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March 29, 2018

Ms. Jessica Williams
Education Due Process Solutions, LLC
P.O. Box 139
Laurel, Maryland 20725

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: #18-085

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 January 29, 2018, the MSDE received a complaint from Ms. Jessica Williams hereafter, “the complainant,” on behalf of the above-referenced student and his parent, Ms. XXXXXXXXXXX. 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 following allegations:

1. The PGCPS has not ensured that the Individualized Educational Program (IEP) has addressed the student’s behavioral needs and has been reviewed at least annually, since January 2017, in accordance with 34 CFR §§300.320 and .324.

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2. The PGCPS has not ensured that the student has been provided with the special education supports and accommodations required by the IEP or determined comparable services, since January 2017, in accordance with 34 CFR §§300.101 and .323.
3. The PGCPS did not ensure that the student's record was requested from the Charles County Public Schools (CCPS) upon his enrollment in the PGCPS, in January 2017, in accordance with COMAR 13A.08.02.09 and *The Maryland Student Records System Manual*.
4. The PGCPS has not ensured that proper procedures have been followed when disciplinarily removing the student during the 2017-2018 school year, in accordance with 34 CFR §§300.530 and COMAR 13A.08.03.
5. The PGCPS did not provide proper prior written notice of the IEP team's decisions since January 2017, in accordance with 34 CFR §300.503.

BACKGROUND:

The student is sixteen (16) years old and attends XXXXXXXXXXXXXXX in Charles County. He is identified as a student with an Emotional Disability under the IDEA and has an IEP that requires the provision of special education instruction and related services. His enrollment history is as follows:

- Prior to January 2017 - XXXXXXXXXXXXXXX in Charles County;
- From January 2017 to March 2017- XXXXXXXXXXXXXXX in Prince George's County;
- From March 2017 to February 2018 - XXXXXXXXXXXXXXX in Prince George's County; and
- Since February 2018 - XXXXXXXXXXXXXXX in Charles County.

ALLEGATIONS #1 AND #2: IEP DEVELOPMENT AND PROVISION OF SUPPORTS AND ACCOMMODATIONS

FINDINGS OF FACTS:

1. The IEP that was in effect in January 2017 was developed on October 19, 2016 while the student was enrolled in the CCPS. At the October 19, 2016 IEP meeting, the IEP team determined that the student had behavioral needs related to those identified in his Behavior Intervention Plan (BIP), including aggression towards peers and adults, noncompliance, tardiness/unexcused absences, work refusal and disrespect towards adults. The team determined that the student had made progress avoiding these behaviors with the implementation of his BIP, but that he had been disciplinarily removed from school for actions that occurred outside of the classroom and instructional times. The team determined that the student required crisis intervention, frequent breaks and a break pass, "proximity control" and other behavioral supports to assist him with his targeted behaviors.

2. There is no documentation that the PGCPS staff implemented the student's IEP or BIP from January 2017 to March 2017.
3. On March 9, 2017, the IEP team met to review and revise, as appropriate, the student's IEP. The IEP team determined that based on the student's behavioral needs, he required placement in a specialized program. The team discussed some of the student's behaviors exhibited at his current placement including leaving the classroom, not complying with adult directions and acting aggressively toward staff members. The team did not discuss the appropriateness of the student's BIP, which was designed to address these behaviors. The team determined that the student would receive instruction in a setting with a small teacher-to-student ratio and with intensive behavioral supports.
4. There is no documentation that the PGCPS staff implemented the student's IEP or BIP from March 2017 to December 2017.
5. On October 23, 2017, the IEP team met to review and revise, as appropriate, the student's IEP. There were no reports of the student's progress generated between January 2017 and November 2017. The team determined that the student's tardiness and absences were negatively affecting his academic progress. The team added the support of an escort to assist the student with transitioning to classes in a timely manner. The team also decreased the amount of social work services to be provided to the student, but did not document the basis for that determination.
6. On December 4, 2017, the IEP team met to review and revise, the student's IEP, as appropriate. The student had been disciplinarily removed from school for leaving school grounds and returning "with the aroma of Marijuana." The team recommended that a Functional Behavior Assessment (FBA) be conducted for the student, using the existing FBA as "a frame of reference."
7. On December 15, 2017, the IEP team reviewed the new FBA and proposed BIP for the student. The targeted behaviors identified remained similar to the ones in the prior BIP; including leaving school grounds, noncompliance, and aggression.
8. While the IEP team later reported that the student's BIP was being implemented following disciplinary removals in January and February 2018, there is no documentation that the BIP or other behavior interventions were being provided to the student during that time. In addition, the team documented the necessity of modifying the BIP to address the behaviors subject to the suspension. To date, these revisions have not occurred.

CONCLUSION:

Allegation #1: Addressing Behavioral Needs

Based on the Findings of Facts #1,#3, and #5- #8, the MSDE finds that, from January 2017 until February 2018, when the student transferred out of the PGCPs, his behavioral needs were not identified and addressed by the IEP team, in accordance with 34 CFR §300.324. Therefore, the MSDE finds that a violation occurred with respect to this allegation.

Allegation #2: IEP Implementation

Based on Finding of Fact #2, #4, #5, and #9, the MSDE finds that there is no documentation that the student was provided with the behavioral supports and accommodations required by his IEP, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #3: EDUCATIONAL RECORD

FINDINGS OF FACTS:

9. There is documentation that the PGCPs staff requested and received the student's record from the CCPS upon his enrollment in the PGCPs in January 2017.
10. There is no documentation that the PGCPs staff retained copies of the student's record when he was withdrawn from the PGCPs in February 2018 or that the record was transferred to the CCPS.

CONCLUSION:

Based on Finding of Fact #9, the MSDE finds that the PGCPs requested and received the student's record upon his enrollment in the PGCPs. However, based on Finding of Fact #10, the MSDE finds that the PGCPs did not maintain copies of the student's record in accordance with the *Maryland Student Records System Manual*. Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #4 DISCIPLINARY PROCEDURES

FINDINGS OF FACTS:

11. The student's disciplinary removals during the 2017-2018 school year were as follows:
 - November 6, 2017, for truancy; three (3) days
 - December 4, 2017, for possession of drugs; three (3) days

- January 8, 2018, for assaulting a staff member; , at least ten (10) days¹
 - February 2, 2018, for participating in a “group fight”; proposed long term suspension, at least ten (10) days²
12. On January 19, 2018, the IEP team met to conduct a manifestation determination for the student. The team determined that the behaviors were a manifestation of the student’s disability and proposed that the student be readmitted to school on January 22, 2018, and that revisions be made to the student’s BIP.
 13. While the IEP team documented that it had determined services following the student’s removal to include two thirty (30) minute periods of instruction, there is no documentation that these services were provided to the student.
 14. On February 20, 2018, the IEP team met to conduct a manifestation determination for the student following an incident on February 2, 2018. The team did not make a decision as to whether the behavior was a manifestation of the student’s disability. The team did determine that the student was to be provided with instruction twice a week while disciplinarily removed from school. There is no documentation that these services have been offered to the student.

CONCLUSION:

Based on Findings of Facts #12-#14, the MSDE finds there is no documentation that IEP team determined, after each disciplinary removal, whether the behavior was a manifestation of the student’s disability. Further, the MSDE finds there is no documentation that services were provided to the student during that time, in accordance with 34 CFR §§300.530 and COMAR 13A.08.03. Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #5 PRIOR WRITTEN NOTICE

FINDING OF FACT:

15. There is no documentation that, since January 2017, the parent was provided prior written notice of all IEP team decisions.

¹ There is conflicting documentation regarding the number of days the student was disciplinarily removed following this incident. The manifestation determination documents dated January 19, 2018 (eleven days after the incident) indicate that the student was expelled, and that his expected return date was September 4, 2018. However, the manifestation determination documents dated February 20, 2018 indicate that the student had only been suspended for a total of (10) ten total days during that school year.

² Suspension documentation provided to the complainant following this removal does not state a return date for the student. As of February 20, 2018, the student had not yet returned to school.

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DISCUSSION/CONCLUSION:

Based on Finding of Fact #15, the MSDE finds that there is no there is not documentation that all the parent was provided prior written notice of all IEP team decisions, since January 2017, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student Specific

The MSDE requires the PGCPS to provide documentation, by April 30, 2018, that the parent has been provided with copies of written notices of all of the IEP team decisions made since January 2017.

The MSDE further requires the PGCPS to provide documentation by May 1, 2018 that it has coordinated with the CCPS to convene an IEP meeting to review and revise the IEP, as appropriate, to ensure that it addresses the student's behavioral needs and to determine the compensatory services necessary to remedy the violations identified in this Letter of Findings. The PGCPS shall be responsible for the cost of the compensatory services and for ensuring that they are provided.

School -Based

The MSDE requires that the PGCPS provide documentation by May 1, 2018, of the steps taken to ensure that the staff at XXXXXXXXXXXX and XXXXXXXXXXXX properly implements the requirements for IEP development, IEP implementation, disciplinarily removal of students, maintaining and transferring student records, and providing parents with prior written notice. 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.

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 Specialist, 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

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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.

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

c: Kevin Maxwell
Gwen Mason
Barbara VanDyke
Monica Wheeler
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