b, c, d, and review of the student’s educational record).
9. The reports of the student’s progress towards achieving the annual goals, dated April 11, 2014, indicate that with the use of supports, such as regular breaks and reminders, the student achieved one (1) of the annual goals and made “adequate progress” on all the remaining goals (Doc. g).
10. On May 19, 2014, the student’s mother sent email correspondence to the PGCPS staff indicating that the student’s teacher had not been consistently conducting the required checks of the student’s desk and as a result, the student was not credited with completing several assignments which she had placed in her desk until the student’s mother requested that the teacher check the desk for her missing assignments (Docs. e and h).
11. On June 5, 2014, the IEP team reconvened, as agreed, to review the student’s progress following the inclusion of the additional supports to the student’s IEP. At the meeting, the complainants indicated they did not believe that the additional supports had been consistently provided to the student since the March 27, 2014 IEP team meeting. However, the general and special education teachers disagreed and indicated that the student had made progress and increased benchmark assessment scores because of the supports she was provided with in the general and the separate special education classrooms (Doc. f).

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Mrs. Joan Rothgeb

September 8, 2014

Page 6

12. There is documentation that the classroom teacher utilized the agenda book to communicate with the complainants about the student's homework, and difficulties with organization, maintaining focusing, and remaining on task throughout the 2013-2014 school year (Doc. h).
13. The reports of the student's progress towards achieving the annual goals, dated June 13, 2014, indicate that the with the provision of prompts from the teacher, including regular breaks and reminders to begin her work and remain on task the student made "adequate progress" on all her goals (Doc. h).
14. The IEP, dated March 27, 2014, requires that the special education teacher check the contents of the student's book bag, on a daily basis, and check the contents in her desk, on a weekly basis. However, there is no documentation indicating that this support was provided to the student, as required by the IEP. There is documentation that when the complainants requested that the student's desk be checked the teacher discovered some of the student's missing assignments (Doc. c, h, and review of the student's educational record).

#### **DISCUSSION/CONCLUSIONS:**

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that the student is provided with the special education instruction and supplementary aids and services required by the IEP (34 CFR §§300.101, .323, and.324). In this case, the complainant alleges that the student's teacher did not consistently provide her with the supports required by the IEP, which resulted in the student not being able to her assignments.

Based on the Findings of Facts #1-#13, the MSDE finds that the student was provided with the supports required by the IEP from the start of the 2013-2014 school year until March 27, 2014. However, based on the Findings of Facts #7 and #14, the MSDE finds that following the revision of the student's IEP on March 27, 2014, there is no documentation that the student was consistently provided with the "checks" of her book bag and desk, as required. Therefore, this office finds that a violation has occurred with respect to the allegation since March 27, 2014.

#### **CORRECTIVE ACTIONS/TIMELINES:**

The MSDE requires that the PGCPS immediately ensure that the student is provided with all of the supports, as required by the IEP. The MSDE further requires that the PGCPS convene an IEP team meeting by November 1, 2014 to determine whether there has been any negative impact on the student's ability to benefit from her program as a result of the violation identified in this Letter of Findings.

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Mrs. Joan Rothgeb

September 8, 2014

Page 7

If the team determines that there has been a negative impact, then the team must also determine the amount and nature of services needed to compensate the student for the loss of services resulting from this violation. The PGCPS must provide to the MSDE, by December 1, 2014 documentation that the above actions have been taken and, if it is determined that compensatory services are required, a plan for how and when the services are to be provided within one (1) year of the date of this Letter of Findings.

The PGCPS must provide the student's parents 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 parents disagree with the IEP team's determinations, they maintain the right to request mediation or to file a due process complaint, in accordance with the IDEA.

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 the Family Support and Dispute Resolution Branch, MSDE. This office may be contacted at (410) 767-7770.

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 FAPE for the student, including issues subject to this State complaint investigation, consistent with the IDEA.

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Mrs. Joan Rothgeb

September 8, 2014

Page 8

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/km

c: Kevin W. Maxwell  
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