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State Superintendent of Schools

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January 20, 2011

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

RE: XXXXX
Reference: #11-033

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 29, 2010, MSDE received a complaint from Mr. and Mrs. XXXXX, hereafter, “the complainants,” filed on behalf of their son. In that correspondence, the complainants allege that 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. This office investigated the allegation that PGCPS has not ensured that the student has been consistently provided with the services of a “dedicated aide,” as required by the Individualized Education Program (IEP), since the start of the 2010-2011 school year, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.

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2. On November 30, 2010, a copy of the complaint was provided by facsimile to Ms. Joan Rothgeb, Interim Director of Special Education, PGCPS; Ms. Gail Viens, Deputy General Counsel, Office of Legal Counsel, PGCPS; and Ms. Kerry Morrison, Compliance Specialist, PGCPS.
3. On December 1, 2010, Ms. Moyo, spoke with the student's father by telephone to clarify the allegation to be investigated.
4. On December 6, 2010, MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, MSDE notified Ms. Rothgeb of the allegation and requested that her office review the allegation.
5. On December 9, 2010, Ms. Moyo and Ms. Vickie Frazier, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXX (XXXXXXXXXX) to review the student's education record and to conduct interviews with the following school staff:
 - a. Ms. XXXXXXXXXXXX, Assistant Principal;
 - b. Ms. XXXXXXXXXXX, Special Education Chairperson;
 - c. Ms. XXXXXXXXXXX, Special Education Case Teacher; and
 - d. Mr. XXXXXXXXXXX, "Dedicated Aide".

Ms. Morrison attended the site visit as a representative of PGCPS and to provide information on PGCPS policies and procedures, as needed.

6. On December 10, 2010, PGCPS staff provided MSDE with additional documentation from the student's education record.
7. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings (LOF) include:
 - a. Complainants' correspondence to MSDE, received November 29, 2010; and
 - b. IEP, dated March 18, 2010.

BACKGROUND:

The student is seventeen (17) years old and attends XXXXXXXXXXX. He is identified as a student with autism under IDEA and receives special education instruction and related services. During the time period covered by this investigation, the complainants participated in the education decision-making process and were provided with procedural safeguards as required (Docs. a and b).

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FINDINGS OF FACT:

1. The IEP in effect at the start of the 2010-2011 school requires that the student be provided with, among other things, the services of a “dedicated aide.” The “dedicated aide” is required to be with the student, on a daily basis, during all classes and activities, throughout the school day to assist the student with his social interactions with peers, remaining on task, and to ensure his personal safety (Doc. b).
2. Since the start of the school year, there have been nine (9) days during which the student’s assigned “dedicated aide” was unavailable to consistently assist the student during the school day because the “dedicated aide” was assigned to assist another student (Interview with the student’s father, interview with school staff, and review of “dedicated aide” sign-in log).
3. During the MSDE site visit, school staff reported that specific steps have been taken to ensure that substitute aides are obtained, when needed, in order to ensure that all students are provided with the services of a “dedicated aide” in accordance with each student’s IEP (Interview with school staff).

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 and .323). In this case, based on Findings of Fact #1 and 2, MSDE finds that the student has not consistently been provided with the services of a “dedicated aide” as required by his IEP, during the 2010-2011 school year. Therefore, MSDE finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-specific

MSDE requires that PGCPs convene an IEP team meeting no later than February 28, 2011 to calculate the amount of time the student did not have a “dedicated aide” and determine whether the violation had a negative impact on the student’s ability to benefit from his educational program. If the team determines that there was a negative impact, it must also determine the amount and nature of *compensatory services*¹ or other remedy necessary to redress the violation found in this letter. PGCPs must provide MSDE with documentation of the decisions made at this meeting.

PGCPs must provide the complainants with proper written notice of the team’s determinations, as required by 34 CFR §300.503, including a written explanation of the basis for the determinations.

¹ Compensatory services, for the purposes of this letter, mean the determination by the IEP team as to how to remediate the denial of appropriate services to the student (34 CFR §300.151).

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If the complainants disagree with the IEP team's determinations, they maintain the right to request mediation or file a due process complaint to resolve the dispute consistent with IDEA.

School-based

As stated above, PGCPS reports that steps have been taken to ensure the assignment of a substitute "dedicated aide" as needed. MSDE requires that by March 1, 2011, PGCPS provide documentation of the actions taken to ensure the provision of a substitute "dedicated aide" when necessary.

The findings in the LOF will be shared with MSDE's Office of Quality Assurance and Monitoring for Continuous Improvement for their consideration during future monitoring. Additionally, MSDE's Office of Quality Assurance and Monitoring for Continuous Improvement will be conducting a comprehensive monitoring of PGCPS' implementation of IDEA requirements in May of 2011. Verification of the school system's compliance will also be conducted through this process consistent with the requirements of the United States Department of Education, Office of Special Education Programs, Memorandum #09-02.

In addition, MSDE will conduct a review to verify compliance with the requirement to ensure that proper procedures are followed. 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 LOF. 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 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.

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Questions regarding the findings of fact, conclusions, and corrective actions contained in this LOF 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, in accordance with IDEA. MSDE recommends that this LOF be included with any request for mediation or the filing of a due process complaint.

Sincerely,

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

CAH/km

c: William R. Hite
Bonita Coleman-Potter
Joan Rothgeb
Gail Viens
LaRhonda Owens
Kerry Morrison
XXXXXXXXX
Dori Wilson
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