



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

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April 19, 2013

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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: #13-060

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 February 21, 2013, the MSDE received a complaint from Mr. XXXXXXXXXXXX and Mrs. XXXXXXXXXXXX,<sup>1</sup> hereafter, “the complainants,” on behalf of their son, the above-referenced student. 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 student. The MSDE investigated the allegation that the PGCPS has not provided the student with the “screen reader” required by the Individualized Education Program since November 28, 2012, in accordance with 34 CFR §300.101 and .323.

**INVESTIGATIVE PROCEDURES:**

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.

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<sup>1</sup> While the correspondence was submitted to the MSDE by Mr. XXX, both Mr. XXX and Mrs. XXX clarified, by telephone, that it was written on behalf of both of them.

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XXX

Mrs. Joan Rothgeb

April 19, 2013

Page 2

2. On February 22, 2013, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPs; Ms. LaRhonda Owens, Supervisor of Compliance, PGCPs; Ms. Gail Viens, Deputy General Counsel, PGCPs; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPs.
3. On February 25, 2013, Ms. Hartman conducted a telephone interview with the complainants to clarify the allegation to be investigated.
4. On March 1, 2013, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the PGCPs of the allegation and requested that the PGCPs review the alleged violation.
5. On March 15, 18, and 20, 2013, and April 16, 2013, the MSDE requested information and documentation from the PGCPs.
6. On March 15, 18, and 20, 2013, and April 11, 2013, the PGCPs provided the MSDE with additional information to be considered during the investigation of the allegation, via electronic mail (email).
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP, dated November 28, 2012; and
  - b. Email correspondence from the PGCPs to the MSDE, dated March 8, 2013.

### **BACKGROUND:**

The student is fourteen (14) years old. He is identified as a student with a Specific Learning Disability under the IDEA, and has an IEP that requires the provision of special education instruction. The complainants participated in the education decision-making process in the development of the IEP in effect during the time period covered by this investigation, and were provided with written notice of the procedural safeguards (Doc. a).

### **FINDINGS OF FACTS:**

1. The IEP developed on November 28, 2012, indicates that the IEP team determined that the student's disability affects his reading comprehension and development of brief constructed responses, which impacts all areas of academic performance. At that meeting, the IEP was revised to require that the student be provided with "audio links" for all reading assignments prior to class instruction in order for him to read assigned text

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XXX

Mrs. Joan Rothgeb

April 19, 2013

Page 3

ahead of time. The IEP also requires that the student be provided with instructional and testing accommodations, including “text-to-speech software for selected sections of [a] test.” The IEP team documented that “the team agreed to [the student] receiving aide through a human reader or a screen reader” (Doc. a).

2. The parties report that the screen reader is to be provided using Kurzweil text-to-speech software (Interviews with the complainants and school staff).
3. School staff report that they have recently obtained the text-to-speech software and are in the process of installing and making it available for the student’s use. They further report that it is their understanding that the IEP team intended to limit the student’s use of text-to-speech software during instruction “so that he is able to receive direct instruction in an effort to improve areas of deficit.” In addition, school staff report that, based on the *MSDE Accommodations Manual for Use in Instruction and Assessment*, dated July 2, 2012 (*Accommodations Manual*), the IEP team decided that a human reader would be utilized until the text-to-speech software was obtained (Doc. b).
4. The *Accommodations Manual* explains that the accommodation of “text-to-speech software for selected sections of test” means that the student uses the accommodation “only for the particular words or sections of the test that the student wishes to have read to him or her” (The *MSDE Accommodations Manual for Use in Instruction and Assessment*, dated July 2, 2012).
5. The *Accommodations Manual* also explains that the Kurzweil text-to-speech software may not be used in the implementation of the “text-to-speech software for selected sections of test” accommodation on State and district-wide assessments since the software does not permit students to exercise sufficient control over which portions of the test are read aloud. Therefore, students who use Kurzweil text-to-speech software for classroom-based tests must be provided with a human reader or audio recording in place of the text to speech software for State and district-wide assessments (*Accommodations Manual*).

#### **DISCUSSION/CONCLUSIONS:**

The public agency must ensure that special education and related services, including accommodations and supplementary aids and services, are available to each student in accordance with the IEP. In order to ensure that the student is provided with the services required by the IEP, it must be written in a manner that is clear to those involved in the development and implementation of the IEP (34 CFR §§300.101, .320, and .323).

The *Accommodations Manual* provides assistance to IEP teams in selecting, administering, and evaluating the use of accommodations for instruction and assessment. It indicates that the

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Mrs. Joan Rothgeb

April 19, 2013

Page 4

accommodations provided to a student for classroom instruction should also be provided for classroom assessments, and district and Statewide assessments, except where doing so would impact the validity of test results (The *MSDE Accommodations Manual for Use in Instruction and Assessment*, dated July 2, 2012).

Based on the Findings of Facts #1 and #3, the MSDE finds that school staff's interpretation of the instructional and testing accommodations required by the IEP is not consistent with the language of the IEP. Based on the Findings of Facts #2 – #5, the MSDE further finds that while the IEP team based its decisions regarding the student's accommodations on information from the *Accommodations Manual*, the manner in which school staff indicates that the accommodations are to be provided is inconsistent with the information stated in the *Accommodations Manual*.

Based on the above, this office finds that the IEP is not written in a manner that is clear to those individuals responsible for implementing the program. Therefore, the MSDE finds that the PGCPs has not ensured that the accommodations have been provided consistent with the IEP team's decisions, and that a violation has occurred since November 28, 2012.

#### **CORRECTIVE ACTIONS/TIMELINES:**

The MSDE requires that the PGCPs provide documentation by June 1, 2013 that the IEP team has reviewed and revised the IEP to ensure that it is written clearly with respect to the instructional and testing accommodations. The MSDE further requires that the PGCPs provide documentation that the IEP team has determined a remedy for the student's loss of instructional and testing accommodations since November 28, 2012.

The PGCPs must ensure that proper written notice of the IEP team's decisions is provided to the complainants, in accordance with 34 CFR §300.503. The complainants maintain the right to request mediation or to file a due process complaint in order to dispute the team's decisions.

Documentation of all corrective actions taken is to be submitted to this office to the attention of the Chief of the Family Support and Dispute Resolution 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 complainants 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.

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Mrs. Joan Rothgeb

April 19, 2013

Page 5

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 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. 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 this State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

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

MEF/ch

cc: Alvin Crawley  
Duane Arbogast  
Gail Viens  
LaRhonda Owens  
Kerry Morrison  
XXXXXX  
Dori Wilson  
Anita Mandis  
Martha J. Arthur

Christine Hartman