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State Superintendent of Schools

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December 27, 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: #18-035

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 October 31, 2017, the MSDE received a complaint from Mr. XXXXXXXXXXXX, hereafter, "the complainant," on behalf of his daughter, 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) has addressed the student's needs, since October 2016,¹ in accordance with 34 CFR §§300.320 and .324;
2. The PGCPS had not provided an opportunity for parent participation in the IEP team meetings convened since October 2016,¹ in accordance with 34 CFR §300.322.
3. The PGCPS has not ensured that the student has been provided with the supplementary aides, supports and services required by the IEP since October 2016,¹ in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is six 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. She attends XXXXXXXX
XXXXXXXXXXXXXXXXXXXX.

FINDINGS OF FACTS:

1. The student's IEP, in effect in October 2016, was developed at an IEP team meeting on April 29, 2016. At that time, the IEP team determined that the student had needs in the areas of cognition, early literacy, early math literacy, expressive language, receptive language, and social emotional functioning. The IEP team did not document the complainant's concerns and input and placed "gghhj" in the parent input field of the IEP. The team developed goals for the student to make improvements in all of the identified areas of need. The team also determined the services, supports and supplementary aids the student required to make progress on her goals.
2. The IEP team noted that the student was transitioning from a part-day to a full-day program and that the student's services would need to be updated at the start of the 2016-2017 school year.
3. While the IEP team met in September 2016 and added speech/language therapy services to the IEP, there is no documentation that the team updated the existing services to reflect the full day program consistent with the team's decision.
4. The PGCPS staff have acknowledged that the IEP did not meet the student's needs, with the exception of her speech/language needs, from October 2016 to April 2017.

¹ In his complaint, the complainant indicated that the violations have occurred since April 2016. He was informed in writing that this office can only investigate violations that occurred within one year of the filing of a State complaint (34 CFR §§300.153).

5. There is no documentation that the student was provided with speech/language therapy services from October 2016 to April 2017.
6. On April 24, 2017, the IEP team met for the purposes of reviewing and revising the student's IEP. There is not, however, documentation that the team reviewed or revised the IEP other than to remove speech/language services without explanation and extend the date for achieving the annual goals. There is no documentation that the complainant was invited to the IEP team meeting or was otherwise given the opportunity to participate in the meeting. There is no documentation that prior written notice of the IEP team's decisions were generated or provided to the complainant. The IEP team did not document the complainant's concerns and input and again placed "gghhj" in the parent input field of the IEP.
7. The IEP team convened on October 22, 2017 to review and revise the student's IEP. The school-based members of the IEP team agreed that the student's present levels of performance, goals and objectives and services had not previously been properly reviewed and revised. The team agreed to reconvene to develop a "new IEP" for the student.
8. The PGCPS staff acknowledge that the student's IEP did not address her needs from April 2017 to October 2017, and that the parent was not provided with the opportunity to participate in the IEP team meetings.
9. On October 31, 2017, the IEP team reconvened to develop appropriate present levels of performance and goals and objectives, and determine the supports and services necessary for the student. The student's present levels of performance were updated in all academic, speech and language and fine motor areas, but the team did not update the present level of performance for the student's behavioral and social/emotional needs. The IEP team did not revise the student's social/emotional goal, and did not document a basis for its decision.
10. The placement section of the IEP reflected that the student would receive instruction outside of the general education setting with the exception of lunch, recess, specials. However the services page of the student's IEP states that the student will receive 7.5 hours of instruction daily inside the general education setting. The team determined that the student would receive eight half-hour sessions of speech/language services and three half-hour sessions of occupational therapy each month. The IEP team also changed the student's disability from Multiple Disabilities, including Autism and an Intellectual Disability, to Autism. The team did not document the basis for this decision.

11. There is documentation that the student was provided with the required related services and supplementary aids and services from October 31, 2017 to the present.

DISCUSSION/CONCLUSIONS:

Allegation #1: IEP Development

In this case, the complainant asserts that the IEP team did not properly identify and address the student's needs. Based on Findings of Facts #1-11, the MSDE finds that the student's needs were identified in April 2016, but not properly addressed in September 2016 and at subsequent meetings, in accordance with 34 CFR §§300.320, and .324. Therefore, this office finds that a violation occurred with respect this allegation.

Allegation #2: Parent Participation

In this case, the complainant alleges that the student's parents were not afforded the opportunity to meaningfully participate in the IEP process, in accordance with 34 CFR §300.322. Based on the Findings of Facts #1 and #6, the MSDE finds that the student's parents were not given the opportunity to participate in IEP team decisions from April 2017 to October 2017. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #3 IEP Implementation

Based on Findings of Facts #5 and #11, the MSDE finds that the student has not consistently been provided with the required related services, in accordance with 34 CFR §§300.320 and .323. Furthermore, Based on Finding of Fact #10, the MSDE finds that the IEP is not written clearly with respect to the services to be provided and thus the IEP could not be implemented consistent with the IEP team's decisions in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

ADDITIONAL ISSUE: THE FOLLOWING WAS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Based on the Finding of Fact #6, the MSDE finds that the complaint was not provided with prior written notice of the IEP team's decisions made at the April 2017 IEP team meeting, in accordance with 34 CFR §300.503. Therefore, this office finds that an additional violation has occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student Specific

The MSDE requires the PGCPS to provide documentation by February 1, 2018 that the student's IEP has been reviewed and revised to address the student's behavioral and social/emotional needs and to clarify the services required by the student's IEP and that the IEP team has determined the compensatory services necessary to remediate the violations identified in this investigation.

School Based

The MSDE further requires that the PGCPS provide documentation by February 15, 2018 of the steps taken to determine if the procedural violations identified in this Letter of Findings is unique to this case or if it represents a pattern of noncompliance at XXXXXXXXXXXXXXXXXXXX. If it is determined that a pattern of noncompliance exists, the documentation must describe the actions taken to ensure that the staff properly implement the requirements of the IDEA and COMAR, and provide a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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.

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 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 within the timelines reported in this Letter of Findings.

XXX
Ms. Trinell Bowman
December 27, 2017
Page 6

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The student's parents 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/gl

c:

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