



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

August 28, 2018

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

RE: XXXXX
Reference: #19-001

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 July 2, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXX, 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 student.

The MSDE investigated the following allegations:

1. The PGCPS did not ensure that the student’s Individualized Education Program (IEP) developed by the XXXXXXXXXXXXX was implemented since her transfer to the PGCPS at the start of the 2017 – 2018 school year, in accordance with 34 CFR §§300.101 and .323, COMAR 13A.08.02, and *The Maryland Student Records Manual*.
2. The PGCPS has not ensured that the separate day school placement determined by the IEP team in March 2018, has been provided, in accordance with 34 CFR §300.101.
3. The PGCPS did not ensure that proper procedures were followed when disciplinarily removing the student from school during the 2017 – 2018 school year, in accordance with 34 CFR §§300.530 - .536, COMAR 13A.08.03 and .04, and COMAR 13A.05.01.10.

BACKGROUND:

The student is seventeen (17) years old, is identified as a student with an Emotional Disability under the IDEA, and has an IEP that requires the provision of special education and related services. During the 2017 - 2018 school year, the student attended XXXXXXXXXXXXXXXX (XXXXXX). She is enrolled to attend XXXXXXXXXXXXXXXX for the 2018 - 2019 school year.

**ALLEGATIONS #1 AND #2 IMPLEMENTATION OF THE STUDENT'S IEP
DEVELOPED BY THE XXXXXXXXXXXXXXXX
AND SEPARATE DAY SCHOOL PLACEMENT**

FINDINGS OF FACTS:

1. In August 2017, the student enrolled at XXXXXX. The registration documentation completed by the complainant identifies that the student most recently attended the XXXXXXXXXXXXXXXX (XXXXXX) in the XXXXXXXXXXXXXXXX (XX) during the 2016 - 2017 school year, and that she has a current IEP.
2. There is documentation that the XXXXXXXX in XXX developed an IEP for the student covering the period from February 2017 to February 2018 (XX IEP). The XX IEP requires the provision of special education and related services.
3. There is no documentation that the XXXXXXXX staff requested the student's records, including the XXX IEP, from her previous school.
4. On March 19, 2018, the IEP team convened in order to address the student's behavior and the complainant's repeated concerns about the provision of special education services. The IEP team discussed that the student was failing all classes and had missed more than twenty-five (25) days of school "most" of which were due to disciplinary removals.
5. The PGCPS acknowledges that the IEP team did not ensure that the student's XXX IEP was implemented since the start of the 2017 - 2018 school year.
6. At the March 19, 2018 meeting, the IEP team documented that the student's "behaviors in school (frequent peer conflicts, organization, attention, disruption, interpersonal friction with adults in the school building, and her tendency to act impulsively in response to distractions or perceived threats) as well as subsequent disciplinary actions, substantially impact her availability for classroom instruction and her ability to access grade-level curriculum."
7. Also at the March 19, 2018 meeting, the IEP team began developing an initial IEP for the student that requires specialized instruction and related services, as well as behavior goals and behavioral strategies, including daily check-ins.

8. The IEP team recommended that a Functional Behavioral Assessment (FBA) be conducted and that a referral be made to the Central IEP team (CIEP) for consideration of a placement in a “separate day school. “
9. On March 29, 2018, the school system staff referred the student to the CIEP team.
10. On April 11, 2018, the school system staff sought and obtained signed consent from the complainant for an FBA to be conducted.
11. On May 22, 2018, the CIEP team convened.¹ The CIEP team reviewed the data, including an FBA and approved Behavior Intervention Plan (BIP) completed in April 2018, as well as input by the complainant and the school system staff. Based on the data, the IEP team determined that the student requires additional supports and services, including crisis intervention services by a school-based mental health provider, as well as a daily behavior management system and daily social skills training that are not available at XXXXXXXXXXXX.
12. The CIEP team determined that the Least Restrictive Environment (LRE) in which the IEP can be implemented with the provision of these additional supports is a separate special education classroom that can address the student’s need for a small, structured environment with behavioral supports. The CIEP team recommended placement in the Transition Program at XXXXXXXXXXXXXXXXXXXX.
13. On June 19, 2018, the complainant completed the transfer request form for the student to attend XXXXXXXXXXXX. She is enrolled to attend Potomac High School for the start of the 2018 - 2019 school year.

CONCLUSIONS:

Allegation #1 Implementation of the XXX IEP

Based on the Findings of Facts #1 - #5, the MSDE concurs with the PGCPS acknowledgement that the IEP team did not ensure that the student’s XX IEP was implemented since the start of the 2017 - 2018 school year, in accordance with 34 CFR §300.101 and .323. Therefore, the MSDE finds a violation with respect to the allegation.

Allegation #2 Separate Day School Placement

Based on the Findings of Facts #8 - #12, the MSDE finds that, while the school-based IEP team made a referral to the CIEP team to consider a separate day school placement, the CIEP team did not determine that a separate day school was required. Therefore, this office does not find that a violation occurred with respect to the allegation.

¹ Attempts were made to find an earlier date that was mutually convenient.

However, based on the Findings of Facts #4 - #13, the MSDE finds that there was a delay in obtaining an appropriate placement in a special education classroom for the student from March 19, 2018 to the start of the 2018 – 2019 school year, and that a violation occurred.

ALLEGATION #3 DISCIPLINARY PROCEDURES

FINDINGS OF FACTS:

14. There is documentation that the student was disciplinary removed from school following incidents that occurred in October 2017, December 2017, January 2018, February 2018, March 2018 and May 2018.
15. The PGCPS acknowledges that the IEP team did not ensure that proper procedures were followed when disciplinarily removing the student from school during the 2017 - 2018 school year.
16. The PGCPS reports that training will be provided to XXXXXXXXX staff on the proper procedures required when disciplinarily removing students from school.

CONCLUSION:

Based on the Findings of Facts 15 - #17, the MSDE concurs with the school system's acknowledgement and finds that proper procedures were not followed when disciplinarily removing the student from school during the 2017 - 2018 school year, in accordance with 34 CFR §§300.153. - .536, COMAR 13A.08.03 and .04, and COMAR 13A.05.01.10. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINE:

Student-Specific

The MCPS requires the PGCPS to provide documentation, November 1, 2018, that the IEP team has determined the amount and nature of compensatory services for the loss of a Free Appropriate Public Education (FAPE) during the 2017 - 2018 school year, and developed a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

School-Based

The MSDE requires the PGCPS to provide documentation by November 1, 2018, of the steps it has taken, including training, to ensure that the XXXXXXXXX staff, including school administration staff, comply with the IDEA and related State requirements relating to the violations identified in this Letter of Findings.

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The documentation must include a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violation does 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 Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency 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 maintains the right to request mediation or to file a due process complaint, if they disagree with the identification, evaluation, placement, or provision of a 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/ksa

c: Monica Goldson
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