



Lillian M. Lowery, Ed.D.  
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • MarylandPublicSchools.org

October 4, 2012

XXXX  
XXXX  
XXXX

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

RE: XXXX  
Reference: #13-006

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.

**ALLEGATIONS:**

On August 8, 2012, the MSDE received a complaint from XXXX XXXXX, hereafter, “the complainant,” on behalf of her XXXX,<sup>1</sup> the above-referenced student. In that correspondence, the complainant alleged that the Prince George’s County Public Schools violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student. The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the IEP team has identified and addressed the student’s academic and speech/language needs since January 2012, in accordance with 34 CFR §§300.304, .305, and .324.
2. The PGCPS did not ensure that the student was provided with the Extended School Year (ESY) and transportation services required by the Individualized Education Program (IEP) during the summer of 2012, in accordance with 34 CFR §300.101.

---

<sup>1</sup> Pursuant to an Order from the XXXX XXXX for Prince George’s County, the complainant is the student’s legal guardian (Doc. a).

XXX

Mrs. Joan Rothgeb

October 4, 2012

Page 2

### **INVESTIGATIVE PROCEDURES:**

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On August 9, 2012, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPs; Ms. Gail Viens, Deputy General Counsel, PGCPs; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPs.
3. On August 10, 2012, Ms. Hartman conducted a telephone interview with the complainant by telephone to clarify the allegations to be investigated.
4. On August 14, 2012, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified the PGCPs of the allegations and requested that the PGCPs review the alleged violations.
5. On August 28, 2012, Ms. Hartman reviewed the student's educational record at XXXXXXXXXXXXXXXXXXXX, PGCPs. Ms. Morrison and XXXXXXXXXXXX, School Principal, were present at the record review and provided Ms. Hartman with information regarding the allegations to be investigated.
6. On August 28, 2012 and September 25, 2012, Ms. Hartman conducted telephone interviews with the complainant to obtain additional information regarding the allegations to be investigated.
7. On September 25, 2012, the PGCPs provided the MSDE with additional documentation to be considered during the investigation of the allegation.
8. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. Order from the XXXXXXXXXXX for Prince George's County, Maryland, appointing the complainant as the student's guardian, dated February 18, 2010;
  - b. IEP, dated January 4, 2012, and revised on March 6, 2012 and June 11, 2012;
  - c. Prior Written Notice documents, dated August 28, 2012 and September 24, 2012;
  - d. Correspondence from the PGCPs to the complainant, dated June 20, 2012, with handwritten notes from the complainant, dated June 25, 2012;
  - e. Printout of the portion of the ESY Transportation Database pertaining to the student, undated; and
  - f. Bus Route listing the student's pick-up and drop-off locations for transportation to the ESY program during the summer of 2012.

XXX

Mrs. Joan Rothgeb

October 4, 2012

Page 3

### **BACKGROUND:**

The student is eight (8) years old and is identified as a student with a specific learning disability under the IDEA. He attends XXXXXXXXX where he receives special education instruction. During the period of time addressed by this investigation, the complainant participated in the education decision-making process, and was provided with written notice of the procedural safeguards (Docs. b and c).

### **FINDINGS OF FACTS:**

1. In the Prior Written Notice of the decisions made at the September 24, 2012 IEP team meeting, the PGCPS acknowledged to the complainant that the IEP team did not identify and address all of the student's needs when completing an evaluation on January 17, 2012 and developing the IEP on February 2, 2012 (Doc. c and interviews with the PGCPS staff).
2. In the same Prior Written Notice document, the PGCPS also acknowledged to the complainant that the student did not receive ESY services required by the IEP during the summer of 2012 because he was not provided with transportation. There is documentation that the PGCPS ESY Services Office staff informed the PGCPS Transportation Office staff of the change in the pick-up and drop-off locations for the student two (2) school days after the complainant provided notification of this information. However, the PGCPS Transportation Office staff did not ensure that the student was placed on a bus route consistent with the change in information (Docs. d – f and interviews with the PGCPS staff).
3. On September 24, 2012, an IEP team reviewed updated assessment data, and based on that data, revised the IEP to ensure that the education program addresses the student's identified needs. The team also determined the services to be provided to the student to remediate the violations that occurred (Doc. c and interviews with the complainant and the PGCPS staff).

### **CONCLUSIONS:**

#### **Allegation #1: IEP Development**

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data (34 CFR §§300.101 and .320). To ensure that all of the student's needs are properly identified, a comprehensive evaluation must be conducted that identifies all of the needs, whether or not commonly linked to the category of disability with which the student is identified (34 CFR §300.304).

Based on the Finding of Fact #1, the MSDE finds that the PGCPS did not ensure that the student's evaluation was sufficiently comprehensive to identify all of the student's needs, and that, as a result, the IEP was not reasonably calculated to provide the student with a FAPE. Therefore, the MSDE finds that a violation occurred with respect to this allegation.

XXX

Mrs. Joan Rothgeb

October 4, 2012

Page 4

Notwithstanding the violation, based on the Finding of Fact #3, the MSDE finds that the PGCPS subsequently ensured that additional evaluation data was obtained and reviewed, revised the IEP to address the student's needs, and determined the amount and nature of *compensatory services*<sup>2</sup> necessary to remediate the loss of services as a result of the violation. Therefore, no student-specific corrective action will be required to remedy the violation.

**Allegation #2: Provision of ESY Services Required by the IEP**

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 the Finding of Fact #2, the MSDE finds that the student was not provided with the ESY services required by the IEP. Therefore, the MSDE finds that a violation occurred with regard to this allegation.

Notwithstanding the violation, based on the Finding of Fact #3, the MSDE finds that the PGCPS determined the amount and nature of *compensatory services*<sup>2</sup> necessary to remediate the loss of services as a result of the violation. Therefore, no student-specific corrective action will be required to remedy the violation.

**CORRECTIVE ACTIONS/TIMELINES:**

The MSDE requires the PGCPS to provide documentation by January 2, 2013 of the steps it has taken to determine if the violation related to the identification of the student's needs and the development of an IEP that addresses those needs are unique to this case or if they represent a pattern of noncompliance at XXXXXXXXXXXXX.

The MSDE further requires the PGCPS to provide documentation by January 2, 2013, of the steps taken to determine whether the violation related to identifying and correcting problems with the provision of transportation for students receiving ESY services is unique to this case or if it represents a pattern of noncompliance within the school system.

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 and must provide documentation of the results of this review to the MSDE. If the school system reports compliance with the requirements, 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, it 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 verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the Office of Special Education

---

<sup>2</sup> 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).

XXX

Mrs. Joan Rothgeb

October 4, 2012

Page 5

Programs. Additionally, the findings in the Letter of Findings 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.

Documentation of all Corrective Action taken is to be submitted to this office to the attention of the Chief of the Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE.

**TECHNICAL ASSISTANCE:**

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

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 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 request for reconsideration, the school system must implement any Corrective Action consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the Findings, 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 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 due process complaint.

Sincerely,

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

MEF/ch

c:	Alvin Crawley	LaRhonda Owens	Dori Wilson	Martha J. Arthur
	Duane Arbogast	Kerry Morrison	Anita Mandis	Christine Hartman
	Gail Viens	XXXX XXXX		