



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

March 15, 2019

XXX
XXX
XXX

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

RE: XXXXX
Reference: #19-092

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.

ALLEGATION:

On January 15, 2019, the MSDE received a complaint from Ms. XXXXXXXXX, 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 allegation that the PGCS has not ensured that the student’s Individualized Education Program (IEP) has been implemented, since the start of the 2018 – 2019 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is eight (8) years old, is identified as a student with an Other Health Impairment under the IDEA related to Attention Deficit Hyperactivity Disorder (ADHD), and has an IEP that requires the provision of special education and related services. The student is in the third (3rd) grade and attends XXXXXXXXXXXXXXXXXXXX (XXXXXXXXXX).

FINDINGS OF FACTS:

1. The IEP was developed at the end of the student's second (2nd) grade. It identifies that the student's disability affects him in the areas of reading comprehension and reading phonics where he was functioning at the first (1st) grade instructional level.
2. The IEP requires several instructional and assessment accommodations which include the following:
 - A human reader and text to speech, due to weakness in decoding that "prevent[s] him from accessing grade-level materials on his own;"
 - Small group testing, reduced distractions, and frequent breaks; and
 - Extended time for tests and assignments.
3. The IEP requires several supplementary supports which are to be provided primarily by a general educator. These include the following, which are required on a daily basis:
 - Checks for understanding;
 - Breaking down assignments into smaller units;
 - Scheduled frequent breaks; and
 - Frequent eye contact/proximity control, consisting of visual and verbal cues for attention and focus, as well as preferential seating for close adult monitoring of behavior.
4. The IEP includes an additional supplementary support that requires daily monitoring of the student's agenda book or progress report primarily by a special educator. The IEP clarifies that the agenda book will be used "as a way to inform parents about [the student's] daily behavior," for them to monitor his behavior by reinforcing "good days" and through assistance on "not so good days." In addition, the IEP states that the "teacher and parents will initial the agenda [book]."
5. The IEP includes two (2) reading comprehension goals requiring the student to read grade level informational and literary texts to answer questions of who, what, where, when, how and why.
6. The IEP also includes a reading phonics goal requiring the student to use grade level text to read twenty (20) words containing different letter combinations with automaticity.
7. The IEP requires two (2) hours per week of specialized instruction in reading in a separate special education classroom, which is to be provided primarily by a special educator. The IEP also requires three (3) hours per week of specialized instruction in reading in a general education classroom, which is to be provided primarily by a special educator.

8. While there is documentation that the teachers of the student's core academic classes received the "IEP Snapshot" describing the IEP goals to be addressed and services to be provided, it does not indicate when these teachers were informed of their specific responsibilities related to implementing the student's IEP.
9. On October 18, 2018, the complainant sent an email to the school staff expressing concern that the student was not receiving specialized instruction and accommodations required by the IEP. The complainant also reported that the student's agenda book was not being used on a daily basis.
10. On October 25, 2018, the IEP team convened at the complainant's request. The complainant expressed concern that the student was not receiving the specialized instruction required by the IEP. There is no documentation that the school staff disputed the assertion and the IEP team agreed that the case manager would use the student's agenda book to communicate with the complainant about the student's instruction in addition to his behavior.
11. The IEP progress reports developed by the school staff on November 5, 2018 and February 8, 2019 state that the student is making sufficient progress towards mastery of the reading comprehension goals and that he has achieved the reading phonics goal.
12. On February 13, 2019, the complainant requested a reevaluation due to concerns about the student's reading.¹
13. On February 27, 2019, the IEP team convened. While the school staff reported that the student is functioning at the third (3rd) grade instructional level in reading comprehension,² the complainant expressed her belief that the student is reading at the first (1st) grade level. The IEP team reviewed the student's performance on several formal and informal assessments. The school staff reported that the data shows that the student is performing "close to grade level." However, the IEP team agreed to obtain additional data on the student's reading through informal assessments, and to reconvene to review the data.
14. At the February 27, 2019 meeting, the IEP team determined that the student continues to require (2) hours per week of specialized instruction by a special educator in a separate special education classroom.
15. There is documentation that a special education teacher is assigned to support the student in his general education classroom for three (3) hours of reading instruction per week. However, the school staff acknowledged that the student has not received specialized instruction in a separate special education classroom. In addition, the special educator's

¹ The most recent assessments were conducted in February 2018.

² The IEP no longer identifies that the student has needs in the area of reading phonics.

schedule documents that she does not have availability to provide instruction in a separate special education classroom because she is providing assistance in a general education classroom throughout the school day. The school staff further report that the schedules of other special educators do not permit them to provide specialized instruction in a separate special education classroom.

16. There is no documentation that the student has been provided with the accommodations, supplementary supports including the daily use of the agenda book, or the specialized instruction in a separate special education classroom that are required by the IEP.

CONCLUSION:

Based on the Findings of Facts #1 - #10 and #12 - #16, the MSDE finds that there is documentation of the provision of specialized instruction in a general education classroom. However, based on the same Findings of Facts, the MSDE finds that there is no documentation that the specialized instruction in a separate special education classroom was provided, nor is there documentation that the accommodations and supplementary supports required by the IEP are being implemented, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

Based on the Finding of Fact #11, the MSDE finds that, at the same time, the school staff are reporting that the student is achieving the annual IEP goals and continues to require the IEP services in order to do so.

CORRECTIVE ACTION/TIMELINES:

School-Based

The MSDE requires the PGCPS to provide documentation by the end of the 2018-2019 school year that a protocol is being implemented for the documentation of the provision of special education and related services (Implementation Protocol) at the XXXXXXXX for students who require special education services.

Student-Specific

The MSDE requires the PGCPS to provide documentation by the end of the 2018-2019 school year that the IEP is being implemented as written.

The PGCPS must also provide documentation by the end of the 2018-2019 school year that the IEP team has convened and reviewed the IEP goal progress reports and the data that was used to develop the progress reports.

XXX

Ms. Trinell Bowman

March 15, 2019

Page 5

If the IEP team determines that the data used to determine the student's progress is accurate, the PGCPS must provide documentation that the IEP team has met at the end of the first (1st) and second (2nd) quarters of the 2019-2020 school year. At each meeting, the IEP team must review the documentation of implementation of the IEP using the Implementation Protocol, consider the student's progress towards achievement of the annual IEP goals, and review and revise, as appropriate, the IEP based on that progress. Documentation must be submitted after each of the first and second quarters of the 2019 – 2020 school year.

If the IEP team determines that the data used to determine the student's progress is inaccurate, the IEP team must determine compensatory services for the violation identified in this Letter of Findings, and develop a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

Similarly-Situated Students

The MSDE requires the PGCPS to provide documentation by the end of the 2018-2019 school year that it has identified all students at XXXXXXXXXX who required special education instruction in a separate special classroom during the 2018-2019 school year, and determined whether there is documentation that each student's IEP has been implemented as written.

For each student where there is no documentation, an IEP team must be convened to determine whether the violation had a negative impact on the student's ability to benefit from the education program, based on data on the students' progress towards mastery of the IEP goals.

The team must also determine the compensatory services or other remedy for each student where there was a negative impact. In each case where there was no negative impact, the IEP team must determine whether the student requires the services that were not documented as having been provided.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention and Special Education Services, MSDE.

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

XXX
Ms. Trinell Bowman
March 15, 2019
Page 6

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 complainants 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 Early Intervention
and Special Education Services

MEF/ksa

c: Monica Goldson
Gwendolyn Mason
Barbara VanDyke
XXXXXXXX
Dori Wilson
Anita Mandis
K. Sabrina Austin
Nancy Birenbaum