



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

October 26, 2018

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

RE: XXXXX
Reference: #19-033

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 28, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of 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 following allegations:

1. The PGCPS has not ensured that the Individualized Education Program (IEP) includes present levels of academic achievement and functional performance in order to properly identify and address the student’s health, reading, writing and math needs that arise from the student’s disability, during the 2017-2018 school year, in accordance with 34 CFR §§300.303-.311, .320, and .323.

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2. The PGCPS has not followed proper procedures when responding to a request to amend the student's educational record since, September 4, 2017, in accordance with 34 CFR §300.618.
3. The PGCPS did not provide accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the February 15, 2018 IEP team meeting at least five (5) business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
4. The PGCPS did not provide a copy of the IEP document within five (5) business days after the IEP team meeting of February 15, 2018, in accordance with COMAR 13A.05.01.07.
5. The PGCPS has not provided a quarterly report on the student's progress toward achieving the annual goals for the third and fourth quarters of the 2017-2018 school year, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is 10 years old, is identified as a student with a Specific Learning Disability (Dyscalculia) under the IDEA, and has an IEP that requires the provision of special education and related services. The student attends XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

ALLEGATION #1

PRESENT LEVELS OF PERFORMANCE

FINDINGS OF FACTS:

1. On February 15, 2018, the student was identified as a student with a disability under the IDEA.
2. The data identifies needs in the areas of health, math calculation and math problem solving but not in the areas of reading and writing.
3. The initial IEP, dated February 15, 2018, does not include statements of the student's present levels of performance in the areas of health and math needs. The IEP does not include annual goals that address the specific areas of the need identified in the data.
4. On September 5, 2018, the IEP was revised to include a statement of the student's present levels of performance in math but not health. The IEP was also revised to include goals to address the student's math needs.

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5. On September 12, 2018 a health plan was developed by the school nurse. It states that measures must be taken if the student displays the symptoms of fever, nausea, vomiting and fatigue. It states that if any symptoms are observed, the parents are to be contacted. The following special considerations for the student include resting in the health suite, access to the bathroom, allowance to carry and drink water freely, and the student may snack when needed. It also states that the student needs to avoid any contact sports, as he is at risk for injury. It further states that the student should be encouraged to wash his hands frequently. However, there is no documentation that the IEP team decided whether the health plan is required for a Free and Appropriate Public Education (FAPE).

DISCUSSION/CONCLUSIONS:

Allegation #1 Present Levels of Academic Achievement and Functional Performance

Based on the Findings of Facts #1 - #3, the MSDE finds that from February 15, 2018 to September 12, 2018, the IEP did not address the student's math present levels of academic achievement and functional performance, and, therefore, the IEP was not designed to address the student's needs.

Based on the Findings of Facts #4 and #5, there is no documentation that the student's health needs were addressed since February 15, 2018, in accordance with 34 CFR §§300.303-.311, .320, and .323. Therefore, this office finds that violations occurred with respect to this allegation.

ALLEGATION #2 RESPONSE TO AMEND THE RECORD

FINDINGS OF FACTS:

4. On September 7, 2018, the complainant made a request to the principal to have the student's IEP amended to remove teacher statements that she believed to be misleading.
5. There is no documentation that the principal responded to the complainant.

Allegation #2 Response to a Request to Amend the Record

Based on the Findings of Facts #4 and #5, the MSDE finds that the PGCPSS did not respond to the complainant's request to amend the student's record, in accordance with 34 CFR §300.618. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

**ALLEGATIONS #3 AND #4 PROVISION OF DOCUMENTS PRIOR TO AND
AFTER THE IEP TEAM ON FEBRUARY 15, 2018**

FINDING OF FACT:

6. The PGCPS acknowledges that violations occurred with respect to these allegations.

DISCUSSION/CONCLUSIONS:

Allegation #3 Provision of Documents Prior to the IEP Team Meeting

Based on the Finding of Fact #6, the MSDE finds that the complainant was not provided with the documents to be reviewed at the IEP team held on February 15, 2018, in accordance with COMAR 13A.05.01.07. Therefore, this office a violation with respect to this allegation.

Allegation #4 Provision of Documents After the IEP Team Meeting

Based on the Finding of Fact #6, the MSDE finds that the complainant was not provided with the documents after the IEP team meeting held on February 15, 2018, in accordance with COMAR 13A.05.01.07. Therefore, this office a violation with respect to this allegation.

ALLEGATION #5 PROVISION OF PROGRESS REPORTS

FINDINGS OF FACTS:

7. There is no documentation that the complainant received progress reports for the third quarter of the 2017-2018 school year.
8. On July 23, 2018, the special education teacher emailed the 2017-2018 school year fourth quarter progress report to the complainant.

Allegation #5 Provision of Third and Fourth Quarter Progress Reports

Based on the Finding of Fact #7, the MSDE finds that the complainant was not provided with the 2017-2018 school year third quarter progress reports. Based on the Finding of Fact #8, the MSDE finds that while the complainant was provided with the 2017-2018 school year fourth quarter progress reports, they were not provided in a timely manner, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that violations occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINE:

Student Specific

The MSDE requires the PGCPS to provide documentation by January 1, 2019 that the IEP team has determined whether the health plan needed for a FAPE. The IEP team must also determine progress on the math goals revised on September 12, 2018, and review and revise the IEP, as appropriate.

The IEP team must also determine the amount and nature of compensatory services or other remedy to redress the violations identified through this investigation and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

School Based

The MSDE requires the PGCPS to provide documentation by January 1, 2019, of the steps it has taken to ensure that the staff at XXXXXXXXXXXXXXXXXXXX complies with the requirements for ensuring that documents are provided prior to and after the IEP team.

The PGCPS must also provide documentation of steps taken to ensure that requests to amend the record are recognized and responded to 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 violations do not recur.

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.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency 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 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 FAPE for the student, including issues subject to this State

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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 Early Intervention
and Special Education Services

MEF/sf

c:

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