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October 29, 2015

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Mrs. Joan Rothgeb  
Director of Special Education  
Prince George's County Public Schools  
1400 Nalley Terrace  
Landover, Maryland 20785

RE: XXXXX  
Reference: #16-022

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention Services (MSDE), 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 September 16, 2015, the MSDE received a complaint from Ms. XXXXXXXXXXXXX, hereafter, "the complainant," on behalf of the above-referenced student and his mother, Ms. XXXXXXXX. 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's Individualized Education Program (IEP) has been implemented since the start of the 2015-2016 school year. Specifically, the complainant alleged that the student has not been provided with the additional adult support, adaptive physical education, occupational therapy, and speech therapy, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

**INVESTIGATIVE PROCEDURES:**

1. On September 16, 2015, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPS.

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2. On September 17, 2015, Mr. Albert Chichester, Complaint Investigator, MSDE, conducted a telephone interview with the complainant and the student's mother to discuss the allegation.
3. On September 17, 2015, the complainant and the mother provided the MSDE with documentation to be considered.
4. On September 22, 2015, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. The MSDE also notified Mrs. Rothgeb of the allegation to be investigated and requested that her office review the alleged violation.
5. On October 14, 2015, Mr. Chichester and Ms. Anita Mandis, Compliant Investigation Section Chief, MSDE, conducted a site visit to the XXXXXXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed the following school staff:
  - a. Ms. XXXXXXXXXXXX, Principal;
  - b. Ms. XXXXXXXXXXXX, Occupational Therapist;
  - c. Ms. XXXXXXXX, Speech and Language Pathologist;
  - d. Ms. XXXXXXXX, Case Manager;
  - e. Ms. XXXXXXXXXXXX, Classroom Assistant;
  - f. Ms. XXXXXXXX, Special Education Chairperson;
  - g. Ms. XXXXXXXXXXXX, Secretary and Registrar; and
  - h. Mr. XXXXXXXXXXXX, Adaptive Physical Education Teacher.

Ms. Kerry Morrison, Special Education Instruction Specialist, PGCPs, attended the site visit as a representative of the PGCPs and to provide information on the school system's policies and procedures, as needed.

6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
  - a. IEP dated March 26, 2015;
  - b. IEP dated September 8, 2015 and October 1, 2015;
  - c. IEP goals for amendment discussion, dated October 1, 2015;
  - d. Notice of Consent for Assessments, dated September 8, 2015;
  - e. Prior Written Notice, dated September 8, 2015 and October 1, 2015;
  - f. Related Service Log Notes from the Occupational Therapist, dated between September 26, 2015 and October 13, 2015;
  - g. Related Service Log Notes from the Speech and Language Therapist, dated between September 27, 2015 and October 5, 2015;
  - h. Electronic mail (email) messages among the student's mother and the school staff, dated between August 18, 2015 and September 20, 2015;
  - i. XXXXXXXXXXXXXXXXXXXXXXXX Visitation Sign-In Sheet for August 2015;
  - j. Daily reports from the Special Education Assistant to the mother, dated between August 25, 2015 and September 30, 2015;

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- k. Service log entries from the Special Education Assistant, dated between September 1, 2015 and September 30, 2015;
- l. Request for Release of Student Records, dated August 13, 2015 and September 2, 2015;
- m. Adapted Physical Education Record Observation sheets, dated September 18, 30, 2015 and October 7, 2015; and
- n. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on September 16, 2015.

### **BACKGROUND:**

The student is seven (7) years old and is identified as a student with Autism under the IDEA. He has an IEP that requires the provision of special education instruction and related services.

At the beginning of the 2015-2016 school year, the student transferred from the Howard County Public School System (HCPS) to the PGCPS and attends XXXXXXXXXXXX (Docs. a)

### **FINDINGS OF FACTS:**

1. On August 13, 2015, the student's mother provided the XXXXXXXXXXXX with a copy of the student's IEP from the HCPS and requested to schedule an IEP meeting to discuss the services required in the student's IEP. On the same day, the XXXXXXXX registrar requested the student's educational record from the HCPS (Doc. i, l, and interview with parent and school staff).
2. On September 8, 2015, the IEP team convened and considered the HCPS IEP and a proposed PGCPS IEP. The meeting notes reflect that the team decided that the HCPS IEP required clarification regarding the goals being addressed by the related service providers and the special education teachers. The team also considered assessments from the student's previous placement and determined, with the mother's consent, that the student needed to be re-evaluated prior to the annual IEP date of March 26, 2016. In addition, the team revised the IEP to align comparable services providing the continued additional adult support, as required by the HCPS IEP. The notes also reflect that the student's mother expressed disagreement with revisions made to the IEP (Doc. a, b, d, e, h, and n).
3. On October 1, 2015, the IEP team reconvened and considered the mother's ongoing concerns about revisions made to the IEP. The meeting notes reflect that the team explained that changes were made in how the services were to be provided but did not result in a decrease in the service hours to be provided. At the meeting, the team made additional revisions to the IEP to further clarify how services are to be provided (Doc. b, c, and e).
4. The daily reports to the parent reflect conversations with the classroom assistant concerning the student's daily activities in the areas required by the IEP. The daily reports were implemented at the request of the student's mother (Doc. j and n).

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5. The service logs kept by the classroom assistant reflect that the classroom assistant provided support to the student during curriculum instruction and in several locations throughout the school day, as required by the IEP (Doc. k and n).
6. The IEP dated March 26, 2015, states that the student will receive physical education in the general education setting provided by a physical education teacher, a special education teacher, or an instructional assistant (Doc. a).
7. The service logs kept by the adaptive physical education teacher reflect that he assessed the student's physical abilities to determine the need for adaptive physical education, including the delivery of services in individual pull out sessions (Docs. m and n).
8. The service logs kept by the occupational therapist document the provision of services provided to the student in the area of occupational therapy during those dates (Docs. f and n).
9. The service logs kept by the speech and language therapist document that during the week of August 31, 2015, the speech and language therapist provided services for two (2) sessions and that the student was absent for the third (3) session of the week. The logs indicate that all other sessions have been provided (Docs. f and n).

### **DISCUSSION/CONCLUSIONS:**

There are requirements for when a student with a disability who has an IEP, transfers to a new public agency in the same State, and enrolls in a new school within the same school year. The new public agency, in consultation with the parents, must provide a Free Appropriate Public Education (FAPE) to the student, including services comparable to those described in the student's IEP from the previous public agency. This must continue until the new public agency adopts the student's IEP from the previous public agency or develops, adopts, and implements a new IEP (34 CFR §§300.320 - .324).

The public agency is also required to ensure that the student is provided with the special education and related services required by the IEP (34 CFR §§300.101).

### **Additional Adult Support**

The complainant alleges that the school staff did not provide the student with the additional adult support in the areas required by the IEP. The complainant asserts that the mother has spent a significant number of hours in the classroom to assist the student in accessing the curriculum because the appropriate adult support has not been provided by the PGCPS.

Based on the Findings of Facts #1 - #5, the MSDE finds that the IEP requires additional adult support, and that the documentation does not support the allegation that the student was not provided with additional adult support. Therefore, the MSDE does not find that a violation has occurred with respect to this aspect of the allegation.

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### **Adaptive Physical Education**

Based on the Findings of Facts #1 - #3, #6 and #7, the MSDE finds that the IEP does not require the student to have adaptive physical education, and that the documentation does not support the allegation that the student was not provided with physical education. Therefore, the MSDE does not find that a violation has occurred with respect to this aspect of the allegation.

### **Occupational Therapy**

The complainant alleges that the occupational therapist did not provide the student with the appropriate time allotments for therapy, as required by the IEP. The complainant asserts that the IEP team revised the services in order to accommodate staff availability.

Based on the Findings of Facts #1 - #3, and # 8, the MSDE finds that after the IEP was revised on September 8, 2015, the provision of occupational therapy services was provided, as required by the IEP, and that the IEP was not revised in order to accommodate staff availability. However, based on the Finding of Fact #8, the MSDE finds that the documentation does not support the provision of occupational therapy services during the week of August 31, 2015. Therefore, the MSDE finds that a violation has occurred with respect to this aspect of the allegation.

### **Speech and Language Therapy**

The complainant alleges that the speech and language therapist did not provide the student with the appropriate time allotments for therapy, as required by the IEP. The complainant asserts that the IEP team revised the services in order to accommodate staff availability.

Based on Findings of Facts #1 - #3, and #9, the MSDE finds that the provision of speech and language services was provided, as required by the IEP. The MSDE also finds that the documentation does not support the allegation that the student did not receive the required provision of speech and language services and that the IEP was not revised in order to accommodate staff availability. Therefore, the MSDE does not find that a violation has occurred with respect to this aspect of the allegation.

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

#### **Student-Specific**

The MSDE requires the PGCPS to provide documentation by January 1, 2016, that the student has been provided occupational therapy sessions to compensate for the loss of this related service during the week of August 31, 2015.

The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the remedy offered.

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**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 within the timelines 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 parties 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.

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:ac

c: Kevin Maxwell  
XXXXXXXXXX  
Anita Mandis

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