



Bernard J. Sadusky, Ed.D.
Interim State Superintendent of Schools

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June 12, 2012

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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: #12-090

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 May 18, 2012, the MSDE received a complaint from Ms. XXXXXXXXX, 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) and the related State requirements found in the Code of Maryland Administrative Regulations (COMAR) with respect to the above-referenced student.

The MSDE investigated the allegation that the PGCPS did not provide the complainant with a copy of the completed Individualized Education Program (IEP) not later than five (5) business days after the April 17, 2012 IEP team meeting, in accordance with Md. Code, Ann., Educ. §8-405 (2010) and COMAR 13A.05.01.07.

INVESTIGATIVE PROCEDURES:

1. Ms. Kathy Stump, Education Program Specialist, MSDE, was assigned to investigate the complaint.

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2. On May 18, 2012, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, Complaint Investigation and Due Process Branch, MSDE, conducted a telephone interview with the complainant to clarify the allegation to be investigated.
3. On May 21, 2012, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPSS; Ms. Gail Viens, Deputy General Counsel, PGCPSS; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPSS.
4. On May 23, 2012, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified Mrs. Rothgeb of the allegation and requested that her office review the alleged violations.
5. On that same date, the MSDE requested documentation from the student's educational record, which was provided by the PGCPSS, via electronic mail (e-mail), on May 30 and 31, 2012.
6. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Finding, which includes:
 - a. Correspondence and attachments from the complainant to the MSDE, received on May 18, 2012;
 - b. IEP, dated March 27, 2012;
 - c. Invitation to the complainant for the April 17, 2012 IEP team meeting;
 - d. E-mail correspondence between the complainant and school staff, dated between April 20, 2012 and May 29, 2012; and
 - e. E-mail correspondence between PGCPSS personnel, dated May 29, 2012.

BACKGROUND:

The student is seven (7) years old and is identified as a student with autism under the IDEA. The student attends XXXXXXXXXXXXXXXXXXXX, where he receives special education and related services. During the period of time addressed by this investigation, the complainant was provided with written notice of the procedural safeguards (Docs. a-c).

FINDINGS OF FACTS:

1. On April 17, 2012, the IEP team convened to clarify the decisions that were made at an IEP team meeting held in March 2012¹ (Docs. a and b).

¹ On March 27, 2012, the IEP team convened without the complainant, following her permission to proceed in her absence. After the meeting, school personnel provided the complainant with a copy of the completed IEP. On April 17, 2012, the IEP team reconvened in response to the complainant's request for clarifications about that completed IEP (Doc. a and interview with complainant).

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2. On May 3, 2012, school personnel report that a copy of the completed IEP was sent home to the complainant via the student's book bag. However, there is no documentation to support this assertion (Doc. e).
3. On May 29, 2012, the school personnel provided the complainant with a copy of the completed IEP (Doc. d).

DISCUSSION/CONCLUSIONS:

Not later than five (5) business days after a scheduled IEP team meeting, school personnel must provide a copy of the completed IEP to the parent (Md. Code, Ann., Educ. §8-405 (2010) and COMAR 13A.05.01.07).

Based on the Findings of Facts #1-#3, the MSDE finds that school personnel did not provide the complainant with a copy of the completed IEP within the required time frame. Based on the Findings of Facts #1 and #2, the MSDE further finds that even if the complainant had received the completed IEP on May 3, 2012, the date school personnel state the IEP was sent home with the student, it still would have been outside the required timeframe. Therefore, the MSDE finds a violation regarding the allegation.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the PGCPS to provide documentation by the start of the 2012-2013 school year of the steps it has taken to determine if the violation identified in the Letter of Finding is unique to this case or if it represents a pattern of noncompliance at XXXXXXXXXXXXXXXX.

Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine if the regulatory requirements are being implemented at XXXXXXXXXX and must provide documentation of the results of this review to the MSDE. If the school system reports compliance with the requirements at XXXXXXXXXXXXXXXX XXXX, the MSDE staff will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented at XXXXXXXXXXXXXXXX, the school system must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the initial date that the school system determines non-compliance.

Upon receipt of this report, the 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. Additionally, the findings in the Letter of Finding will be shared with the MSDE's Office of Quality Assurance and Monitoring for Continuous Improvement for its consideration during present or future monitoring of the PGCPS.

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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.

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 Letter of Finding. 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 Finding. 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 finding 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 action consistent with the timeline requirements as reported in this Letter of Finding.

Questions regarding the finding, conclusions, and corrective action contained in this letter should be addressed to this office in writing. The complainant 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 (FAPE) for the student, including issues subject to a State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Finding be included with any request for mediation or due process.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Special Education/Early Intervention Services

MEF:ks

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

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Martha J. Arthur
Kathy Stump