



August 21, 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: #15-093

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 June 22, 2015, the MSDE received a complaint from Ms. XXXXXXXXX, 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 following allegations:

1. The PGCPS did not ensure that the student was provided special education instruction in reading and language arts required by the Individual Education Program (IEP) during the 2014-2015 school year, in accordance with 34 CFR §§300.101 and .323;
2. The PGCPS did not ensure that reports of the student’s progress toward achieving the annual IEP goals were provided to the complainant during the 2014-2015 school year, in accordance with 34 CFR §§300.101, .320 and .323; and

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3. The PGCPs did not ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §§300.324.

INVESTIGATIVE PROCEDURES:

1. On June 24, 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.
2. On July 7, and 8, 2015, Ms. Sharon Floyd, Education Program Specialist, Complaint Investigation Section, MSDE, conducted telephone interviews with the complainant and clarified the allegations for investigation.
3. On July 16, 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 review the alleged violations.
4. On July 27, 2015 and August 4, 2015, the PGCPs provided the MSDE with documentation to consider.
5. On August 5, 2015, the MSDE requested additional documents from the PGCPs.
6. On July 29, 2015 and August 4, 8, 11, 12, 13, 17, and 18, 2015, the PGCPs provided additional documents to the MSDE for consideration.
7. On August 5, 2015, Ms. Floyd and Ms. Janet Jacobs, Monitoring and Accountability Specialist, MSDE, conducted a site visit at XXXXXXXXXXXX Elementary School (XXXXXXXXXXXX ES) to review the student's educational record, and interviewed Ms. XXXXXXXXX, Comprehensive Special Education Program Coordinator, XXXXXXXXXXXX ES. Ms. Morrison attended the site visit as a representative of the PGCPs and to provide information on the school system's policies and procedures, as needed.
8. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. The student's report card for the 2014-2015 school year;
 - b. The student's attendance for the 2014-2015 school year;
 - c. IEP, dated April 7, 2014;

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- d. IEP, dated May 12, 2015;
- e. IEP, dated May 12, 2015 and amended June 8, 2015;
- f. Invitation to the April 7, 2014 IEP team meeting, written summary of the meeting, and the team signature page;
- g. Invitation to the May 12, 2015 IEP team meeting, written summary of the meeting, and the team signature page;
- h. Invitation to the June 8, 2015 IEP team meeting, written summary of the meeting, and the team signature page;
- i. IEP progress reports, dated April 7, 2014, November 3, 2014, January 26, 2015, March 30, 2015, May 12, 2015, and July 30, 2015 for Extended School Year (ESY) Services;
- j. Electronic mail (email) correspondence from the school system staff to the MSDE;
- k. Email correspondence from the complainant to the MSDE;
- l. The student's work samples for the 2014-2015 school year;
- m. Report of the student's IEP annual review status for the 2014-2015 school year;
- n. Schedule of the first grade class for the 2014-2015 school year;
- o. Log of parent contact, dated August 4, 2015;
- p. Report of a psychological assessment, XXXXXXXXXXXXXXXXXXXX, dated May 20, 2015;
- q. Correspondence from the first grade teacher to the special education school staff, dated April 29, 2015;
- r. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on June 22, 2015; and
- s. Email correspondence from the school staff to the complainant, dated August 18, 2015.

BACKGROUND:

The student is seven (7) years old and attends XXXXXXXXXXXX ES. He is identified as a student with an Other Health Impairment (OHI) related to a diagnosis of Attention Deficit/Hyperactivity Disorder (ADHD) under the IDEA, and has an IEP that requires the provision of special education and related services (Doc. e).

There is documentation that, 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. c, d, and e).

ALLEGATION #1 PROVISION OF SPECIAL EDUCATION INSTRUCTION IN READING AND WRITTEN LANGUAGE IN THE PLACEMENT REQUIRED BY THE IEP

FINDINGS OF FACTS:

1. The IEP requires that the student be provided with special education instruction in reading and written language in a separate special education classroom (Docs. d and e).
2. There is no documentation that the student received special education instruction in a separate special education classroom (Interview with school staff).

DISCUSSION/CONCLUSION:

The public agency is required to ensure that the student is provided with the special education and related services in the educational placement required by the IEP (34 CFR §300.101). Based on the Findings of Facts #1 and #2, the MSDE finds that a violation occurred with respect to this allegation.

ALLEGATION #2 PROVISION OF QUARTERLY IEP PROGRESS REPORTS

FINDINGS OF FACTS:

3. The IEP requires that reports of the student's progress towards achievement of the annual IEP goals be provided to parents on a quarterly basis (Doc. e).
4. There is documentation that the school staff developed four (4) reports of the student's progress, completed on November 3, 2014, January 26, 2015, March 30, 2015, and June 19, 2015, towards achievement of the IEP goals, but no documentation that they were provided to the complainant at the time that each report was developed (Doc. i).
5. On August 18, 2015, after receiving the State complaint alleging that progress reports were not provided, the school staff sent the complainant all four (4) progress reports electronically (Doc. s).

DISCUSSION/CONCLUSION:

The public agency must ensure that the IEP is implemented as written (34 CFR §§300.101, .103, and .323). Based on the Findings of Facts #3 and #4, the MSDE finds that there is no documentation that the complainant received the quarterly progress reports until August 18, 2015, therefore a violation occurred with respect to this allegation.

Notwithstanding the violation, based on the Finding of Fact #5, the MSDE finds that the complainant has been provided with the progress reports, and therefore, no student-based corrective action is required.

ALLEGATION #3 PROVISION OF THE ANNUAL IEP REVIEW

FINDINGS OF FACTS:

6. On April 7, 2014, an annual review of the student's IEP occurred (Doc. m).
7. On May 12, 2015, the IEP team conducted the next annual IEP review for the student (Doc. d).
8. During the IEP team meeting conducted on May 12, 2015, the student's IEP was revised to add a written language goal (Doc. d).

DISCUSSION/CONCLUSION August 20, 2015:

The public agency must ensure that the IEP is reviewed at least annually in order to determine whether the student is making sufficient progress towards achievement of the annual IEP goals (34 CFR §300.324). Based on the Findings of Facts #6-#8, the MSDE finds that the IEP was not reviewed at least annually. Therefore, this office finds that a violation occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPs to provide documentation by November 1, 2015, that the IEP team has taken the following actions:

- a. Determined the student's present levels of functioning and performance;
- b. Determined the levels of functioning and performance that were expected to have been demonstrated by the end of the 2014-2015 school year;
- c. Determined the services needed to redress the violations related to the provision of services required by the IEP and the delay in reviewing and revising the IEP; and
- d. Developed a plan for the implementation of the services within one (1) year of the date of this Letter of Findings.

The PGCPs must ensure that the complainant is provided with written notice of the IEP team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the IEP team's decisions.

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School-Based

The MSDE requires the PGCPS to provide documentation by January 1, 2016 of the steps it has taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern of noncompliance at XXXXXXXXXXXX ES. 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, Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE 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.

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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/sf

c: Kevin W. Maxwell
Shawn Joseph
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