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Interim State Superintendent of Schools

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XXXXXXXXXX

May 27, 2016

Ms. Jessica R. Williams  
Education Due Process Solutions, LLC  
711 Bain Drive Apartment #205  
Hyattsville, Maryland 20725

Mrs. Joan Rothgeb  
Director of Special Education  
Prince George's County Public Schools  
1400 Nalley Terrace  
Landover, Maryland 20785

RE: XXXXXX  
Reference: #16-096

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.

**ALLEGATION:**

On April 1, 2016, the MSDE received a complaint from Ms. Jessica R. Williams, hereafter, "the complainant," on behalf of the above-referenced student and his parent, Ms. XXXXXXXXXXXX. 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 allegation that the PGCPS did not ensure that proper procedures were followed in response to a request for an Independent Educational Evaluation (IEE) at public expense, in accordance with 34 CFR §300.502.

**INVESTIGATIVE PROCEDURES:**

1. On April 1, 2016, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPs; Dr. LaRhonda Owens, Supervisor of Compliance, PGCPs; Ms. Gail Viens, Deputy General Counsel, PGCPs; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPs.
2. On April 7 and 28, 2016, Ms. Sharon Floyd, Education Program Specialist, MSDE, discussed the allegation being investigated with the complainant.
3. On April 8, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. The MSDE also notified Mrs. Rothgeb of the allegation to be investigated and requested that her office review the alleged violation.
4. On April 28, 2016, the complainant provided the MSDE with documentation via electronic mail (email) to consider.
5. On May 9, 2016, Ms. Floyd and Mr. Albert Chichester, Education Program Specialist, MSDE, conducted a site visit and reviewed the student's educational record at the XXXX XXXXXX School, and interviewed the following school system staff:
  - a. Ms. XXXXXX, Principal;
  - b. Ms. XXXXXX, Special Educator and IEP Chairperson; and
  - c. Ms. XXXXXXX, Speech and Language Pathologist.

Ms. Jodi Kaseff, Special Education Compliance, PGCPs, and Mr. Robert L. Reese, Compliance Instructional Specialist, the PGCPs, attended the site visit and record review as representatives of the PGCPs and to provide information on the school system's policies and procedures, as needed.

1. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. Notice of the procedural safeguards, provided to the student's parents on December 15, 2015;
  - b. Individualized Education Plan (IEP), dated December 15, 2015;
  - c. IEP team meeting invitation and team summary, dated December 15, 2015;
  - d. Prior written notice, dated February 25, 2016;
  - e. Consent and permission for the MSDE to release information to the complainant, dated December 14, 2015;

- f. The parent's consent for reevaluation, dated December 15, 2015;
- g. Correspondence from the complainant, requesting an Independent Education Evaluation (IEE) at the public school's expense, dated February 25, 2016 and April 1, 2016;
- h. The PGCPS' acknowledgment of the IEE request, dated February 26, 2016;
- i. The PGCPS' response to the request for an IEE, dated April 18, 2016;
- j. Reports of the psychological assessment, dated February 17, 2016, educational assessment, dated January 22, 2016, and speech/language assessment, dated February 16, 2016;
- k. Log of the provision of speech/language services, dated January 5, 2016 through April 28, 2016;
- l. The school staff's log of parent contacts, dated December 11, 2015 through May 6, 2016;
- m. Email correspondence between the PGCPS and the complainant, dated February 25, 2016 through April 29, 2016;
- n. Email correspondence between the PGCPS staff, dated February 25, 2016 through April 29, 2016;
- o. Email correspondence between the PGCPS and the MSDE, dated April 29, 2016 through May 25, 2016; and
- p. Correspondence from the complainant containing an allegation of a violation of the IDEA, received by the MSDE on April 1, 2016.

### **BACKGROUND:**

The student is fourteen (14) years old and is identified as a student with a Specific Learning Disability under the IDEA. He has an IEP that requires the provision of special education instruction and related services (Doc. b).

There is documentation that, during the time period covered by this investigation, the parent was provided with notice of the procedural safeguards (Doc a).

### **FINDINGS OF FACTS:**

1. On February 25, 2016, the IEP team reviewed reports of educational and speech/language assessments. At the meeting, the complainant requested an Independent Educational Evaluation (IEE) on behalf of the parent, in the area of reading (Doc d).
2. On April 1, 2016, the complainant provided a written request for the IEE, on behalf of the student's parent, which included requests for specific assessments in the areas of "academics, developmental, speech/language, fine motor and gross motor deficits" (Doc g).

3. On April 18, 2016, in a letter, the PGCPs staff informed the complainant that the PGCPs would fund the IEE in the area of academics. The school system did not address the remaining assessment areas requested by the complainant (Doc i).
4. On April 27, 2016, the complainant sent an email to the PGCPs Central Office staff indicating that the IEE request was for a speech/language assessment only (Doc n).
5. On April 27, 2016, the PGCPs sent the parent an email asserting that the school system was not in agreement to fund an IEE for speech/language assessment (Doc n).
6. There is no documentation that the school system has filed for a due process complaint to request a hearing to demonstrate the appropriateness of its evaluation (Doc o).

#### **DISCUSSION/CONCLUSIONS:**

The parent of a student with a disability has the right to obtain one (1) IEE at public expense each time the public agency conducts an evaluation with which the parent disagrees. Upon request for an IEE, the public agency must, without unnecessary delay, either provide parents with information about where an IEE may be obtained and the agency criteria applicable for an IEE, or file a due process complaint to request a hearing to demonstrate that its evaluation is appropriate.

If a parent requests an IEE, the public agency may ask for the parent's reason for objecting to the public assessment. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the IEE at public expense or filing a due process complaint to defend the public evaluation (34 CFR §300.502).

In this case, the complainant alleges that the school system did not ensure that an IEE was not provided to assess the student's speech/language needs at public expense or that they filed a due process complaint to request a hearing in order to defend the speech/language assessment that they had conducted (Doc. p).

Based on the Findings of Facts #1-#6 above, the MSDE finds that the PGCPs has not appropriately responded to this request for an IEE without unnecessary delay. Therefore, this office finds that a violation occurred with respect to this allegation.

#### **CORRECTIVE ACTIONS/TIMELINE:**

The MSDE requires the PGCPs to provide documentation by June 17, 2016, that it has granted the complainant's request for an IEE in the area of speech/language or filed a due process complaint to request a hearing to defend its speech/language assessment.

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**TECHNICAL ASSISTANCE:**

Technical assistance is available to the complainants and the PGCPS by Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, at (410) 767-0255.

Please be advised that both the complainants 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. Pending the decision on a request for reconsideration, the school system must implement any corrective actions consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The parent and the school system 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 and Appropriate Public Education 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: sf

c:	XXXXXXXXXX	Jodi Kaseff
	Kevin M. Maxwell	XXXXXXXXXXXX
	Gwendolyn J. Mason	Dori Wilson
	LaRhonda R. Owens	Anita Mandis
	Kerry Morrison	Nancy Birenbaum