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Interim State Superintendent of Schools

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January 12, 2016

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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: #16-050

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 November 18, 2015, the MSDE received a complaint from Mr. XXXXXXXX, hereafter, "the complainant," on behalf of his 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 did not ensure that the complainant was afforded an opportunity to participate in the November 13, 2015 Individualized Education Program (IEP) team meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D.

INVESTIGATIVE PROCEDURES:

1. On November 30, 2015, the MSDE provided a copy of the State complaint, by 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.

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2. On November 30, 2015, Ms. K. Sabrina Austin, Education Program Specialist, MSDE, was unsuccessful in her attempt to contact the complainant by telephone to discuss the allegation to be investigated. On the same date, the MSDE sent correspondence to the complainant that identified the allegation subject to this investigation, and the MSDE notified the PGCPS of the allegation and requested that the PGCPS review the alleged violation.
3. On December 8 and 9, 2015, the PGCPS provided information to the MSDE for consideration.
4. On January 4 and 6, 2016, Ms. Austin discussed the allegation with the complainant. On January 6, 2016, the complainant provided the MSDE with documentation for consideration.
5. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Prior Written Notice, dated September 20, 2015;
 - b. The school staff's log of contacts with the complainant from September 2015 to November 2015;
 - c. Notice of an IEP team meeting scheduled for November 13, 2015;
 - d. Prior Written Notice, dated November 13, 2015;
 - e. IEP, dated November 13, 2015;
 - f. Electronic mail (email) correspondence between the school system staff and the complainant, dated September 2015 to December 2015; and
 - g. Correspondence from the complainant containing an allegation of a violation of the IDEA, received by the MSDE on November 18, 2015.

BACKGROUND:

The student is seven (7) years old, and attends XXXXXXXXXXXXXXXXXXXXXXXXXXXX. He is identified as a student with a Developmental Delay under the IDEA, and has an IEP that requires the provision of special education and related services (Doc. e).

FINDINGS OF FACTS:

1. There is documentation that the school staff and the complainant attempted to determine a mutually convenient date to convene an IEP meeting in November 2015. While the documentation indicates that the parties considered several possible dates for scheduling the meeting, the documentation also reflects that the parties did not reach an agreement on a mutually convenient date (Docs. b and d - f).

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2. There is documentation that the school staff sent the complainant written notice of an IEP team meeting scheduled for November 13, 2015. On November 12, 2015, the complainant sent an email to the school staff stating that he needed to reschedule the November 13, 2015 IEP team meeting (Docs. b, c and f).
3. There is no documentation that the school staff offered the complainant an alternative means of participating in the November 13, 2015 IEP team meeting (Docs. b - f).
4. The school staff convened an IEP team meeting on November 13, 2015 without the participation of the complainant. The school staff members of the IEP team reviewed the results of recent assessments and conducted the annual review of the student's IEP at this meeting (Docs. d and e).
5. On December 3, 2015, the school system staff sent an email to the complainant offering to "reschedule" the November 13, 2015 IEP team meeting that was convened without him. The email reflects that the school system staff requested that the complainant provide three (3) dates convenient to him in order to "reconvene" the IEP team meeting that was held on November 13, 2015 (Doc. f).
6. There is documentation that the school staff and the complainant are in the process of determining a mutually convenient date to reconvene an IEP team meeting (Doc. f).

DISCUSSION/CONCLUSIONS:

The public agency is required to take steps to ensure that a parent of a student with a disability is present or is afforded the opportunity to attend and participate in IEP team meetings, including notifying the parent of the meeting early enough to ensure that he or she will have an opportunity to attend, and scheduling the meeting at a mutually convenient time and place. If a parent cannot attend an IEP team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls. An IEP meeting may be conducted without a parent in attendance only if the public agency is unable to convince the parent to attend (34 CFR §300.322).

Based on the Findings of Facts #1 and #2, the MSDE finds that the parties did not agree that November 13, 2015 was a mutually convenient date to convene an IEP team meeting. Based on the Findings of Facts #3 and #4, the MSDE finds that there is no documentation that the PCGPS provided the complainant with other methods to participate in the November 13, 2015 IEP team meeting that was convened without him. Therefore, the MSDE finds a violation occurred.

Notwithstanding the violation, based on the Findings of Facts #5 and #6, the MSDE finds that the parties are in the process of determining a mutually convenient date in order to reconvene an IEP team meeting. Therefore, no student specific corrective action is required to remediate the violation.

CORRECTIVE ACTION/TIMELINE:

School-Based

The MSDE requires the PGCPS to provide documentation, by March 1, 2016, of the steps taken to determine if the violation identified in this Letter of Finding is unique to this case or represents a pattern of noncompliance at XXXXXXXXXXXXXXXXXXXXXXXX. 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 violations do 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 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

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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 requirement 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 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

c: Kevin Maxwell
Shawn Joseph
Gwendolyn Mason
LaRhonda Owens
Kerry Morrison
XXXXXXXXXXXX
Anita Mandis
K. Sabrina Austin
Bonnie Preis
Nancy Birenbaum