



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

August 30, 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: #19-002

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 July 2, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her 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 above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS did not ensure that prior written notice (PWN) was provided after the Individualized Education Program (IEP) team meetings held during the 2017 - 2018 school year, in accordance with 34 CFR §300.503.
2. The PGCPS did not provide an IEP within five (5) business days of the IEP team meetings held during the 2017 - 2018 school year, in accordance with COMAR 13A.05.01.07.

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3. The PGCPS did not ensure that the complainant was provided with documents at least five (5) business days prior to IEP team meetings held during the 2017 - 2018 school year, in accordance with COMAR 13A.05.01.07.
4. The PGCPS did not ensure the complainant was provided with notice of the procedural safeguards as required, during the 2017 - 2018 school year, in accordance with 34 CFR §300.504.
5. The PGCPS did not ensure that reports of the student's progress towards achievement of the annual IEP goals were provided as required by the IEP, in accordance with 34 CFR §§300.101 and .323.
6. The PGCPS did not ensure that the student was provided with the supports and services required by the IEP during the 2017 - 2018 school year, in accordance with 34 CFR §§300.101 and .323.
7. The PGCPS did not follow proper procedures in responding to a request for speech/language and occupational therapy (OT) assessments during the 2017 - 2018 school year, in accordance with 34 CFR §§300.303 - .311 and .503.
8. The PGCPS did not ensure that revisions were made to the IEP through the IEP team or in agreement of the parties during the 2017 - 2018 school year, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is six (6) years old and is identified as a student with a Developmental Delay under the IDEA. He attends XXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

ALLEGATIONS #1 AND #2: PROVISION OF DOCUMENTS AFTER AN IEP TEAM MEETING

FINDINGS OF FACTS:

1. The IEP team convened six (6) times during the 2017 - 2018 school year. There is documentation of prior written notices for the IEP team meetings convened during the 2017 - 2018 school year. However, there is no documentation that the prior written notices were consistently provided to the complainant during the 2017 - 2018 school year.
2. There is documentation that the complainant was provided with an IEP within five (5) business days of the IEP team meeting held on December 15, 2017. However, there is no documentation that the complainant was provided with an IEP within five (5) business days of the remaining five (5) IEP team meetings held during the 2017 - 2018 school year.

CONCLUSIONS:

Allegation #1: Prior Written Notice

Based on the Finding of Fact #1, the MSDE finds that there is no documentation that the complainant was consistently provided with prior written notice of the IEP team meetings held during the 2017 - 2018 school year, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #2: Provision of IEP

Based on the Finding of Fact #2, the MSDE finds that there is no documentation that the complainant was consistently provided with an IEP within five (5) business days of the IEP team meetings held during the 2017 - 2018 school year, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #3: PROVISION OF DOCUMENTS PRIOR TO AN IEP TEAM MEETING

FINDINGS OF FACTS:

3. On March 8, 2018, the IEP team convened to review data collected from the student, as recommended by the occupational therapist during the January 22, 2018 IEP team meeting. However, there is no documentation that the complainant was provided with a copy of the data prior to the IEP team meeting held on March 8, 2018.
4. On March 28, 2018, the IEP team convened to review the results of the assessment. However, there is no documentation that the complainant was provided with a copy of the OT assessment results prior to the IEP team meeting held on March 28, 2018.

CONCLUSION:

Based on the Findings of Facts #3 and #4, the MSDE finds that there is no documentation that the complainant was provided with required documents prior to the IEP team meetings held on March 8, 2018 and March 28, 2018, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #4: PROVISION OF THE PROCEDURAL SAFEGUARDS

FINDING OF FACT:

5. There is documentation that the complainant received a copy of the procedural safeguards during the IEP team meetings held on December 15, 2017 and January 22, 2018.

CONCLUSION:

Based on the Finding of Fact #5, the MSDE finds that there is documentation that the complainant received a copy of the procedural safeguards during the 2017 - 2018 school year, in accordance with 34 CFR §300.504. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #5: PROVISION OF PROGRESS REPORTS

FINDING OF FACT:

6. The IEP in effect at the start of the 2017 - 2018 school year requires that the complainant be provided with the student's IEP goal progress reports twice each year. On April 9, 2018, the IEP was revised to require that progress reports be provided to the complainant twice each quarter for the remainder of the 2017 - 2018 school year. However, there is no documentation that the complainant was provided with progress reports during the 2017-2018 school year.

CONCLUSION:

Based on the Finding of Fact #6, the MSDE finds that there is no documentation that the complainant was provided with the IEP goal progress reports during the 2017 - 2018 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #6: PROVISION OF SUPPORTS AND SERVICES

FINDINGS OF FACTS:

7. On March 8, 2018, the IEP team convened. The complainant expressed concern that the student did not receive "direct special education services with fidelity in September 2017." In response, the school staff agreed to provide the student with "40 hours of compensatory services which were to be provided by the end of the 2017 - 2018 school year" due to the lack of special education instruction during September 2017.
8. There is no documentation that the student was provided with the supports and special education instruction required by the IEP, from October 2017 through the remainder of the 2017-2018 school year.
9. The IEP in effect on April 9, 2018 requires that the student be provided with occupational therapy as a related service, three (3) time each month for thirty (30) minutes. The related service provider's log reflects that the student was provided with occupational therapy services as required by the IEP.

CONCLUSIONS:

Based on the Finding of Fact #9, the MSDE finds that the student was provided with the occupational therapy services required by the IEP. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based on the Finding of Fact #7, the MSDE finds that the student was offered compensatory services for the lack of IEP implementation for September 2017. Therefore, no further student-specific corrective action is required to redress the violation that occurred during this time period.

However, based on the Finding of Fact #8, the MSDE finds that there is no documentation that the student was provided with the supports and special education instruction required by the IEP, from October 2017 through the remainder of the 2017-2018 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation of a Free Appropriate Public Education (FAPE) occurred with respect to this aspect of the allegation from October 2017 until the end of the 2017-2018 school year.

ALLEGATION #7: RESPONDING TO A REQUEST FOR SPEECH/LANGUAGE AND OCCUPATIONAL THERAPY ASSESSMENTS

FINDINGS OF FACTS:

10. On January 22, 2018, the IEP team convened to discuss reevaluation of the student. The IEP team proposed new assessments, including speech/language, to obtain updated present level information and determine current level of functioning in all areas. The team also decided that the school staff would implement and monitor recommendations from the occupational therapist, which included collecting data on the student's classwork with and without the use of a slant board, and include additional supports in the IEP for writing. The team agreed to reconvene to review the data and to determine if the student required assessments of his fine motor skills. There is no documentation that the complainant requested assessments prior to the team's determination to assess the student during the IEP team meeting held on January 22, 2018.
11. On March 9, 2018, the IEP team convened to review the data on the student's classwork. Based on the data, the team determined that an assessment would be conducted of the student's fine motor skills. The consent for the assessment was provided by the complainant.
12. On March 28, 2018, the IEP team convened to review all assessment results. The team determined that speech/language therapy was not required for the student based on the data which did not identify needs in this area. The team decided that OT services are required as a related service to address needs identified in the assessment data.

CONCLUSION:

Based on the Findings of Facts #10 - #12, the MSDE finds that there is no documentation that the complainant requested assessments in the areas of speech/language and fine motor skills during the 2017 - 2018 school year. However, based on these same facts, the MSDE finds that there is documentation that assessments were conducted and the IEP was revised to address the needs based on the data, in accordance with 34 CFR §§300.303 - .311. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #8: IEP DEVELOPMENT

FINDING OF FACT:

13. The contents of the IEP are consistent with the decisions documented in the prior written notices from the IEP team meetings held between September 2017 and April 2018. In addition, there is no documentation that the team determined that the student requires a “grip” on the pencil.

CONCLUSION:

In this case, the complainant alleged that the IEP team determined that the student would be provided with a “short pencil with a *grip*,” and that the IEP was revised without her knowledge to discontinue the use of a “short pencil with a *grip*.”

Based on the Finding of Fact #13, the MSDE finds that the documentation does not support the allegation. Therefore, this office does not find that a violation occurred with respect to the allegation.

If the complainant believes that the documentation of the team’s decisions is inaccurate, she maintains the right to request that the PGCPS amend the record, in accordance with 34 CFR §§300.618 and .619.

CORRECTIVE ACTIONS/TIMELINE:

Student-Specific

The MSDE requires the PGCPS to provide documentation by November 1, 2018, that the IEP team has determined the amount and nature of compensatory services for the loss of a 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 XXXXXXXXXXXX School staff comply with the IDEA and related State requirements for ensuring implementation of the IEP. The documentation

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must include a description of how the school system 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 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 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
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