



Karen B. Salmon, Ph.D.
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

April 7, 2017

Ms. Debrah Martin, Advocate
Best Solutions Educational Services, LLC
1300 Mercantile Lane, Suite 129-2
Largo, Maryland 20774

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: #17-099

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 February 6, 2017, the MSDE received a complaint from Ms. Debrah Martin, hereafter, “the complainant,” on behalf of the above-referenced student and his parents, Ms. XXXXXXXXX and Mr. XXXXXXXXXXXX. 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 following allegations:

1. The PGCPS did not ensure that the student was provided with the special education instruction required by the Individualized Education Program (IEP) from a qualified special education teacher since the start of the 2016-2017 school year to November 1, 2016, in accordance with 34 CFR §300.156.

2. The PGCPS has not ensured that the student was consistently provided with the accommodations, supplementary, aids and services, program modifications and supports required by the IEP, in accordance with 34 CFR §300.101.
3. The PGCPS has not ensured that the parents were provided with notifications of the IEP team meetings and prior written notices of the decisions made by the IEP team since the start of the 2016-2017 school year, in accordance with 34 CFR §300.503.
4. The PGCPS has not followed proper procedures when conducting a reevaluation of the student since October, 2016, in accordance with 34 CFR §§300.103 - .306.
5. The PGCPS did not follow proper procedures to ensure that Home and Hospital Teaching (HHT) were provided to the student when school staff received verification from the student's psychiatrist on January 4, 2017, that the student was unable to attend school, in accordance with COMAR 13A.05.01.10.

INVESTIGATIVE PROCEDURES:

1. On February 8, 2017, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Executive Director of Special Education, PGCPS and Ms. Deborah Anzelone, Instructional Supervisor, Department of Special Education Support Programs & Services and Due Process and Mediation Office, PGCPS.
2. On February 10 and 15, 2017, and March 2, 3, 6, and 23, 2017, Ms. Sharon Floyd, Education Program Specialist, MSDE, conducted telephone interviews with the complainant and discussed the allegations being investigated.
3. On March 2, 3, 6, 2017 and April 6, 2017, the complainant provided the MSDE with documentation to consider.
4. On March 3, 2017, the PGCPS provided the complainant and the MSDE with documentation to consider.
5. On March 23, 24, 27 and 28, 2017, the MSDE and the PGCPS corresponded via electronic mail (email) regarding the student's status.
6. On April 5, 2017, the MSDE requested additional documents from the PGCPS.
7. On April 5 and 6, 2017, the PGCPS provided additional documents to the MSDE for consideration.
8. On April 5, 2017, Ms. Floyd conducted a site visit at XXXXXXXXXXXX to review the student's educational record, and interviewed the Ms. Toni Brooks, Special Education Instructional Specialist, and Ms. Raedelle Pope, Special Education Coordinator. Mr. Keith Blackson, Compliance Specialist, PGCPS, attended the site visit as a representative

of the PGCPS and to provide information on the school system's policies and procedures, as needed.

9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated April 12, 2016;
 - b. Invitation to the October 28, 2016 IEP team meeting and written summary of the meeting;
 - c. Notice and consent for assessment, dated October 28, 2016;
 - d. Correspondence from the student's pediatrician to the school system staff, dated October 27, 2016;
 - e. Invitations to the January 13, and 27, 2017 IEP team meetings;
 - f. Electronic mail (email) correspondence from the complainant to the school staff, dated December 21, 2016;
 - g. Correspondence from the student's mother to the school staff, dated January 27, 2017;
 - h. Correspondence from the Director of Neuropsychiatry at XXXXXXXXXXXX XXXXXXXX to the school staff, dated January 4, 2017 and the Verification of an emotional condition, dated January 4, 2017;
 - i. The PGCPS Administrative Procedure #5011, *HHT*, dated June 30, 2016 and the *PGCPS Office of HHT Reference Guide*, dated June 21, 2016;
 - j. Invitation to the March 10, 2017 IEP team meeting;
 - k. The student's attendance record, since August 23, 2016;
 - l. Office of HHT denial form, dated February 13, 2017;
 - m. Correspondence from the student's pediatrician to the school system staff, dated March 9, 2017;
 - n. Correspondence from the Pupil Personnel Worker to the student's parents, dated December 13, 2016;
 - o. The PGCPS Administrative Procedure #5113, *Student Attendance, Absence and Truancy*, dated June 30, 2016;
 - p. PGCPS substitute teacher information (<https://www.aesoponline.com/login2.asp>); and
 - q. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on February 6, 2017;

BACKGROUND:

The student is fifteen (15) years old, is identified as a student with an Intellectual Disability under the IDEA, and has an Individualized Education Plan that requires the provision of special education and related services. He attends XXXXXXXXXXXX (Doc. a).

There is documentation that, during the time period covered by this investigation, the student's parents were provided with notice of the procedural safeguards (Doc. a).

**ALLEGATION #1: PROVISION OF SPECIAL EDUCATION INSTRUCTION
BY A SPECIAL EDUCATION TEACHER**

FINDINGS OF FACTS:

1. The IEP requires that the student's special education instruction is provided by a special education teacher, an additional adult support person, or another special education classroom teacher. At the start of the 2016-2017 school year, a substitute teacher, who is not a special education teacher, provided instruction in the student's classroom from August 23, 2016 through October 23, 2016. The long-term substitute teacher was provided with lesson plans, teacher mentoring, and supervision from a certified special education teacher in the Community Reference Instructional Program¹ (Doc. p and Interviews with school staff).
2. The PGCPs requires that long-term substitute teachers effectively maintain the continuity of quality learning by partnering with other service providers of the student to reinforce the instruction throughout the school day (Doc. p).

DISCUSSION/CONCLUSIONS:

The public agency is required to ensure that each student is provided with the special education and related services required by the student's IEP (34 CFR §§300.101 and .103).

In this case, the complainant alleges that the school system did not ensure that special education instruction was being provided by a highly qualified special education teacher instead of a long-term substitute teacher and paraeducators.

Based on the Findings of Facts #1 and #2, the MSDE finds that the PGCPs long-term substitute teacher is being provided with supervision by a certified special education teacher. Therefore, the MSDE finds no violation has occurred with respect to this allegation.

**ALLEGATION #2: PROVISION OF ACCOMMODATIONS,
SUPPLEMENTARY AIDES AND SERVICES**

FINDINGS OF FACTS:

3. The IEP requires that the student be provided with special education services for reading, math, adaptive living skills, and speech/language therapy within a special education classroom to address his needs in the areas of safety and functional skills within the community. The student is performing at the early first (1st) grade level in reading, and math and written language skills are measured at the kindergarten (K) grade level. The

¹ The Community Reference Instructional Program provides opportunities for students with intellectual and adaptive functioning disabilities to learn reading, writing, and math by interacting within the community (www.pgcp.org).

IEP also identifies needs in the areas of receptive and expressive language. It includes goals for the student to improve his skills in all of these areas, and requires the provision of special education instruction and speech/language therapy to assist the student in achieving the goals (Doc. a).

4. The IEP also requires that the student be provided with extensive and substantial modification of the general curriculum. The daily accommodations the student requires includes a human reader, visual cues, a scribe, a calculator, extended time, multiple breaks, and reduced distractions. The daily supplementary supports in the IEP include provision of the student's instruction in small chunks with visuals, modeling, prompts, paraphrasing, proximity seating and modified lines on paper. The student is also required to have a dedicated aide throughout the school day (Doc. a).
5. There is no documentation to support that accommodations, supplementary aids and services, program modifications and supports were implemented since the start of the 2016-2017 school year (Interview with school staff).

DISCUSSION/CONCLUSIONS:

As stated above, 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 and .323).

Based on the Findings of Facts #3 - #5, the MSDE finds that there is no documentation to indicate that the accommodations, supplementary aides and supports have been implemented since the start of the 2016-2017 school year. Therefore, this office finds that a violation occurred with respect to the allegation.

**ALLEGATION #3: PROVISION OF NOTIFICATIONS OF IEP TEAM
MEETINGS AND PRIOR WRITTEN NOTICES OF IEP
TEAM DECISIONS**

FINDING OF FACT:

6. On April 5, 2017, the PGCPS acknowledged that the notifications and prior written notices for IEP team meetings held on January 27, 2017 and March 10, 2017 have not been provided to the student's parents (Interview with school staff).

DISCUSSION/CONCLUSIONS:

In accordance with the IDEA, the public agency is required to take steps to ensure parents have the opportunity to participate in IEP team meetings, which include, among other things, providing them with written notice of the purpose of the meeting (COMAR 13A.05.01.07).

The public agency must provide parents with written notice prior to any proposal or refusal to initiate or change the identification, evaluation, or educational placement or the provision of a Free Appropriate Public Education (FAPE) to a student with a disability. This notice must include a description of the action, and explanation of why the public agency is taking or refusing to take the action, a description of the data used as a basis for the decision, and a description of other options that were considered (34 CFR §300.503).

Based on the Finding of Fact #6, the MSDE finds that a violation occurred with respect to the allegation. Notwithstanding the violation, the student's parents participated in both team meetings; therefore, no student-specific corrective action is required to remediate the violation.

ALLEGATION #4: REEVALUATION

FINDINGS OF FACTS:

7. On October 28, 2016, the IEP team proposed a reevaluation of the student in the areas of academic performance, communication, adaptive, cognitive, emotional and social development, fine and gross motor skills, and adaptive physical education to determine his present levels of academic functioning. The PGCPS acknowledges that the reevaluation of the student has not occurred (Doc. b).

DISCUSSION/CONCLUSIONS:

When conducting a reevaluation, if the IEP team determines the need for additional data, it must ensure that assessment procedures are conducted and that the results of assessment procedures are considered by the IEP team in reviewing, and as appropriate, revising the IEP within ninety (90) days of the IEP team meeting; in which the team identifies the additional data needed to complete the reevaluation (COMAR 13A.05.01.06).

Based on the Finding of Fact #7, the MSDE finds that a violation occurred with respect to the allegation.

ALLEGATION #5: HOME AND HOSPITAL TEACHING

FINDINGS OF FACTS:

8. On October 28, 2016, the IEP team convened to address the student's mother's request for HHT and her concerns about the student's lack of progress. The student's mother submitted a letter from the student's pediatrician documenting the student's increasing levels of anxiety which resulted in a loss of skills including feeding, clothing, toileting, and sleeping, resulting in the hospitalization of the student for eight (8) days and the determination that the student suffered a prolonged panic attack triggered by his transition to high school. The school-based members of the IEP team reported that during this period of time the student was excessively aggressive, ran around the classroom, spit,

and bit, engaged in inappropriate touching, and used profanity. The IEP team indicated that the student had been absent nineteen (19) days. The physician recommended that the student attend school half-days and receive a one-to-one aide for support during the school day (Docs. d, b and k).

9. The written summary of the meeting reflects that the IEP team documented that student has excessive absences due to physiological and emotional issues as explained by the student's parents. The student's mother requested HHT since the student was only attending school half days and she was being called daily with teacher concerns about the student's behaviors. The IEP team rejected the request for HHT on the basis that a dedicated aide was to be appointed to the student upon his return to school on November 1, 2016 (Doc. b).
10. On December 12, 2016, the student's pediatrician sent a to school staff verifying that the student has an emotional condition requiring HHT. This was rejected by the school staff because the form needed to be completed by the student's psychologist or psychiatrist (Doc. m).
11. On December 13, 2016, a PGCPs Pupil Personnel Worker sent correspondence to the student's parents indicating that the student had been absent from school for an excessive number of days, and informing them that continued absenteeism would result in a referral to the authorities under Maryland's compulsory attendance law (Doc. h).
12. On December 21, 2016, the complainant sent correspondence to the school staff for an emergency IEP team meeting to include Central office staff, facilitation with conducting the assessments. She also requested the status of the HHT application that was made on October 28, 2016 (Doc. f).
13. On January 4, 2017, a private neuro-psychiatrist provided verification to the school that the student's emotional condition requires HHT until a more appropriate program is provided to the student. The referral for HHT was forwarded to the PGCPs Office of HHT, which did not accept the verification form (Doc. h).
14. The PGCPs Administrative Procedure #15011, HHT, dated June 30, 2015, states that if verification of a student's inability to attend school is provided by a psychologist or psychiatrist, the PGCPs Office of Psychological Services must review the verification to ensure that it documents an emotional condition that prevents a student from attending school. If the staff from that office is unable to sufficiently address questions relative to the verification of need, the school system may deny the request for HHT services. The PGCPs office of HHT must notify the school and parent if a request for HHT is denied. The notice must include an explanation of the reason for the denial and a notice of the parental right to appeal the decision (Doc. b).
15. On February 13, 2017, the PGCPs Office of HHT, denied HHT for the student (Doc. l).

16. Since March 13, 2017, the student has been in attendance for the entire school day (Documentation and interview with school staff).

DISCUSSION/CONCLUSIONS:

In Maryland, Home and Hospital Teaching may be provided only when there is verification from a licensed physician, a certified school psychologist, a licensed psychologist, or a licensed psychiatrist that the student has a physical or emotional condition that prevents the student from participating in the student's school of enrollment (COMAR 13A.03.05.03 and .04). Without such verification, the IEP team may not determine that a student's educational placement is the home (COMAR 13A.05.01.10). If the student is able to attend a school-based program, the public agency must ensure that the increased supports necessary to implement the IEP is made available in such a placement (34 CFR §§300.320 and .324).

Based on the Findings of Facts #9 -#16, the MSDE finds that the PGCPs did not ensure that the school staff followed the school system's procedures for HHT services by convening an IEP team to make determinations about HHT. Therefore this office finds that a violation occurred.

Notwithstanding the violation, no student-specific corrective actions are required to remediate the violations because the private physician's verification was not sufficient in documenting the student's inability to attend school.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPs to provide documentation by May 1, 2017 of the following:

1. That the IEP team has completed a reevaluation of the student and the IEP has been reviewed and revised, as appropriate, based on the reevaluation results.
2. If the student's IEP is revised, the IEP team must determine the compensatory services needed to remediate the violations.
3. That the IEP team has developed a plan for the provision of the services needed to remediate the violations identified in this investigation to the student within one (1) year of the date of this Letter of Findings.

School-Based

The MSDE requires the PGCPs to provide documentation by the end of the 2016-2017 school year of the steps it has taken to ensure compliance at XXXXXXXXXXXXXXX with the requirements for provision of notification and prior written notices to IEP team meetings, following proper procedures for reevaluation, responding to requests for HHT services, and the provision of accommodations, supplementary aids and services.

Ms. Debrah Martin
Ms. Trinell Bowman
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TECHNICAL ASSISTANCE:

Technical assistance is available to the complainant and the PGCPS by Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, 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 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 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 and 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/am

c: Kevin W. Maxwell
Gwendolyn Mason
LaRhonda Owens
Deborah Anzelone
Keith Blackson

XXXXXXXXXX
Dori Wilson
Anita Mandis
Sharon Floyd