



December 31, 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: #16-047

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 November 16, 2015, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, "the complainant," on behalf of her son. 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 allegation that the PGCPS did not ensure that the student has been provided with the reading and math intervention services required by the Individualized Education Program (IEP) since the start of the 2015-2016 school year, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. On November 17, 2015, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPS.
2. On November 30, 2015, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this

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investigation. The MSDE also notified Mrs. Rothgeb of the allegation to be investigated and requested that her office review the alleged violation.

3. On December 1, 2015, Mr. Albert Chichester, Complaint Investigator, MSDE, conducted a telephone interview with the complainant to discuss the allegation.
4. On December 5, 2015, the complainant provided the MSDE with documentation to be considered.
5. On December 21, 2015, Mr. Chichester and Ms. Anita Mandis, Complaint Investigation Section Chief, MSDE, conducted a site visit to the XXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed the following school staff:
 - a. Ms. XXXXXXXXXXXX, Principal;
 - b. Ms. XXXXXXXXXXXX, Special Educator; and
 - c. Ms. XXXXXXXXXXXX; Special Education Chairperson.

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 April 15, 2015;
 - b. IEP, dated November 17, 2015;
 - c. Prior written notice, dated April 15, 2015 and November 19, 2015;
 - d. Electronic mail (email), dated November 11, 2015 and November 21, 2015, among the complainant and the school staff;
 - e. Reading log kept by the school staff, dated between October 12, 2015 and November 18, 2015; and
 - f. Correspondence containing an allegation of a violation of the IDEA, received by the MSDE on November 16, 2015.

BACKGROUND:

The student is twelve (12) years old and is identified as a student with a Specific Learning Disability under the IDEA. He attends the XXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

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FINDINGS OF FACTS:

1. The IEP, in effect at the start of the 2015-2016 school year, documents in the “Present Levels of Performance” section, that the student is receiving intervention in reading and math. However, the interventions are not required as an IEP service¹ (Docs. a, e, and f).
2. On November 17, 2015, the IEP was revised. The IEP requires the student to be provided with special education instruction in all core content area classes in the general education classroom primarily by a general education teacher. In addition, the IEP requires that the student be provided with reading intervention by a special education teacher. However, the revised IEP does not require the provision of math intervention (Docs. b and f).
3. The IEP requires the provision of reading intervention every other day in the morning prior to the start of the school day. The school staff report that this time was identified for the provision of the intervention because the complainant would not agree to the reading intervention being provided in place of any of the student’s scheduled classes. While the complainant reports that she informed the team at the meeting that she was unable to provide transportation to school prior to the start of the school day, this is not reflected in the written documentation of the meeting and the IEP does not require transportation as a related service (Docs. b – d, f, and interviews with the school staff and the complainant).
4. There is documentation that, from October 12, 2015 to November 18, 2015, the student participated in a reading intervention program. The school staff report that the student and other students participated in the program during the last twenty (20) minutes of the regularly scheduled reading class in which the students were provided with special education instruction in reading¹ (Doc. e and interview with the school staff).

DISCUSSION/CONCLUSIONS:

Using a tiered instructional approach to support student achievement, also known as response to scientific, research-based intervention, is one way to work towards continuous improvement for all students. The MSDE has issued guidance that indicates that a response to intervention process serves as an instructional framework that guides instruction for all students in general and special education through the use of supports and scientific, research-based interventions. It allows instructors to identify specific learner needs, provide appropriate instruction aligned with identified needs, and closely monitor student progress to determine the need for any instructional adjustments. This framework was designed to improve the quality of instruction and interventions for all learners, especially those who struggle meeting the same standards as their peers (*A Tiered Instructional Approach to Support Achievement for All Students – Maryland’s Response to Intervention Framework*, MSDE, June 2008).

¹ While it was not identified as specialized instruction in the IEP, there is documentation reflecting that *Corrective Reading*, a school-based intervention program, was being utilized. This program can be provided to students as a general education or special education service, and is intended to be taught in forty-five (45) minute lessons four (4) to five (5) times each week (<http://ies.ed.gov>).

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Success in achieving high quality instructional experiences with better outcomes for students depends upon the implementation of an intervention with fidelity, which is the consistent delivery of research-based/evidence-based instruction and interventions in the way in which it was designed to be delivered, and at the needed level of intensity to address the student's individual difficulties (*A Tiered Instructional Approach to Support Achievement for All Students – Maryland's Response to Intervention Framework*, MSDE, June 2008).

Based on the Findings of Facts #2 and #3, the MSDE finds that the IEP has required the provision of reading intervention since November 17, 2015, and that there is no documentation that the intervention has been provided consistent with the IEP.

Based on the Findings of Facts #1 and #4, the MSDE finds that, while there is documentation that the student was provided with reading intervention prior to the IEP requiring intervention, there is no information or documentation that the intervention was provided consistent with the instructions for implementing the intervention. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPs to provide documentation by February 1, 2016, that the IEP team has reviewed and revised the IEP to ensure that it accurately reflects how and when the intervention will be provided to the student, and to ensure that a sufficient amount of time is allotted for the provision of the intervention consistent with the directions that accompany the intervention being utilized.

The IEP team must also determine the amount and nature of compensatory services or other remedy to redress the violation of not ensuring that the student has been provided with the reading intervention services required by the IEP, and develop a plan for the provision of those services within three (3) months of the date of this Letter of Findings.

Similarly-Situated Students

The MSDE requires the PGCPs to provide documentation by April 1, 2016 that it has identified similarly-situated students at the XXXXXXXXXXXXXXXXXXXX and provide documentation that a sufficient amount of time is dedicated to the provision of the intervention consistent with the developer of the intervention.

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.

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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, 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 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:ac

c: Kevin Maxwell
LaRhonda Owens
Kerry Morrison
XXXXXXXXX
Dori Wilson
Anita Mandis
Albert Chichester
Nancy Birenbaum