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State Superintendent of Schools

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May 6, 2015

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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: #15-064

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 April 20, 2015, the MSDE received a complaint from Mr. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, 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 has not ensured that the student has been provided with the speech/language services required by the Individualized Education Program (IEP) since February 2015, in accordance with 34 CFR §§300.101 and .323.

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INVESTIGATIVE PROCEDURES:

1. On April 20, 2015, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, conducted a telephone interview with the complainant to clarify the allegation to be investigated. On the same date, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPS; Dr. LaRhonda Owens, Supervisor of Compliance, PGCPS; Ms. Gail Viens, Deputy General Counsel, PGCPS; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPS.
2. On April 21, 2015, the MSDE sent correspondence to the complainant 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.
3. On April 21, 2015, Ms. Mandis requested documents from the PGCPS. On the same date, the PGCPS provided the MSDE with the requested documents.
4. On April 24, 2015, the PGCPS provided the MSDE with additional documents.
5. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Written summary of a February 10, 2014 IEP team meeting;
 - b. Invitation to an October 27, 2014 IEP team meeting;
 - c. IEP, dated October 27, 2014;
 - d. The speech/language service provider's log for the 2014-2015 school year;
 - e. The electronic mail (email) messages among the school system staff, dated from February 18, 2015 to April 16, 2015;
 - f. Correspondence alleging a violation of the IDEA, received by the MSDE on April 20, 2015; and
 - g. Results of an audit of the provision of speech/language services, conducted on April 21, 2015 by the PGCPS staff.

BACKGROUND:

The student is eight (8) years old, is identified as a student with an Other Health Impairment under the IDEA related to Attention Deficit Hyperactivity Disorder, and has an IEP that requires the provision of special education and related services. He attends XXXXXXXXXXXXXXXX XXXXXXXX (Doc. c).

During the time period covered by this investigation, the complainant participated in the education decision-making process and was provided with notice of the procedural safeguards (Docs. a - c).

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FINDINGS OF FACTS:

1. The IEP identifies a need for the student to increase his speech articulation skills. The documentation reflects that the student has difficulty with recognizing sight words and with writing because of difficulty with sounding out words, which is impacted by his articulation difficulties (Doc. c).
2. The IEP requires that the student be provided with speech/language services as special education instruction in a separate special education classroom. The special education instruction is to assist the student in achieving the annual IEP goals to increase his correct production of blends in words and sentences and improve his speech intelligibility by October 27, 2014. The IEP indicates that the student is to be provided with six (6) thirty (30) minute sessions of speech/language services per month, for a total of three (3) hours of services per month (Doc. c).
3. The speech/language service provider's log and an audit of the speech/language services that have been provided, which was conducted by the PGCPs staff, reflect that, between January 5, 2015 and April 21, 2015, the student has been provided with only two (2) of the twenty-one (21) scheduled speech sessions (Docs. d and g)
4. There are emails among the school system staff that reflect that the speech/language service provider has been unavailable and that a substitute provider has not been obtained. The emails also reflect that the school system staff are preparing to convene IEP team meetings for the students who have been impacted (Doc. e).
5. The last entry made on the speech/language service provider's log, dated January 22, 2015, reflects that the student is not making sufficient progress towards achievement of the annual speech/language IEP goals (Doc. d).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that each student with a disability is provided with the special education services required by the IEP (34 CFR CFR §§300.101 and .323). The public agency is generally responsible for making alternative arrangements to provide the services required by the IEP when other school-related activities make either the student or the service provider unavailable during the time that the service is regularly scheduled. The public agency is not obligated to do so when the student is unavailable for other reasons, such as during student absences from school (*Letter to Balkman*, OSEP, 23 IDELR 646, April 10, 1995).

In this case, the complainant asserts that the student has missed a significant amount of speech/language therapy due to the unavailability of the speech/language therapy provider since February 2015 (Doc. f). Based on the Findings of Facts #1 - #5 above, the MSDE finds that the

student has not been provided with the speech/language services required by the IEP, and that a violation has occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by June 1, 2015 that the student is being provided with speech/language services, as required by the IEP. The MSDE also requires the PGCPS to provide documentation that the IEP team has taken the following actions:

1. Reviewed and revised the IEP, as appropriate, to address the lack of expected progress toward achievement of the speech/language goals;
2. Determined the services required to compensate the student for the loss of services; and
3. Developed a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

Similarly-Situated Students

The MSDE requires the PGCPS to provide documentation by June 1, 2015 that it has identified similarly-situated students and that each student is being provided with the speech/language services required by the student's IEP.

The MSDE further requires the PGCPS to provide documentation by the start of the 2015-2016 school year that it has convened an IEP team for each similarly-situated student and determined the amount of services required to remediate the violation and developed a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties from Dr. Kathy Aux, Dispute Resolution Specialist, MSDE at (410) 767-7770.

Please be advised that 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.

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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 public agencies must implement any Corrective Action consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the findings and conclusions 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 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/am

c: Kevin W. Maxwell
Shawn Joseph
LaRhonda Owens
Kerry Morrison
Gail Viens
XXXXXXXXXXXXX
Dori Wilson
Anita Mandis
Kathy Aux