



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

January 15, 2019

Ms. Ronetta Stanley
Loud Voices Together
P.O. Box 1178
Temple Hills, Maryland 20757

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

RE: XXXXX
Reference: #19-066

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 November 16, 2018, the MSDE received a complaint from Ms. Ronetta Stanley, hereafter "the complainant," on behalf of the above-referenced student and her mother, Ms. XXXXXXXX. 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 has not ensured that the Individualized Education Program (IEP) has addressed the student's speech and language, sensory and fine motor skills needs, since November 16, 2017, in accordance with 34 CFR §§300.101, .320 and .324.
2. The PGCPS has not ensured that the reports of the student's progress towards achievement of the annual IEP speech and language and fine motor skills goals are consistent with the data, since November 16, 2017, in accordance with 34 CFR §§300.101 and .323.

3. The PGCPS did not provide the parent with a copy of the IEP document within five (5) business days after the IEP team meeting on October 3, 2018, in accordance with COMAR 13A.05.01.07.
4. The PGCPS did not follow proper procedures when responding to the parent's request for an IEP team meeting on October 16, 2018, in accordance with 34 CFR §§300.324. and .503.

BACKGROUND:

The student is eight (8) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services. The student is in the second (2nd) grade and attends the XXXXXXXXXXXXXXXX (XXXXXXXXXX ES).

ALLEGATION #1

ADDRESSING THE STUDENT'S SPEECH AND LANGUAGE, SENSORY AND FINE MOTOR SKILLS NEEDS

FINDINGS OF FACTS:

1. The IEP in effect at the start of the investigation period, was developed in April 2017 and amended on October 30, 2017, and documents that the student "has delays" in receptive and expressive language communication skills, fine motor skills, and social emotional behavior skills. The IEP reflects that the student requires "specialized instruction including the adaptation to curriculum, intense adult support, use of picture symbol support and a slower pace of instruction," reduced distraction, and repetition of concepts in a small separate special education classroom.
2. In the areas of speech and language receptive language and expressive language, the IEP documents that the student's instructional grade level of performance is "below same-age peers." To address the student's speech and language needs, the IEP includes two (2) annual goals that are expected to be achieved by April 2018, as well as supplementary aids and supports. The IEP also requires a monthly consultation by a speech/language pathologist "to promote [the student's] transfer of learned speech and language skills" as well as two (2) hours of speech/language therapy per month.
3. In the area of "written language mechanics," the IEP documents that the student's instructional grade level of performance is pre-kindergarten. The information in this section of the IEP describes the student's fine/visual motor skills needs for writing letters and lines, cutting, coloring, maintaining a functional pencil grasp, participating in pencil and paper activities, requiring physical assistance to complete tasks, and following directions. While the IEP documents that the student scored in the "more than others range" in sensory functioning and that sensory issues are "observed," it states that the issues are "very minimal" and do "not appear to be impacting her ability to gain skills and participate" in the classroom.

4. To address the identified written language mechanics needs, the IEP includes an annual goal expected to be achieved by April 2018 that requires the student to complete visual motor tasks functionally with minimum assistance and objectives for writing, copying, tracing, coloring and cutting. In addition, the IEP reflects that the student requires occupational therapy services twice a month, for thirty (30) minute sessions “to address functional visual motor needs.”
5. The IEP includes a section about the student’s “physical - fine motor” skills which identifies that she is performing “slightly below age expectations.” This section includes the results of a sensory profile indicating that the student has a “definite difference” in her functioning as relates to movement, sensitivity, auditory, and touch. The IEP states that she slouches, slumps, gets up and moves around a lot, is fidgety and disruptive when close to others, is “bothered by loud noises” and “seems oblivious.” In addition, the IEP states that the student is “functional in the classroom,” is able to remain seated and participate in classroom, and that “sensory issues are not an area of concern at this time and do not impact her classroom performance.” The IEP documents that this area does not impact the student’s academic achievement and or functional performance. However, the IEP also documents that the student requires, as a physical/environmental supplementary support, the daily provision of noise cancelling headphones, table dividers, sensory breaks using a “burple ball” and a weighted vest in order to “improve her ability to participate throughout the educational environment,” to reduce distractions, and to assist her “as needed in the classroom.”
6. The IEP also requires a consultation by an occupational therapist on a quarterly basis to monitor the student’s fine motor skills development and to provide assistance with implementing strategies and accommodations to address the student’s auditory and tactile “hypersensitivities.”
7. On December 13, 2017, the IEP team recommended a Functional Behavior Assessment (FBA) to be conducted to address the student’s interfering behaviors.
8. Data was collected for the FBA and a report was developed on February 2, 2018. However, the IEP team did not consider the data and develop a Behavior Intervention Plan (BIP) until April 2018.
9. The IEP team conducted the annual IEP review in April 2018 and June 2018. There is no documentation that the IEP goals developed in April 2017 were achieved by April 2018, and the goals were continued to address the same skills and additional skills. The complainant and the parent requested additional services to assist the student in achieving the goals since she had not achieved them the previous year. The IEP team rejected the requests but did not document the basis for its refusals.
10. On October 3, 2018, the IEP team convened and reviewed the June 7, 2018 report of an independent occupational therapy evaluation obtained by the parent due to concerns about the student’s “sensory seeking behaviors” and difficulty with “blending words and communicating.” The report documents that the student has difficulty linking her visual

system with motor tasks which affects academic tasks, including writing, and that she scored “below normal limits” on an assessment of her visual and motor abilities. It also documents that the student seeks movement activities in order to provide extra sensory feedback, which affects her regulation and attention.

11. The private evaluator concluded that the student has “depressed processing within her vestibular/proprioceptive system” which is shown through her “decreased body awareness, difficulty with bilateral tasks, and challenges with age appropriate gross/fine motor tasks.” The private evaluator also concluded that the student has a “significant motor planning disorder which is being caused by inconsistent registration of sensory information.”
12. The IEP team agreed that the student has a “significant motor planning disorder,” and that her sensory needs “impact her availability for instruction for long periods of time.”
13. The private evaluator recommended “intense one-on-one occupational therapy” twice a week to address the student’s “motor delays, significant sensory needs, and motor planning deficits.” While the IEP team agreed that the student would benefit from sensory experiences throughout the day, the IEP team rejected the recommendation for increased direct occupational therapy. The occupational therapist explained that the student’s sensory needs would be appropriately addressed through consultations with the school staff for training and developing strategies for incorporating vestibular/proprioceptive activities for the student throughout the school day. The IEP was revised to increase the occupational therapist consultation from quarterly to monthly. While there is documentation that the IEP team agreed to incorporate vestibular/proprioceptive activities into the sensory diet, the revised IEP does not reflect that vestibular/proprioceptive activities were added as an additional item included in the sensory diet.
14. The private evaluator also recommended “intensive one-on-one speech therapy” twice a week” and an “oral motor approach” to “prepare the muscle areas for movement.” The IEP team rejected this recommendation. The IEP team discussed that the student does not have an articulation or phonological disorder and that she produces clear sounds that are “clearly understood” by listeners. The speech therapist explained that the student has expressive and receptive speech delays that make it difficult for her to understand language and to produce messages for conversation. She further explained that an oral motor approach is not appropriate for the student because she needs to practice speech sounds rather than speech “movements.”
15. The parent disagreed with the IEP team’s refusals to increase the student’s related services for speech and language therapy and occupational therapy. In addition, there is documentation that the complainant expressed concern with the team’s decision that the same amount of related services that were required in the previous year’s IEP continued to be appropriate when the student did not master the previous year’s IEP goals. There is no documentation that the IEP team addressed this concern.

CONCLUSIONS:

Based on the Findings of Facts #1 - #8, the MSDE finds that there was a delay in addressing the student's behavioral needs from December 2017 until April 2018, in accordance with CFR §§300.101, .320 and .324. Therefore, this office finds a violation occurred with respect to this aspect of the allegation.

Based on the Finding of Fact #9, the MSDE finds that there was no data to support the IEP team's rejection of the parent's request for additional services in June 2018 to address the student's speech and language and written language mechanics skills needs, in accordance with 34 CFR §300.324. Therefore, this office finds a violation occurred with respect to this aspect of the allegation.

Based on the Findings of Facts #10 - #15, the MSDE finds that the IEP team did not consider the parent's concern in October 2018 that the student requires additional services in order to achieve the annual IEP speech and language and written language mechanics goals, in accordance with 34 CFR §300.324. Therefore, this office finds a violation occurred with respect to this aspect of the allegation.

ALLEGATION #2 REPORTS OF THE STUDENT'S PROGRESS

FINDINGS OF FACTS:

Written Language Mechanics Goal

16. In November 2017, January 2018 and April 2018, the school staff developed reports of the student's progress towards achieving the annual IEP written language mechanics goal that was expected to be achieved by April 24, 2018. Each of these progress reports documents that the student was making sufficient progress to achieve the goal.
17. The IEP documents that observation records are required as the evaluation method to evaluate the goal. A review of the observation records reflect that the student was working on the skills required to achieve the goal. However, the student did not achieve the goal within the year's time that the goal was designed to be achieved, and there is no documentation of an explanation by the IEP team as to why the goal was not achieved.

Speech and Language Goals

18. In November 2017, February 2018 and April 2018, the school staff developed reports of the student's progress towards achieving the annual IEP speech and language receptive language and expressive language goals that were expected to be achieved by April 24, 2018. Each of these progress reports documents that the student was making sufficient progress to achieve the goals.
19. The IEP documents that observation records are required as the evaluation method to evaluate the goal. A review of the observation records reflects that the student was

making some progress towards developing some of the skills required to achieve the goals. However, the student did not achieve the goals within the year's time that the goals were designed to be achieved, and there is no documentation of an explanation by the IEP team as to why the goal was not achieved.

CONCLUSION:

Based on the Findings of Facts #16 and #18, the MSDE finds that the school staff documented that the student was making sufficient progress to achieve the IEP speech and language and written language mechanics goals. However, based on the Findings of Facts #17 and #19, the MSDE finds that the student did not achieve these goals and there is no documented explanation of why she did not achieve the goals. Therefore, this office finds a violation occurred.

ALLEGATION #3 PROVISION OF THE OCTOBER 2018 IEP TO THE PARENT

FINDINGS OF FACTS:

20. On October 3, 2018, the IEP team convened and revised the student's IEP. The school staff documented that the parent would be provided a copy of the IEP within five (5) business days of the meeting.
21. There is documentation that on October 10, 2018, the school staff sent the parent a document entitled "IEP Amendment Changes." However, the document was not the completed IEP or a draft copy of the IEP that was developed by the IEP team at the October 3, 2018 IEP meeting.
22. On October 16, 2018, the parent sent an email to the school staff requesting a complete copy of the revised IEP. On October 17, 2018, the school staff sent the completed revised IEP to the parent via the student's backpack.

CONCLUSION:

Based on the Findings of Facts #20 - #22, the MSDE finds that the PGCPS did not ensure that the parent was provided with a complete copy of the revised IEP document within five (5) business days after the October 2018 IEP team meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds a violation occurred.

ALLEGATION #4 PARENT REQUEST FOR AN IEP TEAM MEETING

FINDINGS OF FACTS:

23. On October 16, 2018, the parent provided the school staff with the report of a recent independent evaluation that was privately obtained and requested an IEP team meeting.

24. On the following day, October 17, 2018, the school staff acknowledged receipt of the private evaluation report, and informed the parent that an IEP team meeting would be scheduled to review the report.
25. The staff acknowledge that they “dropped the ball” on timely scheduling a meeting to review the private evaluation report. On December 18, 2018, the school staff sent an email to the parent suggesting a proposed IEP meeting date of January 15, 2019. On the same date, the parent responded, confirming her availability for January 15, 2019.
26. On January 2, 2019, the school staff developed an invitation notice for an IEP team meeting scheduled for January 15, 2019 to review the private evaluation report.

CONCLUSION:

Based on the Findings of Facts #23 - #26, the MSDE concurs with the PGCPS’s acknowledgement that proper procedures were not followed when responding to the parent’s request for an IEP team meeting, in accordance with 34 CFR §§300.324. and .503. Therefore, this office finds a violation occurred.

CORRECTIVE ACTION/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by March 1, 2019 that the IEP team has considered the parent’s request for additional services to assist the student in achieving the goals, and has reviewed and revised the IEP consistent with the data to address the student’s continued lack of progress.

The MSDE also requires the PGCPS to provide documentation by the end of the 2018-2019 school year that the IEP team has considered the student’s progress again and has reviewed and revised, as appropriate, the IEP to address any continued lack of expected progress.

The MSDE further requires the PGCPS to offer to implement the IEP during the summer of 2019 in order to redress the violations identified.

School-Based

The MSDE requires the PGCPS to provide documentation by the end of the 2018-2019 school year of the steps taken to ensure that the identified violations do not recur at High Bridge ES. The documentation must include information on how the school system will monitor the effectiveness of the steps taken.

The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not reoccur.

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Ms. Trinell Bowman
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Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention and Special Education 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.

The parent 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 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 Early Intervention
and Special Education Services

MEF/ksa

c: Monica Goldson
Gwendolyn Mason
Barbara VanDyke
XXXXXXXXX
Dori Wilson
Anita Mandis
K. Sabrina Austin
Nancy Birenbaum