



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

May 23, 2013

XXX
XXX
XXX

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

RE: XXXXX
Reference: #13-075

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 March 25, 2013, the MSDE received a complaint from Ms. XXXXXXXXXXXX hereafter, “the complainant,” on behalf of her daughter, 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 allegations listed below.

1. The PGCPS has not ensured that signed Daily Progress Reports have been provided, as required by the student’s Individualized Education Program (IEP), since August 2012, in accordance with 34 CFR §§300.101 and .323.
2. The PGCPS has not ensured that the student’s assignments have been “broken down into chunks” with assigned times to complete the “chunked assignments,” as required by the student’s IEP, since January 2013, in accordance with 34 CFR §§300.101 and .323.

XXX

Mrs. Joan Rothgeb

May 23, 2013

Page 2

3. The PGCPS has not followed proper procedures when responding to the complainant's request for an IEP meeting since January 9, 2013, in accordance with 34 CFR 300.322 and COMAR 13A.05.01.07.

INVESTIGATIVE PROCEDURES:

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On March 26, 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 April 9 and 10, 2013, Ms. Williams conducted telephone interviews with the complainant to clarify the allegations to be investigated.
4. On April 10, 12, 13, 16, 17, 18, 19, 23, and 24, 2013, the MSDE received documentation from the complainant to be considered during the investigation of the complaint, via electronic mail (email).
5. On April 12, 2013, 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.
6. On April 22, 2013, the MSDE received documentation from the complainant to be considered during the investigation of the complaint, via U. S. mail.
7. On April 24, 2013, Ms. Williams requested information from the complainant regarding the allegations being investigated, via email.
8. On April 25, 2013, Ms. Williams and Mrs. Martha J. Arthur, Education Program Specialist, MSDE, reviewed the student's educational record at XXXXXXXXXXXXXXXX XXXXX and interviewed the school staff listed below.
 - a. Ms. XXXXXXXX, Special Education Instructional Specialist;
 - b. Ms. XXXXXXXX, Assistant Principal;
 - c. Ms. XXXXXXXX, African-American Studies Teacher;
 - d. Ms. XXXXXXXX, English Teacher;
 - e. Ms. XXXXXXXX, Special Education Coordinator; and
 - f. Ms. XXXXXXXX, Special Education Instructor.

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

XXX

Mrs. Joan Rothgeb

May 23, 2013

Page 3

9. On May 8, 2013, the PGCPS provided the MSDE with information to be considered during the investigation of the allegations, via email.
10. On May 20, 2013, Ms. Williams conducted a telephone interview with the complainant.
11. Documentation provided by the parties was reviewed. The documents relevant to the findings and conclusions referenced in this Letter of Findings are listed below.
 - a. Correspondence and attachments from the complainant to the MSDE, received on March 25, 2013;
 - b. IEP, dated August 23, 2012;
 - c. Email correspondence from the complainant to the school staff, dated September 23, 2012;
 - d. Notice of IEP team decisions, dated October 17, 2012;
 - e. Notice of IEP team decisions, dated December 11, 2012;
 - f. Email correspondence from the complainant to the school staff, dated January 9, 2013;
 - g. Email correspondence from the school staff to the complainant, dated January 10, 2013;
 - h. Email correspondence from the school staff to the complainant, dated January 29, 2013;
 - i. Email correspondence from the school staff to the complainant, dated February 4, 2013;
 - j. Daily Progress Report, February 19, 2013;
 - k. Email correspondence between the school staff and the complainant, dated February 19, 2013 through February 25, 2013;
 - l. Email correspondence between the school staff and the complainant, dated March 20, 2013 through April 21, 2013;
 - m. IEP team meeting invitation, dated April 11, 2013;
 - n. Notice of IEP team decisions, dated April 25, 2013; and
 - o. Student's Report Card, printed April 25, 2013.

BACKGROUND:

The student is seventeen (17) years old, was identified as a student with an Other Health Impairment, related to Attention Deficit Hyperactivity Disorder, under the IDEA, and had an IEP that required the provision of special education services during the time period covered by this investigation. During that time period, the student attended the XXXXXXXXXXXXXXXXXXXX (XXXXXXXXXXXXXXXXXX). She has completed her coursework for the 2012-2013 school year and anticipates graduating with a Maryland High School Diploma on May 28, 2013.

There is documentation that during the time period addressed by this investigation, the complainant participated in the education decision-making process and was provided with notice of the procedural safeguards (Docs. a, b, p, and interview with the complainant).

FINDINGS OF FACTS:

1. The IEP that was in effect during the time period of this investigation stated that the student had needs in the area of planning, organizing, and completing work assignments. To address these needs, the IEP required a Daily Progress Report (DPR) carried by the student and monitored by the complainant and school staff in order to ensure work was completed. The IEP required “[the student to have her [DPR] signed by each teacher, daily, and then brought home to her mother for review.” The IEP also required that long assignments be broken down into chunks with assigned time-frames for completing each chunk (Doc. b).”
2. On October 17, 2012, an IEP team meeting was held at the complainant’s request to discuss concerns about the manner in which accommodations and supplementary aids and services were being provided (Docs. c and d).
3. At the October 17, 2012 IEP team meeting, the IEP team considered the complainant’s concerns that the student was not providing her with the DPRs signed by the student’s teachers to ensure the student was completing her work. The IEP team also considered information from the student’s teachers that the student was not regularly providing them with the DPR forms to complete. The IEP team decided that school staff would consult with the student about why she was not providing the DPRs to the teachers and discuss the importance of her bringing them to class (Doc. d).
4. On December 6, 2012, the IEP team met to review the student’s progress. The student was invited to attend the IEP team meeting, but the complainant excused her to attend a pep rally. The IEP team reviewed draft revisions made to the DPR form that were made in response to suggestions made by the student during the consultation with her teachers. The IEP team decided that the current DPR would continue to be used because the complainant did not believe that the revised form included sufficient information. The IEP team revised the IEP to require that the student be provided with an explanation of a “point system,” to be used where she would earn and lose points based on her completion of items associated with planning, organizing, and completing work assignments outlined on the DPR. The IEP was also revised to require the student to be provided with an immediate explanation of the points she lost and that the total number of points she earned would be recorded on her DPR (Doc. e).
5. A copy of the DPR provided by the complainant, dated February 19, 2013, contains information about the student’s planning and organizing work assignments, and the completion of those assignments, but does not include information about the points earned in each area (Doc. j).
6. On January 9, 2013, the complainant sent an email to school staff requesting an IEP team meeting to discuss how the revisions to the IEP were being implemented (Doc. f).
7. On January 10, 2013, the school staff indicated to the complainant that another IEP team meeting was not needed, because the accommodations were being provided consistent

XXX

Mrs. Joan Rothgeb

May 23, 2013

Page 5

- with the determinations made at the December 6, 2012 IEP team meeting. The school staff suggested that the complainant could meet with the student's teachers at an upcoming parent-teacher conference in order to ensure that both the complainant and the school staff share the same understanding of what the IEP team decided on December 6, 2012, about how accommodations were to be provided (Doc. g).
8. On January 12, 2013, the complainant indicated that she believed an IEP team meeting was required in order to ensure that the IEP is clear regarding how the accommodations were being provided (Doc. h).
 9. On January 14, 2013, the school staff informed the complainant that the issue would be added to the agenda of an IEP team meeting being scheduled for the end of February 2012 to discuss the student's exit from school, since she was scheduled to graduate at the end of the school year (Doc. i)
 10. On April 25, 2013, the IEP team convened to consider the complainant's concerns about the provision of accommodations and to discuss the student's exit from school upon her graduation at the end of the school year. There is documentation that efforts were made by the school staff to obtain a mutually convenient date for the IEP team meeting to be held prior to April 2013, but that this was the first date that was acceptable to both the complainant and the school staff (Docs. k and l).
 11. At the April 25, 2013 IEP team meeting, the team considered the complainant's continuing concerns about the information she was being provided through the DPRs. The IEP team decided that the information would be provided to the complainant directly from the teachers. The IEP team decided that the student's teachers would maintain information on line about the work that the student was expected to complete and would update it each day for the complainant to review (Docs. m and n).
 12. The school staff report that most of the assignments given to the student were short in length, and they provided samples for the MSDE to review during the site visit. However, the complainant provided documentation of a long assignment that was broken down into tasks to be completed, but was not broken down into time frames for the completion of each task (Doc. k, interview with school staff, and review of sample assignments).

DISCUSSION/CONCLUSIONS:

ALLEGATIONS #1 AND #2

DAILY PROGRESS REPORTS AND CHUNKED ASSIGNMENTS

The public agency is required to ensure that the student is provided with the amount of special education instruction and related services required by the IEP (34 CFR §§300.101 and .323). The public agency must ensure that the IEP team reviews the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved in order to ensure that the IEP

XXX

Mrs. Joan Rothgeb

May 23, 2013

Page 6

remains appropriate. The public agency must also ensure that the IEP team reviews and revises the IEP, as appropriate, to address information about the student provided to or by the parents, or the student's anticipated needs (34 CFR §300.324).

Allegation #1 Daily Progress Reports

Based on the Findings of Facts # 1-#5, the MSDE finds that the IEP team met throughout the school year to consider the complainant's concerns about the manner in which the accommodation was provided and made revisions to address those concerns. However, there is no documentation that the accommodation was provided consistent with the revisions made by the IEP team from January 2013 to April 25, 2013. Therefore, the MSDE finds that a violation occurred during this time period.

Allegation #2 Chunked Assignments

Based on the Findings of Fact #1 and #12, the MSDE finds that while the student's assignments were broken down into the tasks to be completed, there is no documentation that the assignments were broken down into time frames for the completion of each task, as required by the IEP. Therefore, the MSDE finds that a violation occurred.

ALLEGATION #3 IEP TEAM MEETING

In accordance with the IDEA, the school system is required to take steps to ensure that parents have the opportunity to participate in IEP team meetings, which includes notifying parents of a meeting early enough to ensure that they will have an opportunity to attend, and scheduling the meeting at a mutually convenient place and time (34 CFR §300.322 and COMAR 13A.05.01.07).

Based on the Finding of Fact #6-#11, the MSDE finds that while there was a delay in conducting the IEP team meeting in response to the complainant's request, the meeting was convened at the earliest mutually convenient date. Therefore, the MSDE does not find that a violation occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student Based

The MSDE requires that the PGCPSS provide documentation by August 1, 2013, that the IEP team has determined whether the provision of the accommodations in a manner that was not consistent with the IEP had a negative impact on the student's ability to benefit from her program, and if so, the *compensatory services*¹ necessary to remediate the violation.

¹ Compensatory services, for the purposes of this letter, means the determination by the IEP team as to how to remediate the denial of appropriate services to the student even when the student is no longer eligible for an IEP under the IDEA (34 CFR §300.151 and *OSEP Letter to Riffel*, August 22, 2000).

School Based

The MSDE requires the PGCPs to provide documentation by the start of the 2013-2014 school year of the steps it has taken to determine if the violation related to the provision of accommodations specifically required by the IEP is unique to this case or if it represents a pattern XXXXXXXXXX.

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, 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 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 through Mrs. Martha J. Arthur, Education Program Specialist. 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 actions consistent with the timeline requirements as reported in this Letter of Findings.

XXX

Mrs. Joan Rothgeb

May 23, 2013

Page 8

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/tw

cc: Duane Arbogast
Gail Viens
LaRhonda Owens
Kerry Morrison
XXXXXXXXXXXX
Dori Wilson
Anita Mandis
Martha J. Arthur
Tyra Williams