



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

September 13, 2018

Ms. Jessica Williams
Education Due Process Solutions, LLC
711 Bain Drive #205
Hyattsville, Maryland 20785

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: #19-011

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 18, 2018, the MSDE received a complaint from Ms. Jessica Williams, hereafter, “the complainant,” on behalf of Ms. XXXXXXX and 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 the educational placement during the 2017-2018 school year was the Least Restrictive Environment (LRE) in which the Individualized Education Program (IEP) could be implemented, in accordance with 34 CFR §300.114.
2. The PGCPS did not ensure that the IEP team reviewed and revised, as appropriate, the student’s IEP to address lack of progress toward achieving the IEP goals, during the 2017-2018 school year, in accordance with 34 CFR §300.101 and .324.

3. The PGCPS did not follow proper procedures in response to the parent's revocation of consent of special education services during the 2017-2018 school year, in accordance with 34 CFR §300.9 and COMAR 13A.05.01.03.
4. 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.
5. The PGCPS did not follow proper procedures when disciplinarily removing the student from school during the 2017-2018 school year, in accordance with 34 CFR §§300.530 - .536 and COMAR 13A.05.01.07 and .08.01.11.
6. The PGCPS did not follow proper procedures when responding to a request to access the student's educational record during the 2017-2018 school year, in accordance with 34 CFR §300.613.

BACKGROUND:

The student is seven (7) years old and is identified as a student with an Other Health Impairment (OHI) under the IDEA, related to Attention Deficit Hyperactivity Disorder. He had an IEP that required the provision of special education instruction and related services from the start of the 2017-2018 school year until May 25, 2018, when the parent revoked consent for the provision of special education services.

The student attended XXXXXXXXXXXXXXXXXXXX until April 2018 when, as the result of an IEP team decision, he was placed at XXXXXXXXXXXXXXXXXXXX (XXXXXXXX) by the PGCPS. On May 31, 2018, the student received an administrative transfer to XXXXXXXXXXXX in PGCPS.

ALLEGATIONS #1 - #3: PLACEMENT DETERMINATION, ADDRESSING THE LACK OF PROGRESS, AND REVOCATION OF PARENTAL CONSENT FOR SPECIAL EDUCATION SERVICES

FINDINGS OF FACTS:

1. On November 29, 2017, the progress reported on the student's reading, math, and social/emotional goals reflect that he was making sufficient progress to achieve the goals by April 2018.
2. On February 7, 2018, while the progress reported indicates that the student was making sufficient progress on his reading and math goals, it also indicates that he was not making sufficient progress on his social/emotional behavioral goal.

3. On February 21, 2018, the IEP team convened for an annual review. The team revised the student's IEP to address the lack of progress by including additional supports, such as manipulatives and sensory activities to sustain his attention across all settings.
4. On March 28, 2018, the IEP team convened to review the student's IEP and to determine his educational placement. The team reviewed the student's goals and objectives and indicated that he is not making sufficient progress on his social/emotional behavioral goal. The team included additional social/behavioral supports, such as frequent changes in activities, opportunities for movement, and crisis intervention with the use of a separate support room to allow the student to "regain control" when he is disruptive in class. However, the team determined that the student demonstrated "significant delays/deficits in processing, attention, and focusing, to the extent that education in the general education classroom could not be achieved satisfactorily even with the provision of supplementary aids and supports." The team decided that the student required a smaller class setting with specialized instruction taught by a special education teacher in order to access the curriculum, which was not available at his current placement. The team recommended the Comprehensive Special Education Program (CSEP) at XXXXXX XXX as that school had the supports and services to implement the student's IEP.
5. On May 8, 2018, following his transfer to XXXXXXXXX, the IEP team convened to address concerns raised by the parent. The meeting summary reflects that the parent no longer wanted the student to attend XXXXXXXXX, due to interfering behaviors demonstrated by other students in the program and her discomfort with the school staff. However, the team determined that the current school was the appropriate placement which could implement the student's IEP, but agreed to reconvene at a later date to consider the student's progress.
6. On May 25, 2018, the IEP team reconvened. The IEP prior written notice reflects that, in response to the concerns express by the parent at the previous IEP team meeting, the parent was offered an administrative transfer to another school with the program supports required by the student. The parent declined the offer and provided a written revocation of consent for the continued provision of special education and related services. There is documentation that the PGCPS informed the parent that the student would no longer receive special education instruction, support and related services, disciplinary protections, and special transportation under the IDEA, and that the parent may request an evaluation, at any time, should she again seek special education services for the student.
7. On May 31, 2018, the student was enrolled at XXXXXXXXXXXXXXXXXXXX as a general education student at the parent's request.

CONCLUSIONS:

Allegation #1: Placement Determination

Based on the Findings of Facts #1 - #5, the MSDE finds that the PGCPS followed proper procedures when it determined that the student's educational placement during the 2017-2018 school year was the LRE in which the Individualized Education IEP can be implemented, in accordance with 34 CFR §300.114. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #2: Addressing the Lack of Progress

Based on the Findings of Facts #1 - #5, the MSDE finds that the PGCPS reviewed and revised, as appropriate, the student's IEP to address lack of progress toward achieving the IEP goals, during the 2017-2018 school year, in accordance with 34 CFR §300.101 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #3: Revocation for Consent of Special Education Services

Based on the Findings of Facts #6 and #7, the MSDE finds the the PGCPS followed proper procedures in response to the parent's revocation of consent of special education services during the 2017-2018 school year, in accordance with 34 CFR §300.9 and COMAR 13A.05.01.03. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #4: PROVISION OF PROGRESS REPORTS

FINDING OF FACT:

8. The IEP in effect during the 2017 - 2018 school year requires that the parent be provided with the student's IEP goal progress reports at the end of each quarter of the school year. However, there is no documentation that the parent was provided with the progress reports that were developed for each quarter of the 2017-2018 school year.

CONCLUSION:

Based on the Finding of Fact #8, the MSDE finds that the parent was not provided with the student's IEP goal progress reports each quarter of the school year, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

**ALLEGATIONS #5 AND #6: DISCIPLINARY PROTECTIONS AND ACCESS
TO THE EDUCATIONAL RECORD**

FINDINGS OF FACTS:

9. There is no documentation that the student was disciplinarily removed from school prior to the revocation of parental consent for special education services.
10. On June 4, 2018, the student was disciplinarily removed from school for a period of one (1) day as a result of “insubordinate behavior and continued classroom disruption.”
11. On June 8, 2018 and June 27, 2018, the complainant requested that the school staff “forward all educational records for the student by fax or email or provide a time and date for her to review the file and electronic/Maryland online records.”

CONCLUSIONS:

Allegation #5 Disciplinary Protections

Based on the Findings of Facts #9 and #10, the MSDE finds that the student was not entitled to the IDEA disciplinary protections at the time of the June 4, 2018 disciplinary removal, and there is no documentation that he was removed in excess of ten (10) school days prior to the revocation of consent for special education services, 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 #6: Access to the Educational Record

Based on the Finding of Fact #11, the MSDE finds that the student did not have IDEA rights at the time of the request for access to the educational record, in accordance with 34 CFR §§300.9, .613, and COMAR 13A.05.01.03. Therefore, this office does not find that a violation occurred with respect to the allegation.

The parent maintains the right to file a complaint with the Family Policy Compliance Office on behalf of the student regarding access rights under the Family Educational Rights and Policy Act (FERPA).

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the PGCPS to provide documentation by November 1, 2018, that the parent has been provided with the student’s IEP progress reports from the 2017-2018 school year.

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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.

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: XXXXXXXXXX
 Monica Goldson
 Gwendolyn Mason
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