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February 19, 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: #16-063

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 December 21, 2015, the MSDE received a complaint from Mr. XXXXXXXXXXXX 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 above-referenced student.

The MSDE investigated the allegation that the PGCPS has not followed proper procedures when conducting a reevaluation of the student since May 19, 2015, in accordance with 34 CFR §§300.303-.306.

INVESTIGATIVE PROCEDURES:

1. On December 22, 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.

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2. On January 5, 2016, Ms. Sharon Floyd, Education Program Specialist, MSDE, discussed the allegation being investigated with the complainant.
3. On January 6, 2016, Ms. Floyd discussed the allegation with Mrs. Deborah Martin, an advocate on behalf of the student and his parents.
4. On January 19, 2016, the complainant provided the MSDE with documentation by electronic mail (email) to consider.
5. On February 4, 2016, Ms. Floyd and Mr. Gerald Loiacono, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed the following school system staff:
 - a. Mr. XXXXXXXXX, Early Childhood Center Coordinator;
 - b. Ms. XXXXXXXXX, Speech/Language Pathologist;
 - c. Ms. XXXXXXXXX, Occupational Therapist;
 - d. Ms. XXXXXXXX, Coordinating Supervisor, Early Childhood Center Special Education; and
 - e. Ms. XXXXXXXXX, Instructional Specialist Special Education Early Childhood Center.

Ms. Jodi Kaseff, Special Education Compliance, 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. On February 5, 8, 11, and 12, 2016, documentation was submitted by email to the MSDE from the PGCPS.
7. On February 12, 2016, Ms. Floyd conducted a conference call with Ms. Mary Bell, Coordinating Supervisor, Office of Child Find, Ms. Tina Higgins, Instructional Assistant, Office of Child Find and Ms. Kaseff, 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. Notice of the procedural safeguards, provided to the student's parents on May 19, 2015;
 - b. Email from the complainant's advocate to the MSDE, dated January 6, 2016;
 - c. Special Education Process Guide, Chapter 5, Reevaluations and Chapter 5, Private and Religious School Students, the PGCPS, dated May, 2012;
 - d. Service Plan, dated December 11, 2014 and progress reports;

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- e. Log of parent contacts by the PGCPS, dated September 12, 2012 through September 30, 2015;
- f. Report of a private speech/language evaluation, dated April 30, 2015 from the University of Maryland Hearing and Speech Clinic;
- g. Report of a classroom observation by the PGCPS, dated April 1, 2014;
- h. Invitation and team summary for the May 19, 2015 IEP team meeting;
- i. Invitation and team summary for the August 27, 2015 IEP team meeting;
- j. Invitation and team summary for the IEP team meeting;
- k. Correspondence containing allegations of violations of the IDEA, received by the MSDE on December 21, 2015;
- l. The PGCPS procedures for private school students and child find; and
- m. Tape recordings of the May 19, 2015, August 27, 2015, and the September 10, 2015 IEP team meetings.

BACKGROUND:

The student is six (6) years old and is a parentally placed private school student. Until September 10, 2015, the student was identified as a student with a Developmental Disability under the IDEA, and had a Service Plan that provided him with speech/language and occupational therapy consultative services. On September 10, 2015, the student was determined to no longer meet the criteria for identification as a student with a disability under the IDEA and his service plan was discontinued (Doc. d).

There is documentation that, during the time period covered by this investigation, the parents participated in the education-decision making process and was provided with notice of the procedural safeguards (Doc. a).

FINDINGS OF FACTS:

1. On August 27, 2015, the student had been identified as a student with a Developmental Disability under the IDEA and had a Service Plan, as a parentally placed private school student, that provided him with speech/language services and occupational therapy (OT) consultative services (Docs. d and i).
2. On August 27, 2015, the IEP team convened to plan for the student's reevaluation. At the IEP team, the complainant provided the IEP team with a private speech/language evaluation from the University of Maryland Hearing and Speech Clinic. The IEP team documented that the report of speech/language "is thorough and consistent with the PGCPS speech/language therapist's reports of present levels of performance and progress reports" and that the team "is also in agreement with the report recommendations for the student to continue with speech/language therapy to improve his functional and social communication skills." The IEP team determined that no

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additional assessment data was required to determine the student's need for speech and language services (Doc. i).

3. At the August 27, 2015 IEP team meeting, the team recommended that assessments be conducted in other areas, including academics, fine motor, personal/social skills and a psychological assessment in order to ensure that all of the student's needs were properly identified (Doc. i).
4. In response to the IEP team's request for assessments, the complainant informed the team members that for the 2015-2016 school year, speech/language was the only service being requested for the student from the PGCPD and therefore, he did not wish for additional assessments to be conducted (Doc. i).
5. The IEP team decided to reconvene on a later date to provide the family with additional time to reconsider the recommendations to conduct a more comprehensive reevaluation (Doc. i).
6. The IEP team reconvened on September 10, 2015. At that time, the complainant communicated that he only wanted speech/language services for the student through a Service Plan and that because the team had sufficient data to support the student's continued needs in this area, he would not consent to conducting any additional assessments. As a result, the IEP team decided "that a reevaluation was needed in all areas of suspected disability and that if the team is unable to perform a comprehensive evaluation of all suspected areas, then the student's eligibility to receive services will not continue" (Doc. j).

LEGAL REQUIREMENTS:

Child Find Requirements

Each Local Education Agency (LEA) must locate, identify, and evaluate all students with disabilities who are enrolled by their parents in private, including religious, elementary school and secondary schools located in the school district served by the LEA, in accordance with the IDEA child find requirements (34 CFR §§300.111 and .131).

Provision of Service Plans to Parentally Placed Private School Students

The IDEA requires that each LEA spend a certain amount of their IDEA funds on students with disabilities who are parentally placed in private schools. These are students with disabilities who are enrolled by their parents in private schools, including religious schools, which meet the State's definition of elementary or secondary school (34 CFR §§300.130-.144).

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Parentally placed private school students with disabilities who are identified with educational needs under the IDEA that can be addressed through special education and related services must have a services plan that describes the specific services that the LEA will provide. The services that will be offered to these students is determined through consultation between the LEA and private school representatives that is developed by a team that includes the parent and a representative of the private school.

The Service Plan describes the services to be provided to the parentally placed private school students. The services in a Service Plan must be provided until the allotted IDEA funds have been expended. Once this occurs, the LEA may discontinue the provision of services to the parentally placed private school students (34 CFR §§300.130 and .144).

Reevaluation

The IDEA requires that each identified student be reevaluated at least once every three years to ensure their continued eligibility for services. If a parent of a parentally placed private school student refuses consent for a reevaluation, the public agency is not permitted to file a due process complaint in order to resolve this dispute. However, in this case, the public agency does not have to continue to provide the student with a Service Plan (34 CFR §§300.111 and .131 and .300).

DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts #1-#6, the MSDE finds that because the complainant refused to provide consent for a reevaluation, the PGCPS is not required to consider the parentally placed private school student under the IDEA, eligible for services on a Service Plan. Therefore, the MSDE finds that no violation occurred with regard to this allegation.

TIMELINE:

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

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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.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Special Education/

Early Intervention Services

MEF:sf

cc: Kevin W. Maxwell

Shawn Joseph

LaRhonda Owens

Kerry Morrison

Gail Viens

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XXXXXXXXXXXX

Dori Wilson

Anita Mandis

Sharon Floyd