



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

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June 26, 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: 15-068

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 April 29, 2015, the MSDE received a complaint from Ms. XXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, 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 above-referenced student. The MSDE investigated the following allegations:

1. The PGCPS did not ensure that the Individualized Education Program (IEP) addresses the student’s occupational, assistive technology and speech and language needs since April 29, 2014, in accordance with 34 CFR §§300.101, .320, and .324.
2. The PGCPS did not ensure that the IEP team meeting convened on December 8, 2014 included the required participants, in accordance with 34 CFR §§300.321.

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3. The PGCPS did not ensure that the IEP team considered the results of the independent educational evaluation (IEE) on February 11, 2015, in accordance with 34 CFR §§300.324 and .502.
4. The PGCPS did not ensure that the IEP team's April 14, 2015 decisions regarding the student's need for Extended School Year (ESY) services were based on the data regarding the individual needs of the student, in accordance with 34 CFR §300.320.
5. The PGCPS did not provide the complainant with a quarterly report on the student's progress toward achieving the annual IEP goals following the student's completion of ESY services during the summer of 2014 in a timely manner, in accordance with 34 CFR §300.320.

INVESTIGATIVE PROCEDURES:

1. Ms. K. Sabrina Austin, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On April 30, 2015, 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.
3. On May 4, 2015, Ms. Austin spoke with the complainant by telephone to clarify the allegations to be investigated.
4. On May 8, 2015, 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 the PGCPS office review the alleged violations.
5. On May 11 and 12, 2015 and June 4, 2015, the complainant provided the MSDE with additional documentation for consideration in the investigation.
6. On May 26, 2015, the MSDE requested documentation from the PGCPS.
7. On May 29, 2015, Ms. Austin and Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, conducted a site visit at XXXXXXXXXXXXXXX (XXXXXXX XXX) and interviewed the following staff:
 - a. XXXXXXXXXXXXX, Special Education Teacher, XXXXXXXXXXX;
 - b. Gail Alexanderwicz, Assistive Technology Consultant, PGCPS;
 - c. Brittany Barnes, Speech Pathologist, PGCPS

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- d. XXXXXXXX, Lead Teacher, XXXXXXXX; and
- e. Heather Boley, Occupational Therapist, 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.

- 8. On June 3, 2015, the PGCPs provided additional documentation to the MSDE for consideration.
- 9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Report of the assistive technology assessment, dated February 11, 2014;
 - b. Prior Written Notice, dated February 25, 2014;
 - c. Report of the Brigance assessment, dated February 18, 2014;
 - d. Amended IEP, dated April 29, 2014;
 - e. Staff information booklet prepared for Extended School Year (ESY) 2014;
 - f. Log notes of the speech therapist, dated September 2014 to April 2015;
 - g. Log notes of the occupational therapist, dated September 2014 to April 2015;
 - h. A log of the student's weekly success rate maintained by the classroom teacher, dated the week of September 8, 2014 to the week of May 18, 2015;
 - i. The school staff's log of communications, dated September 4, 2014 to May 5, 2015;
 - j. Electronic mail (Email) message from the school system staff to XXXXXXXX, dated September 19, 2014;
 - k. Prior Written Notice, dated September 24, 2014;
 - l. Visual motor data collection sheets and work samples of the student's performance in writing his name, dated October 2, 2014 to January 8, 2015;
 - m. Amended IEP and Prior Written Notice, dated October 8, 2014;
 - n. Reports of the student's progress towards mastery of the IEP goals, dated October 29 and 31, 2014, January 21 and 26, 2015, and April 1, 2015;
 - o. Report of the private psychological evaluation performed on November 5, 2014;
 - p. Report of the Brigance assessment, dated November 17, 2014;
 - q. Form requesting excusal of the speech-language pathologist as a required IEP team member, dated November 25, 2014;
 - r. Email messages between the complainant and the school staff, dated December 1 and 2, 2014;
 - s. Draft IEP, dated December 3, 2014;
 - t. Report of the student's progress with the provision of ESY services, dated December 8, 2014;
 - u. Notice of the IEP Meeting scheduled for December 8, 2014;
 - v. Audio recording of the IEP team meeting on December 8, 2014;
 - w. Prior Written Notice, dated December 10, 2014;

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- x. Email message among the school system staff, dated December 11, 2014;
- y. Email messages between the school staff and the complainant, dated January 20, 2015;
- z. Report of the Brigance assessment conducted in February 2015;
- aa. Sign-in sheet and IEP, dated February 11, 2015;
- bb. Prior Written Notice, dated February 15, 2015;
- cc. Notice of the IEP team meeting, dated March 27, 2015;
- dd. Amended IEP and Prior Written Notice, dated April 14, 2015;
- ee. Email messages from the school staff to the complainant regarding the ESY progress report, dated April 17, 2015;
- ff. Correspondence and attachments from the complainant to the MSDE, received on April 29, 2015; and
- gg. Emails from the school system staff to the MSDE, dated May 29, 2015 and June 3, 2015.

BACKGROUND:

The student is seventeen (17) years old, is identified as a student with an Intellectual Disability under the IDEA, and has an IEP that requires the provision of special education and related services. At the start of the time period covered by this investigation, the student was attending XXXXXXXXXXXXXXXXXXXX. He has been attending XXXXXXXXXXXXXXX since the start of the 2014-2015 school year, where he participates in a regional program that serves students with the most significant cognitive disabilities. 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. d, m, dd and gg).

ALLEGATIONS #1 and #2: ENSURING THAT THE IEP HAS ADDRESSED THE STUDENT'S NEEDS AND IEP TEAM PARTICIPANTS AT THE DECEMBER 8, 2014 IEP TEAM MEETING

FINDINGS OF FACTS:

1. The IEP in effect at the start of the 2014-2015 school year was developed on April 29, 2014. The IEP reflects that the student has needs in the areas of expressive, receptive and pragmatic language. The IEP states that the student uses phrases of one to two (1-2) words, "yes" or "no" responses, and gestures to express his wants and needs. It also states that the student has difficulty with understanding verbal directives and processing new information. The IEP includes two (2) goals to improve the student's receptive language by following directions, and to increase his expressive language by answering questions, making comments and making requests. The IEP requires that the student receive thirty (30) minutes of direct speech therapy once a week (Doc. d).

2. While the IEP indicates that the student has special communication needs, it states that he does not require a special communication device because he is able to use his “personal voice” to express his needs and wants, and to participate in daily instruction (Doc. d).
3. The IEP also reflects that the student has fine motor needs. It states that the student has difficulty with visual perceptual motor skills and indicates that he requires verbal, gestural and sometimes physical prompts to trace and independently write his name. The IEP includes one (1) goal for the student to write his name with prompts. The IEP also requires that the student receive three (3) thirty (30) minute sessions per month of direct occupational therapy as a related service (Doc. d).
4. At the September 24, 2014 IEP team meeting, the complainant expressed concern about the student’s speech and language, and the need for improvement in his communication ability. However, days prior to the meeting, the complainant had received approval for Independent Educational Evaluations (IEEs) in speech and occupational therapy.¹ As a result, the IEP team decided to reconvene a meeting to consider the complainant’s concerns once she provided the results from the speech and occupational therapy IEEs (Docs k and l, and interview with the school staff).
5. An assistive technology (AT) assessment was available to the IEP team at the time of the September 24, 2014 IEP team meeting. The AT report indicated that the student does not require a voice output device because he uses some words to communicate, and needs to focus on improving his verbal communication. However, the AT report also recommended that the school staff “conduct a trial” of an AT device in order to determine whether it would be helpful. There is documentation that the IEP team previously reviewed the AT report in February 2014, but the IEP team did not document its decisions with respect to the recommendations contained in the AT report. In addition, there is no documentation that the IEP team considered the recommendations in the AT report at the September 24, 2014 IEP team meeting (Docs. a, b and k).
6. The IEP team convened on December 8, 2014 to review and revise the IEP, and to review the results of the complainant’s IEEs and a Brigance assessment² performed by school staff. At the meeting, the complainant reported that she had been unable to obtain the IEEs due to difficulty in scheduling, but anticipated having the reports by the end of the first quarter in 2015³ (Docs. u and v, and interview with the school staff).

¹ There is documentation, dated September 19, 2014 that the PGCPSS agreed to fund independent speech and occupational therapy assessments (Doc. j).

² The Brigance Inventory of Early Development is a tool that is used to identify a student’s strengths and weaknesses in a broad range of skills (<http://www.curriculumassociates.com>).

³ To date, the school staff report that the complainant has not provided the IEEs (Interview with the school staff).

7. Prior to the December 8, 2014 IEP team meeting, the school staff sent the complainant a draft IEP that included new information about the student's present levels of performance in speech and language and fine motor skills, and proposed revisions to the goals in each of these areas. While there is no documentation of the individuals who participated in the IEP team meeting on December 8, 2014, the school staff report that neither the speech/language therapist nor the assistive technology specialist attended the meeting. There is no documentation that the school staff obtained the complainant's written consent to excuse these IEP team members prior to the December 8, 2014 IEP team meeting (Docs. i and t, and interview with the school staff).
8. The audio recording of the December 8, 2014 IEP team meeting documents that the complainant raised ongoing concerns about the student's needs in the area of communication. The complainant requested that the student be provided a voice output device to address the need for him to improve his verbal communication. The audio recording also reflects that the IEP team determined that the participation of the speech/language therapist and the AT specialist was required in order to address the complainant's concerns. The written summary of the meeting reflects that the IEP team agreed to reconvene to consider the complainant's concerns with the participation of the speech/language therapist and the AT specialist (Docs. v and w).
9. The audio recording of the December 8, 2014 IEP team meeting also documents that the school staff attempted to review the results of the Brigance assessment performed by school staff in November 2014. The complainant repeated her request⁴ for the scores and the "raw data" used as the basis for the report, without which she considered the report to be incomplete and inaccurate. The complainant explained that the requested information was necessary in order to compare the results of the new Brigance assessment with the results reported in a prior Brigance assessment report dated February 2014. The audio recording of the meeting documents that the complainant indicated that she did not want the IEP team to review the November 2014 report of the Brigance assessment without this additional information. The IEP team agreed to provide the complainant with the results of the Brigance assessment "fully scored to show grade equivalents" before the next scheduled meeting (Docs. v and w).
10. The IEP team reviewed the student's present levels of performance in the area of fine motor skills, and considered the complainant's concern about the student's progress in handwriting. The IEP team discussed that although the student can write his first name from a model using large capital letters, he has weak visual motor skills and sequencing skills, and often needs verbal and physical prompts. The IEP team discussed that the

⁴ Prior to the meeting, the complainant sent emails to the school staff expressing concern about the completeness of the Brigance assessment report, dated November 17, 2014, which was to be discussed at the December 8, 2014 IEP team meeting. The complainant requested that the school staff provide the results of the assessment in a report that includes the scores or "raw data" indicating the student's grade level equivalent so that she could compare the results with a prior Brigance assessment (Doc. r).

student's progress in this area was inconsistent, and the opinion of the school system staff that he had reached his maximum ability and further improvement was not expected with this skill. The school system staff recommended that the handwriting goal be discontinued and that the student practice his handwriting on a daily basis in the classroom setting, with strategies suggested by the occupational therapist on a consultative basis as a supplementary aid to the IEP. The complainant expressed her disagreement with the recommendations, and requested that the IEP continue to include a goal requiring the student to independently write his first and last name in order to monitor and measure his progress towards mastery (Docs. s and v).

11. On January 20, 2015, the school staff sent the complainant an email stating that the school staff had "decided to redo" the Brigance assessment using the same subtests that were given in the November 2014 Brigance so that the scores could be compared in a meaningful way (Doc. y).
12. The IEP team reconvened on February 11, 2015, with the participation of the speech/language therapist and the AT specialist. The complainant continued to express her concern that the student was not making progress in the area of communication. At the meeting, the school staff considered the report of a private psychological assessment obtained by the complaint. The report documents that the student "is unable to effectively verbalize his thoughts and feelings in response to what is occurring around him," and that his verbal responses are limited to one (1) to four (4) words. The evaluator recommended an updated speech and language evaluation to "determine strategies and assistive technology that can facilitate the development of the student's functional and pragmatic language skills." While there is no documentation of whether the IEP team accepted or rejected this recommendation, the school staff report that the IEP team was waiting for the complainant to obtain the private IEE in speech and language (Docs. o, aa and bb, and interview with the school staff).
13. The IEP team also considered the report of a Brigance assessment conducted in February 2015, which reflects that while the student has limited speech, he is "resourceful" and has no difficulty expressing his wants and needs through a combination of words, gestures, picture communication symbols (PCS), and some basic American Sign Language. The report also states that the student can follow 3 step directions for familiar tasks, one (1) to two (2) step directions for unfamiliar tasks with prompting, and uses more words to communicate than he did at the beginning of the school year. Based on this information, the IEP team discontinued the receptive speech and language goal (Docs. z, aa and bb).
14. The IEP team considered the recommendation in the most recent assistive technology assessment that the student be provided various assistive technology output devices on a trial basis to support his communication needs in the area of expressive language. The IEP team revised the student's IEP to reflect the incorporation of AT in the student's

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program. Specifically, the communication section of the student's IEP was revised to reflect that the student uses "a static display communication device" that the staff report allows the student to press a picture symbol and the device will speak or produce the word that represents the symbol. The IEP team also revised the speech and language goal to require that the student will use communication and topic board AT devices to improve his expressive language. However, the AT section of the IEP continues to state that the student does not require a communication device (Docs. a, aa and bb, and interview with the school staff).

15. The IEP team considered the complainant's concern that the student was not making sufficient progress to achieve the IEP goal to write his name. At the meeting, the IEP team had available for consideration the data reports, works samples, and the notes of the occupational therapist which reflect that the student has not been able to learn to write his name from memory, even after repeated practice using a model. Based on this information, the IEP team recommended that the student focus on pre-vocational skills rather than writing his name. The IEP team revised the student's IEP to discontinue the handwriting goal, and determined that the classroom staff would address the student's handwriting needs. The IEP team also determined that the student's fine motor skills needs could be met indirectly through a monthly consult with the student's teacher, rather than direct occupational therapy services (Docs. g, l, n and bb, and interview with the school staff).

DISCUSSION/CONCLUSIONS:

Allegation #1: Addressing the Student's Needs

The public agency must offer each student with a disability a Free Appropriate Public Education (FAPE) through an IEP that includes special education and related services that address the student's identified needs. 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 (34 CFR §§300.101, .320 and .324).

Fine Motor Needs

In this case, the complainant alleges that the IEP does not address the student's fine motor skills needs because the IEP does not include a goal for handwriting and occupational therapy as a direct related service (Doc. ff and interview with the complainant).

Based on the Findings of Facts #10 and #15, the MSDE finds that the IEP team considered the complainant's concerns about the student's handwriting. Based on the Finding of Fact #15, the MSDE finds that the IEP team determined that the student's fine motor needs in the area of handwriting could be addressed through the consultative support of an occupational therapist

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with the student's classroom staff, and that the IEP team added this support to the student's IEP as a supplementary aid. Based on the same Finding of Fact, the MSDE finds that the IEP team had data to support this decision, and therefore does not find a violation with regard to this aspect of the violation.

Speech/Language and Assistive Technology Needs

In this case, the complainant alleges that the student's speech/language needs have not been addressed because the IEP does not require the use of an AT device to assist him with communication.

Based on the Finding of Fact #5, the MSDE finds that there is no documentation that the IEP team determined whether it would accept or reject the recommendation for the trial use of an AT device that was contained in the AT assessment conducted in February 2014. Therefore, this office finds that a violation occurred from April 29, 2014 until February 11, 2015 with respect to this aspect of the violation.

Based on the Finding of Fact #14, the MSDE finds that while the IEP developed on February 11, 2015 indicates that the student uses a static display AT device and the school staff report that the IEP team decided that this device would be provided, the IEP also states that the student does not require the use of an AT device. Thus, the MSDE finds that the IEP is not written clearly with respect to whether such a device is required to be provided. Therefore, this office finds a violation with respect to this aspect of the allegation.

Allegation #2: IEP Team Meeting Participants

The IEP team must include not less than one (1) regular education teacher of the student, and not less than one (1) special education teacher or provider of the student. The IEP team may also include other individuals who have knowledge or special expertise regarding the student, including related service personnel, as appropriate (34 CFR §300.321).

A required member of the IEP team may be excused from attending an IEP team meeting when the meeting involves a modification to, or discussion of, the member's area of the curriculum or related services if the parent, in writing, and the public agency consent to the excusal. In this case, the excused member must submit, in writing to the parent and the rest of the IEP team, input into the development of the IEP prior to the meeting (34 CFR §300.321).

Participation by a Speech/Language Therapist and AT Specialist

In this case, the complainant alleges that the speech/language therapist and the AT specialist were IEP team members who were required to attend the IEP meeting on December 8, 2014, but that they did not attend the meeting (Doc. ff and interview with the complainant).

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Based on the Finding of Fact #8, the MSDE finds that the IEP team was unable to address the complainant's continuing concerns about the student's communication needs at the December 8, 2014 IEP team meeting because it did not have participation by the speech/language therapist and AT specialist. As a result, there was a delay in addressing the complainant's concerns until February 2015. Therefore, the MSDE finds a violation occurred with respect to this aspect of the violation.

Participation by an Individual who Could Interpret Assessment Results

In this case, the complainant alleges that the IEP team at the December 8, 2014 IEP team meeting did not include an individual who could interpret the results of the Brigance assessment because the IEP team did not have subtest scores that could be compared to a previously administered Brigance assessment (Docs. v and ff, and interview with the complainant).

Based on the Findings of Facts #9 and #11, the MSDE finds that the subtest scores of the Brigance assessment could not be compared to those of the previously administered Brigance assessment because different subtests of the Brigance assessment were administered in each assessment. Based on the Findings of Facts #11 and #13, the MSDE further finds that once the IEP team understood that the complainant wished to compare the subtest scores, the school staff administered the Brigance assessment again using the same subtests used previously so that the results could be compared as requested by the complainant. Therefore, this office does not find a violation occurred with respect to this aspect of the violation.

ALLEGATION # 3 IEP TEAM'S CONSIDERATION OF THE RESULTS OF A PRIVATE PSYCHOLOGICAL EVALUATION

FINDINGS OF FACTS:

16. On February 11, 2015, the IEP team considered the report of a private psychological evaluation obtained by the complainant indicating that the student has Autism. The report included recommendations that the student participate in a highly structured therapeutic social skills group, that updated assessments in speech and language and assistive technology be conducted, and that the student participate in a highly structured therapeutic social skills group. The reports also recommended that updated assessments in speech and language be conducted, and that the student be provided with intensive special education services in a small classroom with a low student-teacher ratio that can address the needs of students with multiple disabilities. It also recommends that the student be provided with transition and life skills training, "warnings" before transitions and changes in routine, and a check off list showing the steps needed to complete activities (Doc. o and bb).
17. The written summary of the meeting states that the IEP team considered the complainant's private assessment and the recommendation that the student be identified

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with the primary disability of Autism. However, the IEP team did not document its consideration of the recommendations for services that are contained in the report (Doc. bb and interview with the school staff).

DISCUSSION/CONCLUSIONS:

If a parent of a student with a disability obtains an Independent Educational Evaluation (IEE) at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of a FAPE to the student (34 CFR § 300.502).

In this case, the complainant alleges that the IEP team did not consider all of the information and recommendations contained in the private psychological evaluation that she obtained (Doc. ff and interview with the complainant).

Based on the Findings of Facts #16 and #17, the MSDE finds that while there is documentation that the IEP team considered the complainant's private psychological evaluation report, the IEP team did not document its consideration of the recommendations in the report other than the disability determination. Therefore, the MSDE finds a violation occurred with regard to this allegation.

ALLEGATION # 4 THE IEP TEAM'S CONSIDERATION OF THE NEED FOR EXTENDED SCHOOL YEAR (ESY) SERVICES FOR THE SUMMER OF 2015

FINDINGS OF FACTS:

18. At the IEP meeting on February 11, 2015, the IEP team considered all of the factors that must be considered when determining a student's need for ESY. The IEP team determined that the student is capable of regaining academic skills lost during breaks, and that he does not exhibit severe regression of previously learned skills. The IEP team determined that the student does not require ESY services. The complainant disagreed with the decision (Docs. aa and bb).
19. On March 31, 2015, the school staff sent the complainant an invitation notice, via email, for an IEP meeting scheduled on April 14, 2015. The notice reflects that the purpose of the meeting was to again consider ESY services (Docs. i and cc).
20. On April 14, 2015, the IEP team documented its consideration of all of the factors that must be considered when determining a student's eligibility for ESY service and that it

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determined at that time that the student requires ESY services for summer 2015.⁵ The IEP team documented that the student had difficulty maintaining and recouping learned skills following inconsistent school schedules due to numerous weather delays and closures that had occurred since the IEP team's February 11, 2015 decision (Doc. dd).

DISCUSSION/CONCLUSIONS:

ESY services are the extension of specific special education and related services which are provided to a student beyond the normal school year (COMAR 13A.05.01.03). If these services are necessary in order to ensure FAPE, the public agency must ensure that ESY services are provided (34 CFR §300.106).

In this case, the complainant alleges that the IEP team based its ESY decisions on the availability of ESY services at the student's school and not on the student's needs.

Based on the Findings of Facts #18 - #20 the MSDE finds that the IEP team considered the student's individual needs when determining the student's need for ESY services for the summer of 2015. Therefore this office does not find that a violation occurred with respect to this allegation.

ALLEGATION # 5 ESY PROGRESS REPORTS FOR THE SUMMER OF 2014

FINDINGS OF FACTS:

21. The PGCPS prepared a booklet that outlined the requirements of school staff for ESY 2014. The booklet includes a "close-out checklist" that reflects that instructional and support staff are required to complete ESY progress reports for each student, and that the ESY site coordinators are required to collect ESY progress reports for every student. The booklet also reflects that "ESY progress reports must be completed and included in the materials" returned to a student's home or referring school. The school system staff report that ESY progress reports are required to be provided to parents, and that the ESY school staff are required to prepare, and send, ESY progress reports to parents (Doc. e and interview with the school system staff).
22. The IEP requires that reports of the student's progress toward mastery of the IEP goals be provided to the complainant on a quarterly basis (Docs. d, m, and aa).
23. At the September 24, 2014, and the December 8, 2014 IEP team meetings, the complainant reported to the school staff that she had not received the report of the student's progress from his participation in ESY during the summer of 2014. The written

⁵ The school staff report that the student's school is not a location at which ESY services will be provided in summer 2015 (Interview with the school staff).

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summary of each meeting documents that the report would be provided to the complainant (Docs. k, v and w).

24. On December 11, 2014, the school system staff provided the school staff with the 2014 ESY progress report, dated December 8, 2014. However, the school staff did not provide the report to the complainant until April 17, 2015 (Docs. t, x and ee).

DISCUSSION/CONCLUSIONS:

The IEP must include a description of how the student's progress toward achieving the annual goals will be measured and when reports will be made of the student's progress to the parents (34 CFR §300.320). The public agency must provide all services as described in the IEP (34 CFR §§300.101 and .323).

Based on the Findings of Facts #21 - #24, the MSDE finds that the school staff did not follow proper procedures to provide the 2014 ESY Progress Report to the complainant in accordance with the IEP, and therefore finds a violation occurred with respect to this violation. However, based on the Finding of Fact #24, the MSDE finds that the school staff subsequently provided the report to the complainant, and therefore does not require any corrective action for this violation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by the start of the 2015-2016 school year, that an IEP team has convened and taken the following actions:

1. Determine whether to accept or reject each recommendation contained in the report of the private psychological evaluation conducted on November 5, 2014, and revised the IEP, as appropriate.
2. Review and revise the IEP to ensure that it is written clearly with respect to the student's need for the use of an AT device and determine whether the violation had a negative impact on the student's ability to benefit from the education program since February 11, 2015.
3. Determine the compensatory services needed to remediate the delay, from April 29, 2014 until February 11, 2015, in considering the recommendations for the trial use of an AT device contained in the February 2014 AT assessment.
4. If the IEP is revised as a result of the consideration of each of the recommendations contained in the report of the private psychological evaluation conducted on November 5, 2014, determine the compensatory services needed to remediate the delay in considering the recommendations.

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5. If the IEP team determines that there was a negative impact as a result of the violation related to the IEP not clearly stating that the student requires the use of an AT device, determine the compensatory services needed to remediate the violation.
6. Develop a plan for the provision of compensatory services to the student within one (1) year of the date of this Letter of Findings

School-Based

The MSDE requires the PGCPS to provide documentation by the start of the 2015-2016 school year that steps have been taken to determine whether the violations identified through this investigation are unique to this case or whether they constitute a pattern of violations at XXXXXXXXXXXXXXXX and XXXXXXXXXXXXXXXX. Specifically, a review of student records, data, or other relevant information must be conducted in order to determine if the regulatory requirements are being implemented and documentation of the results of this review must be provided to the MSDE. If compliance with the requirements is reported, the MSDE staff will verify compliance with the determinations found in the initial report.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties from Dr. Kathy Aux, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE. Dr. Aux can be reached at (410) 767-0255.

Please be advised that complainant and the school system 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 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 a State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or due process.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Special Education/Early Intervention Services

MEF:ksa

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