



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

August 14, 2018

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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: #18-186

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 June 25, 2018, the MSDE received a complaint from Mr. XXXXXX and Mrs. XXXXX, hereafter, “the complainants,” on behalf of their daughter, the above-referenced student. In that correspondence, the complainants 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 did not ensure that the student’s Behavioral Intervention Plan (BIP) was implemented from the start of the 2017-2018¹ school year to November 2017, in accordance with 34 CFR §§300.101 and .323.

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2. The PGCPS has not followed proper procedures when disciplinarily removing the student from school from the start of the 2017-2018¹ school year to November 2017, in accordance with 34 CFR §§300.530-.536 and COMAR 13A.05.01.07 and .08.01.11.
3. The PGCPS did not ensure that the student had the opportunity to participate in extracurricular activities with non-disabled peers, as required by the Individualized Education Program (IEP), from the start of the 2017-2018¹ school year to November 2017, in accordance with CFR §§300.101 and .323.

BACKGROUND:

The student is thirteen (13) years old and is identified as a student with an Intellectual Disability under the IDEA. She attended XXXXXXXXXXXXXXXXXXXXXXXX at the beginning of the 2017-2018 school year until she was placed by PGCPS at the XXXXXXXXXX, a nonpublic special education school. She has an IEP that requires the provision of special education instruction and related services.

ALLEGATIONS #1 AND #2: IMPLEMENTATION OF THE BIP AND DISCIPLINARY PROTECTIONS

FINDINGS OF FACTS:

1. The BIP reflects that the student demonstrates aggressive behaviors, which include pinching, hitting others and throwing objects. There are preventative strategies included in the BIP to be utilize in order to prevent these behaviors from occurring; including providing clear expectations through the use of social stories, providing a place to de-escalate, and the use of positive and proactive language with the student. The BIP also contains response strategies should the behaviors occur, including quietly removing the student away from the area and ignoring the behavior.
2. There is documentation that the school staff used the preventative and response strategies required by the student's BIP when she demonstrated aggressive behaviors.
3. There is no documentation indicating that the student was disciplinarily removed from school in excess of ten (10) days from the start of the 2017-2018 school year to November 2017.

¹ The complainants indicated that the violation has occurred since August 2016. However, they were informed, in writing, that only allegations of violations that occurred within one year of the filing of a State complaint can be addressed through State complaint investigation procedure (34 CFR §300.153).

CONCLUSIONS:

Allegation #1: Implementation of the BIP

Based on the Findings of Facts #1 - #2, the MSDE finds that there is documentation that supports were provided as described in the BIP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #2: Disciplinary Protections

Based on the Finding of Fact #3, the MSDE finds that, because the student was not disciplinarily removed from school in excess of ten (10) days from the start of the 2017-2018 school year to November 2017, the disciplinary protections do not apply, in accordance with 34 CFR §§300.530-.536 and COMAR 13A.05.01.07 and .08.01.11. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #3: PARTICIPATION IN EXTRACURRICULAR ACTIVITIES WITH NON-DISABLED PEERS

FINDINGS OF FACTS:

4. The IEP required the student to participate with non-disabled peers in non-academic and extracurricular activities, such as lunch, assembly, and field trips.
5. There is documentation, including the student's 2017-2018 class schedule and the school master schedule, which reflects the student participation in these activities.
6. On November 15, 2017, the student was not permitted to participate in the community-based instruction (CBI) classroom outing, due to her aggressive behaviors. However, this outing was not an extracurricular activity and did not include the participation of non-disabled peers.

CONCLUSION:

Based on the Findings of Facts #4 and #6, the MSDE finds that there is documentation that the student participated in extracurricular activities with non-disabled peers, from the start of the 2017-2018 school year to November 2017, in accordance with CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to the allegation.

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TIMELINE:

Please be advised that both the complainant and the PGCPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of facts 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 and conclusions contained in this letter should be addressed to this office in writing. The parties 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:ac

c: Monica Goldson
Gwen Mason
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