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March 17, 2017

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

RE: XXXXX
Reference: #17-082

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 January 17 and 24, 2017, the MSDE received correspondence from Ms. XXXXXXXXXXXX, hereafter, "the complainant." 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 above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the student's communication needs have been addressed since the start of the 2016-2017 school year, in accordance with 34 §CFR 300.101 and .324.
2. The PGCPS has not ensured that the student's transportation needs have been addressed since the start of the 2016-2017 school year, in accordance with 34 §CFR 300.101 and .324.

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INVESTIGATIVE PROCEDURES:

1. On January 17, 2017, the complainant provided the MSDE with documentation to be considered.
2. On January 24, 2017, and February 3, 2017, Mr. Albert Chichester, Complaint Investigator, MSDE and Ms. Sharon Floyd, Complaint Investigator, MSDE, conducted telephone interviews with the complainant to discuss the allegations to be investigated.
3. On January 24, 2017 and February 3, 2017, the MSDE sent correspondences to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. The MSDE also notified Ms. Trinell Bowman, Director of Special Education, PGCPS of the allegations to be investigated and requested that her office review the alleged violations.
4. On February 3, 2017, the MSDE sent a copy of the complaint, via facsimile, to Ms. Bowman, and Ms. Deborah Anzelone, Instructional Supervisor Support Programs and Services and Due Process and Mediation, PGCPS.
5. On March 10, 2016, Ms. Floyd and Mr. Chichester conducted a site visit at XXXXXXXXXXXXXXXXXXXX to review the student's educational record and interviewed Ms. XXXXXXXXXXXXX, Deaf and Hard of Hearing Program Coordinator; and Ms. XXXXXXXXXXXX, Deaf and Hard of Hearing 1st and 2nd Grade Teacher.

Ms. Kerry Morrison, Compliance Specialist, PGCPS, attended the meeting as a representative of the PGCPS and to provide information on the school system's policies and procedures, as needed.

6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
 - a. Individualized Education Program (IEP), dated April 8, 2016;
 - b. Electronic mail (email), between the complainant and school staff, dated September 25, 2015;
 - c. IEP team meeting summary, dated September 18, 2015;
 - d. IEP team meeting summary, dated December 22, 2016;
 - e. Transportation routing sheet, dated January 26, 2017;
 - f. Staff and school schedules, dated August, 2016;
 - g. Email dated December 14, 2016 from the complainant to the PGCPS transportation staff;
 - h. Transportation monthly reports of the student's bus, dated August 17, 2016 to March 15, 2017; and

- i. Correspondences from the complainant containing allegations of a violation of the IDEA, received by the MSDE on January 17, 2017 and February 3, 2017.

BACKGROUND:

The student is eight (8) years old is identified as a student with a Hearing Impairment under the IDEA and has an Individualized Education Program that requires the provision of special education instruction and related services. He attends XXXXXXXXXXXXXXXXXXXX (Doc. a).

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

FINDINGS OF FACTS:

Communication Needs

1. The student has a “long-standing profound, hearing loss bilaterally.” For the right ear, the student has a severe to profound sensorineural hearing loss and a profound loss of hearing for the left ear. The student’s hearing loss is educationally significant and impacts his access to spoken language both inside and outside of the classroom (Doc. a).
2. The student’s primary mode of communication is Total Communication, which includes sign language, visual supports, auditory supports and the use of an amplification system for the student to be able access to the curriculum (Doc. a).
3. On September 18, 2015 the IEP team convened and addressed the complainant’s concerns about the provision of a television for the morning announcements. It was determined that the student did not require the television as a mode of communication to access the curriculum and that the technological supports included in the student’s IEP were appropriate for him. School staff reported that the student would have an interpreter during the morning announcements (Docs. b and c).
4. The student is scheduled to receive interpretation services throughout the school day beginning when he arrives for homeroom/breakfast time and for morning announcements (Doc. f and interview with school staff).

Transportation Needs

5. The current IEP, dated April 8, 2016 requires the provision of special education transportation including a transportation aide for the student (Doc. a).

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6. A transportation routing document, dated November 26, 2016, identifies the bus stops correlated to the student's day care pick up address and indicates that the student is scheduled to arrive at school by 8:25 a.m. daily. School begins at 8:30 a.m. (Doc. i).
7. On December 14, 2016, the complainant sent an electronic mail (email) correspondence to the PGCPS office of transportation, indicating concerns about the student's daily lateness because of the lateness of the bus, stating that "the student is arriving after the morning announcements" (Doc. g).
8. There is documentation indicating that there have been twelve (12) instances, prior to January 12, 2017, when the student arrived to school after the morning announcements began. There is one (1) instance, on August 23, 2016, when the student arrived after the first instructional period began. There is documentation that since January 12, 2017 the student's bus has been on time (Doc. h).

DISCUSSION/CONCLUSIONS:

ALLEGATION #1 ADDRESSING THE STUDENT'S COMMUNICATION NEEDS

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. In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student (34 CFR §§300.101, .320, and .324).

The public agency is required to ensure that each student is provided with the special education and related services required by the IEP (34 CFR §§300.101, .320, and .323). Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a student to benefit from special education (34 CFR §300.34).

In this case, the complainant alleges that the PGCPS has not addressed the student's communication needs since the student uses sign language to communicate and she was told in October, 2016 that the morning announcements would be interpreted on the television.

Based on the Findings of Facts #1 - #4, the MSDE finds that there is no documentation to support the allegation that the student requires the television as a mode of communication for the morning announcements. Therefore this office finds that no violation has occurred with respect to this allegation.

ALLEGATION #2 ADDRESSING THE STUDENT'S TRANSPORTATION NEEDS

The public agency is required to ensure that each student is provided with the special education and related services required by the IEP (34 CFR §§300.101, .320, and .323). Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a student to benefit from special education (34 CFR §300.34).

Based on the Findings of Facts #5 - #8, the MSDE finds that the PGCPS has ensured that the student's transportation needs were addressed since the start of the 2016-2017 school year. Therefore, this office finds that no violation occurred with respect to this allegation.

ADDITIONAL ISSUE

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 #9, the MSDE finds that the student has not consistently been provided with transportation services as required by the IEP, therefore this office finds that a violation occurred.

CORRECTIVE ACTION/TIMELINES:

The PGCPS must provide documentation by June 1, 2017, of the steps it has taken to ensure that the student's bus arrives to school in a timely manner. The documentation must include a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violation does not recur.

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 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.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at 410-767-7770.

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 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.

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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 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:sf

c: Kevin Maxwell
Trinell Bowman
Gwendolyn Mason
LaRhonda Owens
Debbie Anzelone
Kerry Morrison
XXXXXXXXXXXXXX
Dori Wilson
Anita Mandis
Sharon Floyd