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State Superintendent of Schools

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April 11, 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: #13-064

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 March 1, 2013, the MSDE received a complaint from Mr. XXXXXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of his son, the above-referenced student. 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) with respect to the student. The MSDE investigated the allegation that the PGCPS did not ensure that the student was provided with the speech/language therapy required by the Individualized Education Program (IEP) from March 1, 2012¹ through the end of the 2011-2012 school year,² in accordance with 34 CFR §§300.101 and .323.

¹ The complainant alleged an ongoing violation since November 2011. However, the complainant was informed in writing, on March 5, 2013, that this office has authority to investigate allegations of violations that occurred not more than one (1) year from the date the complaint is received (34 CFR §300.153).

² During the investigation, the complainant clarified that his allegation of a violation continued only through the end of the 2011-2012 school year, and was not continuing, as the MSDE initially understood (Doc. a and interviews with the complainant).

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INVESTIGATIVE PROCEDURES:

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On March 4, 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 March 4, 2013, Ms. Hartman conducted a telephone interview with the complainant to clarify the allegation to be investigated. On the same date, the complainant provided the MSDE with documentation to be considered during the investigation of the complaint, via electronic mail (email).
4. On March 5, 2013, 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 the PGCPS of the allegation and requested that the PGCPS review the alleged violation.
5. On March 7 and 25, 2013, the MSDE requested information and documentation from the PGCPS.
6. On March 14 and 28, 2013, the PGCPS provided the MSDE with additional information to be considered during the investigation of the allegation, via email.
7. On March 25, 2013, Ms. Hartman conducted a telephone interview with the complainant regarding the allegation being investigated, including a clarification of the time period covered by this investigation.
8. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated November 12, 2011;
 - b. Email correspondence from the PGCPS to the MSDE, dated March 14 and 28, 2013; and
 - c. Speech Service Logs for the 2011-2012 school year.

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BACKGROUND:

The student is seven (7) years old. He is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education instruction and related services (Doc. a).

During the time period covered by this investigation, the student attended XXXXXXXXXX, a PGCPS public school. Since Monday, March 11, 2013, the student has attended the XXXXX XXXXXXXXXX, a nonpublic separate special education school, where he was placed by the PGCPS (Docs. a and b).

The complainant participated in the education decision-making process in the development of the IEP in effect during the time period covered by this investigation, and was provided with written notice of the procedural safeguards (Doc. a).

FINDINGS OF FACTS:

1. The IEP required that the student be provided with four (4) thirty (30) minute sessions of speech/language therapy per month (Doc. a).
2. The PGCPS reports that speech/language services were provided in accordance with the IEP, but acknowledges that the speech/language therapist did not document the provision of speech/language services to the student from March 1, 2012 until the end of the 2011-2012 school year (Docs. b and c).
3. The PGCPS staff indicate that the speech/language therapist responsible for providing the speech/language therapy to the student is no longer working with the school system. The PGCPS staff also indicate that Beltsville Academy was the only PGCPS school to which the speech/language therapist was assigned (Doc. b).

DISCUSSION/CONCLUSIONS:

The public agency is required to ensure that the student is provided with the special education instruction and related services required by the IEP (34 CFR §300.101). The local school system is required to maintain documentation of compliance with the IDEA for three (3) years (34 CFR §§76.1, 76.731, and 80.42).

Based on the Findings of Facts #1 – #3, the MSDE finds that there is no documentation that the student was provided with the speech/language therapy required by the IEP from March 1, 2012 through the end of the 2011-2012 school year. Therefore, the MSDE finds that a violation has occurred with regard to this allegation.

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CORRECTIVE ACTIONS/TIMELINES:

Student-based

The MSDE requires the PGCPS to provide documentation by June 1, 2013, that an IEP team meeting has been convened to determine the amount and nature of *compensatory services*³ necessary to remediate the loss of speech/language services from March 1, 2012 through the end of the 2011-2012 school year.

The PGCPS must provide the complainant with proper written notice of the determinations made at the IEP team meeting, including a written explanation of the basis for the determinations, as required by 34 CFR §300.503. If the complainant disagrees with the IEP team's determinations, he maintains the right to request mediation or file a due process complaint, in accordance with the IDEA.

Similarly-Situated Students/School-based

The MSDE requires the PGCPS to provide documentation by July 1, 2013, that it has identified every similarly-situated student at XXXXXXXXXXXXX and that, for each student identified, the IEP team has determined whether the violation had a negative impact on the student's ability to benefit from their education program. If the IEP team determines that there was a negative impact, the MSDE requires that the PGCPS also submit documentation that the IEP team has determined the nature and amount of *compensatory services*³ necessary to redress the violation identified.

Upon receipt of the report, the MSDE will verify the data to ensure continued compliance with the regulatory requirements. Additionally, this Letter of Findings will be shared with the MSDE's Policy and Accountability Branch for its consideration during present or future monitoring of the PGCPS.

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.

³ 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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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 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 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 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
XXXXXXX
Dori Wilson
Anita Mandis
Martha J. Arthur
Christine Hartman