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October 14, 2016

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Ms. Trinell Bowman
Director of Special Education
Prince George's County Public Schools
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 20785

RE: XXXXX
Reference: #17-023

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.

ALLEGATIONS:

On August 16, 2016, the MSDE received a complaint from Mr. XXXXXXXX and Mrs. XXXXXXXXXXXX, hereafter “the complainants,” on behalf of their daughter, 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 above-referenced student.

The MSDE identified the following allegations for investigation:

1. The PGCPS did not ensure that proper procedures were followed when responding to a request for amendment of the student’s educational record on June 29, 2016, in accordance with 34 CFR §§300.618 - .621.
2. The PGCPS did not ensure that proper procedures were followed when responding to a request for access to the student’s educational record on July 25, 2016, in accordance with 34 CFR §300.613.

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3. The PGCPS has not ensured that proper procedures were followed when determining the student's educational placement for the 2016-2017 school year, in accordance with 34 CFR §§300.114 - .116.¹

INVESTIGATIVE PROCEDURES:

1. On August 19, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Director of Special Education, PGCPS; Dr. LaRhonda Owens, Supervisor of Compliance, PGCPS; Ms. Gail Viens, Deputy General Counsel, PGCPS; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPS.
3. Also on August 19, 2016, the MSDE sent correspondence to the complainants 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 to be investigated and requested that the PGCPS review the alleged violations.
4. On September 1, 2016, Ms. K. Sabrina Austin, Complaint Investigator, MSDE, received an electronic mail (email) communication from the PGCPS staff acknowledging that a violation occurred with respect to Allegation #1.
5. On September 20, 2016, a due process complaint was filed on behalf of the complainants to resolve the dispute about the student's placement for the 2016 – 2017 school year.
6. On September 28, 2016, Ms. Austin discussed the allegations with the school system staff by telephone.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes the following:
 - a. IEP dated June 15, 2016;
 - b. Prior Written Notice, dated June 17, 2016;
 - c. Electronic mail (email) correspondence from the student's mother to the school system staff, dated June 30, 2016, July 18, 19 and 20, 2016, and August 2, 2016;
 - d. Email correspondence from the school system staff to MSDE staff, dated September 1, 2016;
 - e. Email correspondence from the student's mother to the school staff, dated July 25, 2016;
 - f. Email correspondence from the school staff to the student's mother, dated September 1, 2016;

¹ The MSDE was recently informed that this allegation is now also the subject of a due process complaint that was filed on behalf of the complainants. Therefore, the investigation of Allegation #3 is being held in abeyance until a decision has been issued.

- g. Correspondence from the complainants alleging violations of the IDEA, received by the MSDE on July 16, 2016; and
- h. Due process complaint filed on behalf of the complainants with the OAH on September 20, 2016.

BACKGROUND:

The student is ten (10) years old and attends the XXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXX. She 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 and related services (Doc. a).

During the time period covered by this investigation, the complainants were provided with written notice of the procedural safeguards (Doc. a).

**ALLEGATION #1: THE COMPLAINANT’S REQUEST FOR AMENDMENT OF
THE PRIOR WRITTEN NOTICE FOLLOWING THE
JUNE 15, 2016 IEP TEAM MEETING**

Findings of Facts:

- 1. On September 1, 2016, the PGCPS staff acknowledged that a violation occurred with respect to this allegation (Docs. b - d).

Discussion and Conclusions:

A parent who believes that information in the student’s educational record is inaccurate or misleading may request that the public agency amend the information. Upon receipt of such a request, the public agency must decide, within a reasonable period time of the receipt of the request, whether to amend the information. If the public agency refuses to amend the information, it must inform the parent of the refusal and advise the parent of the right to a hearing before school system personnel to challenge the information (34 CFR §§300.618 and .619).

Based on the Finding of Fact #1, the MSDE finds that the PGCPS has acknowledged that a violation of State or federal law or regulation occurred with respect to this allegation.

The MSDE concurs with the PGCPS’s conclusion and appreciates the school system’s response to the investigation.

ALLEGATION #2: ACCESS TO THE STUDENT’S RECORD

Findings of Facts:

2. On July 25, 2016, the student’s mother sent an email to the school staff requesting a copy of the audio recording of the June 15, 2016 IEP team meeting (Doc. e).

3. On September 1, 2016, after the complainants filed this State complaint, the school staff sent an email to the student’s mother that included a copy of the recording of the June 15, 2016 IEP team meeting as an attachment (Doc. f).

Discussion and Conclusions:

The IDEA requires that each public agency permit parents to inspect and review any educational records regarding their children that are “collected, maintained, or used by the agency,” consistent with the requirements of the Family Educational Rights and Privacy Act. This includes the right to request copies of the records if failure to do so would effectively prevent the parent from exercising the right to inspect and review the records (FERPA) (34 CFR §99.10 and 34 CFR §300.613).

Based on the Finding of Fact #2, the MSDE finds that there is no information or documentation that the complainants were unable to inspect and review the audio recording. Therefore, this office finds that the PGCPS was not required to provide the complainants with a copy of the recording.

However, based on the Finding of Fact #3, the MSDE further finds that the PGCPS has provided the complainants with a copy of the audio recording in response to the complainants’ request. Therefore, this office does not find a violation occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation, by November 1, 2016, that the PGCPS has followed proper procedures to respond to the complainants’ request for amendment of the student’s educational record.

School-Based

The MSDE required the PGCPS to provide documentation, by December 1, 2016, of the steps it has taken to ensure that the XX staff comply with the IDEA and related State requirements for responding to a parent’s request for an amendment of a student’s educational record, in accordance with 34 CFR §300.618.

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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

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 of facts 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 within the timelines reported in this Letter of Findings.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The parties 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 (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 a due process complaint.

Sincerely,

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

MEF:ksa

c: Kevin Maxwell
Gwendolyn Mason
LaRhonda Owens
Kerry Morrison
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Dori Wilson
Anita Mandis
K. Sabrina Austin

Nancy Birenbaum