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October 20, 2017

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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: #18-015

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 August 24, 2017, the MSDE received a complaint from Mr. XXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of his son, 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 did not ensure that proper written notice of the August 25, 2016 Individualized Education Program (IEP) team’s decisions was provided, in accordance with 34 CFR §300.503. This includes the following allegations:
 - a. The written notice did not include a description of each evaluation procedure, assessment, record or report used as a basis for the decision to discontinue occupational therapy services; and

- b. The written notice was not provided prior to implementation of the decision.
- 2. The PGCPS has not ensured that the student's transportation needs have been addressed since August 25, 2016, in accordance with 34 CFR §300.324. This includes considering the concerns of the parents about the need to promptly communicate any changes in bus schedule in order to reduce the wait time for the bus in the morning and ensure that someone is available to pick the student up from the bus stop after school.
- 3. The PGCPS did not ensure that a copy of the procedural safeguards was provided following the first State complaint filed for the 2016-2017 school year, in accordance with 34 CFR §300.504.
- 4. The PGCPS did not ensure that the IEP team considered information, from a private medical provider about the student's focus, at IEP team meetings held after the August 25, 2016 IEP team meeting,¹ in accordance with 34 CFR §300.324.
- 5. The PGCPS has not ensured that the IEP team considered the results of the most recent evaluation in order to identify and address the student's handwriting needs, at IEP team meetings held after the August 25, 2016 IEP team meeting,¹ in accordance with 34 CFR §300.324.

BACKGROUND:

The student is 12 years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services. He attends the XXXXX XXXXXXXXXXXXXXXXXXXXXXX, a nonpublic, separate, special education school, where he is placed by the PGCPS.

ALLEGATION #1 PRIOR WRITTEN NOTICE

FINDINGS OF FACTS:

- 1. The last day of the summer session at the XXXXXXXXXXXXXXXXXXXXXXX was on August 4, 2016.

¹ The complainant alleged that this violation occurred since the August 25, 2016 IEP team meeting. However, because this office has already determined that the IEP team considered information from the most recent evaluation, the academic, developmental and functional needs of the student, and the concerns of the parents at the August 25, 2016 IEP team meeting (State complaint #17-026), the complainant was informed in writing that the investigation would cover the time period after that IEP team meeting.

XXX

Ms. Trinell Bowman

October 20, 2017

Page 3

2. On August 25, 2016, the IEP team decided to discontinue the provision of thirty (30) minutes per week of direct occupational therapy services that had been provided to assist the student with increasing engagement and task completion. The written summary of the IEP team meeting contains a statement of the decision, the basis for the decision, the options considered, and the data considered when making the decision.
3. There is documentation that, on August 26, 2016, the written summary of the August 25, 2016 IEP team meeting was provided to the complainant and the student's mother by electronic mail (email).
4. The first day of the 2017-2018 school year at the XXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXX was on August 29, 2016.

CONCLUSIONS:

Based on the Finding of Fact #2, the MSDE finds that there is documentation that the written notice of the decisions made by the IEP team on August 25, 2016 included a description of the data used as a basis for the decision to discontinue occupational therapy services, as required by 34 CFR §300.503. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based on the Findings of Facts #1 - #4, the MSDE finds that there is documentation that the notice of the decision made on August 25, 2016 to discontinue occupational therapy services was provided prior to the implementation of that decision at the start of the 2017-2018 school year, as required by 34 CFR §300.503. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

ALLEGATION #2

ADDRESSING TRANSPORTATION NEEDS

FINDINGS OF FACTS:

5. At the August 26, 2016 IEP team meeting, the complainant expressed concern that changes are made to the bus route and the time that the bus is supposed to arrive to pick up the student without sufficient notice being provided to the parents. The complainant requested that he be informed in writing at least five (5) days before a change is made, and indicated that posting information on the school system's website did not provide him with sufficient notice. The complainant also expressed concern that the window of time that the student was required to wait for the bus be decreased because the student was having difficulty waiting for the bus as a result of his disability.
6. The documentation of the August 26, 2016 IEP team meeting reflects that the IEP team decided to share the complainant's concerns with the PGCPs Transportation Office.

XXX

Ms. Trinell Bowman

October 20, 2017

Page 4

7. The documentation of IEP team meetings held on May 25, 2017 and August 31, 2017 reflect that the complainant raised the same concerns about the manner in which transportation services are provided as he had during the August 26, 2016 IEP meeting.
8. There is no documentation that the IEP team considered the complainant's concerns about the manner in which transportation services are provided at either the May 25, 2017 or the August 31, 2017 IEP team meetings.

CONCLUSIONS:

In this case, the complainant alleges that his concerns about notice of changes to the bus schedule and the amount of time that the student is required to wait for the bus have not been addressed.

Based on the Findings of Facts #5 - #8, the MSDE finds that there is no documentation that the IEP team considered the complainant's concerns about the manner in which transportation services are being provided at the May 25, 2017 and August 31, 2017 IEP team meetings, as required by 34 CFR §300.324. Therefore, this office finds that a violation occurred since May 25, 2017.

ALLEGATION #3 PROVISION OF NOTICE OF THE PROCEDURAL SAFEGUARDS

FINDINGS OF FACTS:

9. On August 29, 2016, the first day of the 2016-2017 school year, the complainant filed his first State complaint of the school year with the MSDE. On June 16, 2017, the complainant filed his last State complaint of the 2016-2017 school year with the MSDE.
10. There is documentation that notice of the procedural safeguards was provided to the complainant when IEP team meetings were held on August 26, 2016, November 17, 2016, and August 23, 2017. The notice was also provided on May 31, 2017 in response to the complainant's request for amendment of the educational record. However, separate notice of the procedural safeguards was not sent in response to the filing of the State complaint on August 29, 2016.

CONCLUSIONS:

Based on the Findings of Facts #9 and #10, the MSDE finds that notice of the procedural safeguards was not provided in response to the filing of the first State complaint of the 2016-2017 school year, as required by 34 CFR §300.503. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on those Findings of Facts, the MSDE finds the violation did not impact the complainant's awareness of his rights and his ability to exercise those rights. Therefore, no student-specific corrective action is required.

**ALLEGATIONS #4 AND #5 CONSIDERATION OF PRIVATE MEDICAL DATA
AND HANDWRITING NEEDS**

FINDINGS OF FACTS:

11. On February 22, 2017, the IEP team discussed the MSDE Letter of Findings in State complaint #17-026, in which a violation was identified with respect to the IEP team not meeting to address lack of expected progress towards achievement of a goal to improve self-management skills between January 2016 and August 2016. The team discussed that the decision was made in August 2016 to focus on the use of Discreet Trial Training² instead of direct occupational therapy services in order to address the lack of progress.
12. At the February 22, 2017 IEP team meeting, the team documented that it considered the student's current classroom performance when determining the required compensatory services. The emails sent by the school staff to the complainant about the student's performance following the August 2016 decision document that the student was demonstrating the ability to stay on task with the use of Discreet Trial Training.
13. At the February 22, 2017 IEP team meeting, the team documented that it again considered input from the occupational therapist that the lack of progress towards achievement of the goal to improve self-management skills was not related to deficits in fine motor skills, but to lack of consistent use of the skills that he learned.³ Based on the data, the team decided that the compensatory services would consist of the occupational therapist assisting with the work in increasing the student's quality of handwriting and his use of the keyboard.

² Discreet Trial Training is a method of teaching in simplified and structured steps. Instead of teaching an entire skill at one time, the skill is broken down and "built-up" using discrete trials that teach each step one at a time (www.educateautism.com).

³ This information was previously considered by the IEP team on August 26, 2016. At that time, the complainant requested direct occupational therapy services to assist the student with learning to lace his shoes and produce legible handwriting. The written summary of the meeting reflects that the occupational therapist did not suspect that there were fine motor skills needs that could be addressed through direct occupational therapy services in order to assist with these tasks, and that the IEP team decided that the student needed to increase his ability to follow multiple step directions involved in completing such tasks. The written summary reflects that the occupational therapist offered to collect additional data regarding the student's handwriting skills in order to address the complainant's disagreement with the team's decisions, but the complainant refused the offer.

14. At an IEP team meeting held on May 25, 2017, the IEP team considered the concerns of the student's parents that the student's handwriting "has gotten worse," and that while the student is able to type and use electronic devices, they wanted him to be writing more and using the keyboard faster and with reduced errors. They expressed concern that the student's "inability to write within lines and like a student on his grade level" was due to problems with fine motor skills and not with lack of focus needed to follow multiple step directions. The IEP team documented that it considered information from the complainant that the student's private physician informed him that he has not observed the student having difficulty with focusing when using electronic devices. Based on this information, the complainant requested that the IEP team reconsider the August 26, 2016 decision that direct occupational therapy services are not needed to address handwriting. In response, the IEP team recommended that an updated occupational therapy assessment be conducted.
15. On August 23, 2017, the IEP team considered the results of the occupational therapy assessment. The assessment report states that the assessment was conducted due to the complainant's concerns about whether the student has fine motor skills needs that impact shoelace tying and writing his name. It states that occupational therapy services had been recommended in the past due to low muscle tone and reduced endurance, and that the student is currently able to access all areas of the classroom, grasp a spoon for self-feeding as well as a pencil, circle answers on worksheets, write his name legibly, manage a zipper on his pants, and use applications on his electronic tablet. However, he was observed to require assistance with stabilizing the snack container and cutting up food items as well as with stabilizing his paper during writing tasks.
16. The occupational therapy assessment report states that the student "demonstrates difficulty with completing sequential steps such as washing his hands and tying his shoelaces requiring adult support to complete step by step and multi-step directions and tasks."
17. The occupational therapy assessment report contains recommendations for the continuation of instruction that was being provided to the student in specific skill acquisition, including shoelace tying, writing his name, and typing. It also contains recommendations that the student be encouraged to stabilize objects to support bilateral coordination needs, and to continue using sensory strategies to assist with calming and increasing on task behavior.
18. The August 23, 2017 IEP team decided that no direct occupational therapy services are needed to address fine motor skills. The IEP states that consultative occupational therapy

services will be provided to address the student's sensory needs in order to support the acquisition of skills, including handwriting and shoelace tying, as needed.⁴

CONCLUSIONS:

Allegation #4 Consideration of Information from the Medical Provider

Based on the Findings of Facts #11 - #18, the MSDE finds that there is documentation that the IEP team considered the evaluation data, including information from a private medical provider, when reviewing and revising the IEP, as required by 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to Allegation #4.

Allegation #5 Handwriting Needs

Based on the Findings of Facts #11 - #18, the MSDE finds that the IEP team made decisions regarding the student's handwriting needs consistent with the data, as required by 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to Allegation #5.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by December 1, 2017 that the IEP team has addressed the complainant's concerns about the manner in which transportation services are being provided.

System-Based

The MSDE requires the PGCPS to provide documentation by January 1, 2018 of the steps taken to ensure that concerns about transportation raised by parents of students placed in nonpublic schools are considered by the IEP team.

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

⁴ On September 25, 2017, the IEP was amended to reflect that the complainant expressed concern that he was not able to obtain access to occupational therapy reports conducted in the past prior to the IEP meeting. This concern was addressed through State complaint #18-009.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Consultant, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

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 available to this office during the complaint investigation and a substantial reason must be provided for not submitting the documentation during the investigation. If additional documentation 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 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 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 Special Education/
Early Intervention Services

MEF/am

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