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Interim State Superintendent of Schools

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July 28, 2011

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Ms. Joan Rothgeb
Director of Special Education
Prince George's County Public Schools
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 20785

RE: XXXXXX
Reference: #11-105

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.

ALLEGATIONS:

On June 16, 2011, MSDE received a complaint from Mr. XXXXXXXX and Mrs. XXXXXXXX, hereafter, "the complainants," on behalf of their son. In that correspondence, the complainants 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. MSDE investigated the following allegations:

1. PGCPS did not ensure that the student's Individualized Education Program (IEP) was implemented during the 2010-2011 school year, in accordance with 34 CFR §300.101; and
2. PGCPS did not ensure that the IEP team convened to address the lack of expected progress toward achieving the annual IEP goals, in accordance with 34 CFR §300.324.

INVESTIGATIVE PROCEDURES:

1. Ms. Kathy Stump, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On June 17, 2011, MSDE sent a copy of the complaint, via facsimile, to Ms. Joan Rothgeb, Director of Special Education, PGCPSS; Ms. LaRhonda Owens, Supervisor of Compliance, PGCPSS; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPSS.
3. On June 21, 2011, Ms. Stump spoke with the student's mother by telephone and clarified the allegations to be investigated.
4. On June 23, 2011, MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, MSDE notified Ms. Rothgeb of the allegations and requested that her office review the alleged violations.
5. On June 29, 2011, Ms. Stump reviewed the student's education record at XXXXXXXXXXXXXXXX. Ms. Morrison was present at the record review.
6. On June 30, 2011 and July 6, 2011, PGCPSS provided MSDE with additional documentation related to the allegations, via electronic mail (e-mail).
7. On July 26, 2011, after a request from Ms. Stump, PGCPSS provided MSDE with additional information related to the allegations, via e-mail.
8. On that same date, Ms. Stump unsuccessfully attempted to contact the complainant by telephone.
9. MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings (LOF), which includes:
 - a. Correspondence and attachments from the complainants to MSDE, received June 16, 2011;
 - b. IEP, dated May 17, 2010;
 - c. PGCPSS *Student Registration Form*, dated August 23, 2010;
 - d. IEP, dated November 8, 2010;
 - e. IEP and team meeting summary, dated March 29, 2011;
 - f. IEP team meeting summary, dated June 16, 2011;
 - g. PGCPSS *Notice and Consent for Assessment*, dated June 16, 2011;
 - h. E-mail correspondence between school staff and the complainants, dated during the 2010-2011 school year;

- i. MSDE *School Attendance Record*; and
- j. IEP progress reports for the 2010-2011 school year.

BACKGROUND:

The student is eleven (11) years old. He is identified as a student with an other health impairment under IDEA, related to a diagnosis of Attention Deficit/Hyperactivity Disorder, and has an IEP that requires that he receive special education and related services.

From the start of the 2010-2011 school year until October 18, 2010, the student attended XXXXXXXXXXXXXXXXXXXXXXXXXXXX School (XXXXXXXX), a PGCPs XXXXX XXXX. Since October 18, 2010, the student has attended XXXXXXXXXXX (XXXXXXXX XXX XX). During the period of time addressed by this investigation, the complainants participated in the education decision-making process, and were provided with written notice of IEP team decisions and notice of the procedural safeguards (Docs. a-f and i).

ALLEGATION #1: **IEP IMPLEMENTATION DURING THE 2010-2011 SCHOOL YEAR**

Findings of Fact:

1. PGCPs staff acknowledged that the student did not receive the special education instruction and related services required by the IEP while he attended XXXXXXXX between the start of the 2010-2011 school year and October 18, 2010, when he began to attend XXXXXXXX. On March 29, 2011, the IEP team convened and determined that the student required *compensatory services*¹ to address the lack of services during that time period and determined that the student would receive eight (8) hours of one-on-one tutoring to address the annual IEP goals (Doc. e).
2. The IEP in effect during the 2010-2011 school year required that the student be provided with special education instruction to assist him in achieving goals in the areas of reading, math, written language, and behavior in the general education classroom. In addition, the IEP required that the student be provided with instructional and testing accommodations including extended time to complete assignments and frequent breaks. The IEP also required supplementary aids and services, including redirection, use of visual and graphic organizers, and preferential seating (Docs. b, d, and e).

¹ For the purpose of this letter, these are services, as determined by the IEP team, needed to remediate the denial of appropriate services to the student (34 CFR §300.151).

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3. There is e-mail correspondence between school staff and the student's parents that document that the student was provided with the services required by the IEP between October 18, 2010 and the end of the 2010-2011 school year. In addition, the summary of the June 16, 2011 IEP team meeting documents that the student was provided with the services required by the IEP between October 18, 2010 and the end of the 2010-2011 school year (Docs. f and h).

Discussion/Conclusions:

The public agency is required to ensure that the student is provided with the special education and related services required by the IEP (34 CFR §300.101). Based on Finding of Fact #1, MSDE finds that PGCPS has acknowledged that the student did not receive the services required by the IEP between the start of the 2010-2011 school year and October 18, 2010, while the student was attending XXXXXXXXXXXXXXXX. Therefore, MSDE finds a violation regarding this allegation for that time period.

However, based on that same Finding of Fact, MSDE finds that the IEP team convened and determined the amount and nature of *compensatory services*¹ necessary to redress the violation. Therefore, no further student-specific corrective action is required to address this violation.

Based on Findings of Fact #2 and 3, MSDE finds that between October 18, 2010 and the end of the 2010-2011 school year, the student was provided with the services required by the IEP. Therefore, MSDE finds no violation regarding this allegation for this time period.

ALLEGATION #2:

**MEETING TO ADDRESS LACK OF EXPECTED
PROGRESS TOWARD ACHIEVING THE ANNUAL
GOALS FOR THE 2010-2011 SCHOOL YEAR**

4. The IEP team convened on March 29, 2011, and considered the student's progress toward achieving the annual goals. The team determined that he was making progress (Doc. e).
5. The IEP progress reports for the third (3rd) quarter of the 2010-2011 school year indicated that the student was making sufficient progress to achieve the annual goals, but the progress reports for the fourth (4th) quarter of the 2010-2011 school year indicated that the student was not making sufficient progress toward achieving some of the annual goals (Doc. j).
6. The IEP team convened on June 16, 2011 and discussed the student's progress toward achieving the annual goals. The team determined that despite all of the supports provided to the student, he has not made "meaningful progress." In response, the team determined that updated assessments were needed and that the team would reconvene once the assessments were completed in order to determine revisions that must be made to the IEP to address this lack of progress (Docs. f and g).

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Discussion/Conclusions:

The public agency must ensure that the IEP team reviews the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved in order to ensure that the IEP remains appropriate. Additionally, the public agency must ensure that the IEP team reviews and revises the IEP, as appropriate, to address the lack of expected progress toward achievement of the annual goals (34 CFR §300.324).

Based on Findings of Fact #4-6, MSDE finds that the team has taken action to address the lack of expected progress toward achieving the annual goals. Therefore, MSDE finds no violation regarding this allegation.

CORRECTIVE ACTION/TIMELINE:

MSDE requires PGCPSS to identify and conduct a review of all students who were to be provided with special education instruction and related services during the 2010-2011 school year at XXXXXXXXXXXX. Following this review, PGCPSS shall contact the parents of all students who did not receive services and notify them of the right to request an IEP team meeting to determine the amount and nature of *compensatory services*¹ necessary to redress the lack of those services during the 2010-2011 school year. PGCPSS must provide MSDE with documentation of the notification of parents within fifteen (15) days of the notification.

In addition, MSDE requires PGCPSS to provide documentation no later than September 30, 2011 of the results of the review. Upon receipt of this documentation, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the United States Department of Education, Office of Special Education Programs. Because PGCPSS has informed this office that XXXXXXXXXXXX has closed, no additional corrective action is required for that school.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE. The LOF findings and follow-up will be shared with MSDE's Office of Quality Assurance and Monitoring for Continuous Improvement for its consideration during present or future monitoring of PGCPSS.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

Please be advised that both parties 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 fact or conclusions reached in this LOF. The additional written

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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 LOF.

If additional information is provided, it will be reviewed and 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 LOF.

Questions regarding the findings, conclusions and corrective action contained in this letter should be addressed to this office in writing. The complainants 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 for the student, including issues subject to a State complaint investigation, consistent with IDEA. MSDE recommends that this LOF be included with any request for mediation or due process.

Sincerely,

Carol Ann Heath, Ed.D.
Assistant State Superintendent
Division of Special Education/
Early Intervention Services

CAH:ks

cc : William R. Hite
Bonita Coleman-Potter
Gail Viens
LaRhonda Owens
Kerry Morrison
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Martha Arthur
Kathy Stump