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March 31, 2017

Ms. Jessica Williams
711 Bain Drive #205
Hyattsville, Maryland 20785

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

RE: XXXXX
Reference: #17-094

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 February 1, 2017, the MSDE received a complaint from Ms. Jessica Williams, 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 above-referenced student. The MSDE investigated the allegations listed below:

1. The PGCPS have not ensured that all of the needs that arise out of the student’s disability have been identified and addressed since June 15, 2016, in accordance with 34 CFR §§300.324.
2. The PGCPS have not followed proper procedures in response to a request for an Independent Education Evaluation (IEE) in the areas of occupational therapy (OT) and speech/language, in accordance with 34 CFR §§300.502.

INVESTIGATIVE PROCEDURES:

1. On February 1, 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, Support Programs & Services and Due Process and Mediation, Department of Special Education, PGCPS.

2. On February 3, 2017, Ms. Sharon Floyd, Education Program Specialist, MSDE, conducted a telephone interview with the complainant to clarify the allegations to be investigated.
3. On February 6, 2017, the MSDE sent correspondence to the complainant 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 and requested that the school system review the alleged violations.
4. On February 3 and 9, 2017, the complainant provided the MSDE with documentation for consideration.
5. On March 9, 10, 13, 15, 23, 24, 26 and 30, 2017, the PGCPS provided the MSDE with documentation for consideration.
6. On March 29, 2017, Ms. Floyd and Ms. Nicole Green, Dispute Resolution Data Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed the following school staff:
 - a. Ms. XXXXXXXX, Instructional Lead Teacher;
 - b. Ms. XXXXXXXXXXX, Reading Specialist;
 - c. Ms. XXXXXXXXXXX, Principal;
 - d. Ms. XXXXXXXX, Assistant Principal;
 - e. Ms. XXXXXXX, IEP Chairperson; and
 - f. Ms. XXXXXXXXXXX, Instructional Specialist OT.

Ms. Jodi Kaseff, Compliance Instructional Specialist, PGCPS, attended the site visit as a representative of the PGCPS and to provide information on the PGCPS policies and procedures, as needed.

7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated October 4, 2016;
 - b. IEP team meeting summaries dated June 15, 2016, August 11, 2016, September 13, 2016, October 4, 2016, and January 10, 2017;
 - c. Receipt for parental rights and procedural safeguards, signed and dated June 15, 2016;
 - d. Report of the occupational therapy (OT) colleague consultation and observation, dated September 12, 2016;
 - e. Letter from the complainant to the school staff requesting an IEE, dated October 17, 2016;
 - f. Electronic mail (email) correspondence from the school staff to the complainant, dated October 26, 2016;

- g. Email from the PGCPS staff to the complainant, dated November 9, 2016;
- h. Email correspondence from the PGCPS staff to the student's mother, dated January 10 and 11, 2017;
- i. Email correspondence among the PGCPS staff in response to the request for an IEE, dated November 10, 2016;
- j. Letter from the school staff to the student's mother, dated November 10, 2016;
- k. Parent contact log, dated December 9, 2016 through February 22, 2017;
- l. Report of an observation conducted by the OT, dated June 17, 2016;
- m. Reports of educational and psychological assessments, dated August 2, 2016;
- n. Evaluation Report, dated August 11, 2016; and
- o. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on February 1, 2017.

BACKGROUND:

The student is eight (8) years old and attends XXXXXXXXXXXXXXXXXXXX. She is identified as a student with an Other Health Impairment under the IDEA due to an Attention Deficit Disorder, and has an IEP that requires the provision of special education and related services (Doc. a).

During the time period covered by this investigation, the student's mother participated in the education decision-making process and was provided with written notice of the procedural safeguards (Doc. c).

FINDINGS OF FACTS:

1. On June 15, 2016, the IEP team met in response to a request by the student's mother for an IDEA evaluation due to her concerns that research-based interventions in the areas of word recognition, phonemic awareness, and vocabulary had not resulted in as much growth for the student as was expected (Doc. b).
2. At that meeting, the student's mother expressed concerns about the student's organization while completing homework, and the complainant expressed her concerns with the phonics instruction, vocabulary and handwriting. The complainant requested that the student be evaluated by an occupational therapist (OT) and a speech/language therapist. The IEP team determined that the student did not demonstrate needs in articulation, expressive and receptive language, and that there was no need for a speech/language assessment. The IEP team determined that the vocabulary concerns would be addressed in the assessments conducted by the school psychologist and the special education teacher. The IEP team also determined that assessments of the student's academic performance to include math, reading, writing, phonemic awareness, reading fluency, cognitive, social, emotional and behavioral functioning would be conducted as well as an observation by the OT (Doc. b).
3. On August 11, 2016, an IEP team meeting convened to review the assessment results. The report of an observation by the OT, which was conducted on June 17, 2016, indicated that the student is right hand dominant, is able to open containers, and is able to accurately fill in the "bubbles" on standardized test forms as well as form all of the letters

of the alphabet. The OT report indicated that the student's motor skills are age appropriate. The OT report contains a recommendation that another observation by an OT be conducted later in the 2016-2017 school year since the student was observed at the end of the 2015-2016 school year (Doc. a).

4. At the same meeting, the school psychologist reported that the student displayed a notable deficit in phonological awareness, specifically with the discrete sounds in words. She reported on recommendations for phonemic awareness, reading, math vocabulary, visual cues, focusing strategies, redirection techniques and limiting directions to increase on task behaviors (Doc. m).
5. At the team meeting, the IEP team determined the student meets the criteria for identification as a student with an Other Health Impairment under the IDEA, and began development of an IEP, but did not complete the process due to time constraints (Docs. b and l).
6. On October 4, 2016,¹ the IEP team reconvened to complete the development of the IEP, which includes goals for the student in reading, fluency, reading comprehension, writing and solving word problems for math, along with supplementary aids, supports, and accommodations. The IEP also requires that the student receive a reading intervention, four times per week, each session lasting forty-five minutes in duration and classroom instruction for reading, five times per week, each session lasting one and one-half hours in duration (Docs. a and b).
7. On October 17, 2016, the complainant sent a letter to the PGCPS requesting an IEE in the areas of speech/language and OT, indicating that the evaluation was not comprehensive enough and/or appropriate to identify every area of the student's suspected disability. However, the request was not clear with respect to the student for whom the request was being made. The letter from the complainant states that "all of the independent education evaluation will be performed by Education Due Process Solutions, LLC," which is the complainant's company (Doc. e).
8. The school staff made numerous requests to the complainant and the student's mother for clarification about whether the IEE request was being made on behalf of the student or another student, whose name was also listed on the IEE request. On January 11, 2017, the student's mother provided written clarification that she was not requesting an IEE in the areas of speech/language and OT for the student who is the subject of this complaint (Doc. h).
9. At an IEP team meeting held on January 10, 2017, a consultation and observation report completed by the OT was reviewed, which resulted in a finding that the student was producing legible handwriting with adequate spacing, and demonstrated appropriate organizational skills within the classroom. The OT ruled out fine motor needs for the

¹ There is documentation that the parties attempted to meet in September, 2016 but could not find a mutually convenient date and time (PWN, dated September 13, 2016).

student. However, she did recommend that the student be provided with supports for reading, a self-monitoring checklist for attention issues, time to demonstrate understanding of the directions, reduced distractions to the student and a structure for independent work assignments (Docs. b and d).

10. The IEP team revised the IEP to include the additional supports recommended in the OT report. The IEP team reviewed data, including input from the student's mother, and input from the student's teachers on the student's articulation, expressive and receptive language skills, including written language and spelling skills and determined no further assessments were required at that time. The student's mother again clarified that an IEE was not being requested for the student (Docs. a, b and d).

DISCUSSION/CONCLUSIONS:

ALLEGATION #1: IDENTIFYING AND ADDRESSING ALL NEEDS OF DISABILITY

The public agency must ensure that the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified so that those needs are addressed in the IEP (34 CFR §§ 300.101, .304, .320, .324).

Based on the Findings of Facts #1 - #6, #9 and #10, the MSDE finds that the IEP team's decisions regarding the student's needs were consistent with the data and that the IEP addresses those needs. Therefore, this office finds no violation occurred with respect to the allegation.

ALLEGATION #2: FOLLOWING PROPER PROCEDURES FOR IEE REQUEST

Parents of a student with a disability have the right to obtain one IEE at public expense each time the public agency conducts an evaluation with which the parent disagrees. Upon request for an IEE, the public agency must, without unnecessary delay, either provide parents with information about where an IEE may be obtained and the agency criteria applicable for an IEE, or file a due process complaint to request a hearing to demonstrate that its evaluation is appropriate (34 CFR §300.502).

Based on the Findings of Facts #7, and #8, the MSDE finds that, while the complainant alleges that she made the request for an IEE on behalf of the parent, the documentation does not support the allegation. Therefore, this office does not find that a violation occurred.

Further, based on the Finding of Fact #8, the MSDE further finds that the documentation reflects that the letter used to request an IEE from the complainant documents that the complainant was to conduct any IEE that was funded at public expense. Therefore, this office believes that the steps taken by the school system to clarify whether the parent was requesting the IEE were appropriate and necessary.

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TIMELINE:

Please be advised that the PGCPS and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact 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.

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 due process.

Sincerely,

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

MEF:sf

c: Kevin Maxwell
Gwendolyn Mason
LaRhonda Owens
Deborah Anzelone
Jodi Kaseff
Kerry Morrison
XXXXXXXXX
Dori Wilson
Anita Mandis
Sharon Floyd