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July 8, 2016

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

RE: XXXXX  
Reference: #16-128

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 May 12, 2016, the MSDE received a complaint from Ms. XXXXXXXXXXXXXXXX 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 has not ensured that the Individualized Educational Program (IEP) has addressed the student's behavioral needs, since May 2015,<sup>1</sup> in accordance with 34 CFR §§300.320 and .324;

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<sup>1</sup> The complainant was informed, in writing, that only those violations of the IDEA that are alleged to have occurred within one year of the filing of a State complaint may be addressed through the State complaint procedure (34 CFR §300.153).

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2. The PGCPS did not ensure the provision of notice of the procedural safeguards, following the student's suspension in May 2016,<sup>2</sup> in accordance with 34 CFR §300.504; and
3. The PGCPS has not ensured that the dedicated assistant services provided to the student have been provided in a manner consistent with his IEP, since May 2015,<sup>1</sup> in accordance with 34 CFR §§300.101 and .323.

### **INVESTIGATIVE PROCEDURES:**

1. On May 12, 2016, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan M. Rothgeb, former Director of Special Education, PGCPS.
2. On May 18, 2016, Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a telephone interview with the complainant and clarified the allegations for investigation.
3. On May 26, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified the PGCPS of the allegations and requested that the school system review the alleged violations.
4. On June 1, 2016, Mr. Loiacono contacted Ms. Jodi Kaseff, Special Education Instructional Specialist, PGCPS, to arrange a document review and site visit.
5. On June 13, 2016, Mr. Loiacono and Ms. Sharon Floyd, Complaint Investigator, MSDE, conducted a site visit at XXXXXXXXXXXX to review the student's educational record and interviewed the following school staff:
  - a. Ms. XXXXXXXXXXXX, General Education Teacher;
  - b. Ms. XXXXXXXXXXXX, Dedicated Assistant;
  - c. Mr. XXXXXXXXXXXX, School Psychologist;
  - d. Ms. XXXXXXXXXXXX, School Guidance Counselor;
  - e. Ms. XXXXXXXXXXXX, General Education Teacher;
  - f. Dr. XXXXXXXXXXXX, Principal; and
  - g. Ms. XXXXXXXXXXXX, Special Educator.

Ms. Kaseff attended the site visit as a representative of the PGCPS and to provide information on the school system's policies and procedures, as needed.

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<sup>2</sup> This allegation was initially mistakenly identified as occurring in October 2015.

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6. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP, dated October 14, 2014;
  - b. IEP, dated October 21, 2015;
  - c. IEP, amended March 14, 2016;
  - d. Prior Written Notice, dated October 21, 2015;
  - e. Resource Service Logs, dated September 3, 2015 to June 9, 2016;
  - f. Additional Adult Support Daily Activity Logs, dated September 21, 2015 to June 10, 2016;
  - g. Student attendance data, dated September 4, 2015 to June 10, 2016;
  - h. Student work samples, undated;
  - i. PGCPS "Bullying, Harassment or Intimidation Reporting Form", dated May 2, 2016
  - j. Electronic Mail (Email) from the school staff to the PGCPS staff, dated February 11, 2016;
  - k. Email from the school staff to the PGCPS staff, dated February 12, 2016;
  - l. Email from the school staff to the complainant, dated February 19, 2016;
  - m. Email from the school staff to the complainant, dated March 2, 2016;
  - n. Email from the school staff to the complainant, dated March 14, 2016;
  - o. Emails between the complainant and school staff, dated March and April 2016;
  - p. Email exchange between the complainant and the school staff, dated May 5, 2016;
  - q. Email from school staff to the complainant, dated May 12, 2016;
  - r. Email from the complainant to the school staff, dated May 30, 2016;
  - s. Email from the school staff to the PGCPS staff, dated June 6, 2016;
  - t. Email from the school staff to the complainant, dated June 6, 2016;
  - u. Email from the complainant to the school staff, dated June 6, 2016;
  - v. School staff telephone call notes with the complainant, dated May 12, 2016; and
  - w. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on May 12, 2016.

**BACKGROUND:**

The student is twelve years old and attends XXXXXXXXXXXXXXXXXXXX. He is identified as a student with a Specific Learning Disability under the IDEA and has an IEP that requires the provision of special education services (Docs. a-d).

**FINDINGS OF FACTS:**

1. The student's IEP, in effect in May 2015, identifies the student's needs related to self-management and organization. The IEP team determined that the student requires assistance with packing and unpacking his supplies, and getting started with assignments in the morning. To assist the student, the IEP required that the student be provided with an organization system to ensure that work is sent home, a checklist for writing assignments and the assistance of additional adult support. The adult support is designed

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- to assist the student with staying organized and copying notes from the board. The IEP further required that the student be provided scribing services for responses containing sentences and paragraphs (Doc. a).
2. On October 21, 2015, the team determined that the student continued to require the use of the supplementary aids and services in his IEP, including the use of additional adult support services. The team determined that the student was making progress towards his academic goals, and the complainant did not raise concerns regarding the student's behavioral needs or the services provided by the adult support (Docs. b and d).
  4. On February 11, 2016, the school staff met with the complainant in a parent-teacher conference to address her concerns regarding the student's completion of assignments. The school staff assisted the complainant with accessing digital assignments at home and explained how the student's assignments are modified. The school staff also reminded the complainant that an IEP team meeting could be convened to consider any suggestions for revisions she might have in the future to the student's IEP (Docs. j and k).
  5. On February 19, 2016, the school staff contacted the complainant to clarify the implementation of the behavioral/organization home communication system. The complainant and the school staff agreed that a behavioral contract will be maintained in the student's folder, and signed once a week by the complainant (Doc. l).
  6. On March 2, 2016, the school staff modified the student's schedule after the complainant raised concerns regarding another student's behavior toward her son (Doc. m).
  7. On March 14, 2016, the student's IEP was amended, at the complainant's request, to explicitly allow for the student to use a keyboarding device on assignments and tests, and to continue to allow for a scribe to assist him for longer responses (Doc. c and n).
  8. The student data tracking sheets and email communications between the complainant and school staff during March and April 2016 document that the student was improving his organization skills and completing assignments (Docs. f and o).
  9. The daily logs prepared by the student's adult support, and student work samples document that the student was provided with appropriate adult support and scribing support, as required by his IEP, from September 2015 to June 2016. The logs demonstrate that the student was provided with assistance in organizing his materials, scribing services, when necessary, and behavioral redirection to initiate and complete assignments. (Docs. e, f, and h).
  10. On May 2, 2016, the student was disciplinarily removed from school for one day. There is no documentation that the student was previously disciplinarily removed from school during the 2015-2016 school year (Doc i).

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11. On May 5, 2016, the complainant contacted the school principal to request a copy of the procedural safeguards. On the same day, the school principal offered to provide a copy to the complainant (Doc. p).
12. From May 9, 2016 to June 10, 2016, the student was absent on fifteen of twenty-four school days. There is documentation that, during this time period, the school staff repeatedly attempted to contact the complainant regarding the nature of the student's absences, as follows:
  - On May 12, 2016, the school staff contacted the complainant to inquire about the student's absences. The complainant reported that the student's absences were not related to his health, but instead due to accompanying her out-of-state to care for a relative;
  - On May 30, 2016, the complainant contacted the school and informed the school staff that the student would not be attending school after the "last day of instruction;" and
  - On Monday, June 6, 2016, the school staff requested that the PGCPS Pupil Personnel Worker (PPW) staff conduct an "Emergency Home Visit." After the PPW staff contacted the complainant, she informed the school staff, via email, that the student would "be back in school this week." The student did not return to school and, when requested, the complainant declined to speak with the school staff (Docs. p, q-v).

## **DISCUSSION/CONCLUSIONS:**

### **Allegation #1: Addressing the Behavioral Needs of the Student**

In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student (34 CFR §300.324)

Based on Findings of Facts #1 - #9, the MSDE finds that from May 2015 to May 2016, the IEP team considered the needs of the student and developed an IEP designed to meet those needs. During this time, when the complainant raised concerns over specific issues with the student's behavioral needs, the school staff addressed those concerns.

Based on Findings of Facts #9 - #12, the MSDE finds that during May and June 2016, when the student was not consistently attending school, the school staff took steps to seek the student's return, including making efforts to determine how to support the student's needs. Therefore, this office does not find that a violation occurred with respect to this allegation.

### **Allegation #2: Provision of Procedural Safeguards Following a Disciplinary Removal**

The IDEA requires that a copy of the procedural safeguards available to the parents of a child with a disability be given to the parents only one time a school year, except that a copy also must be given to the parents upon initial referral or parent request for evaluation, upon receipt of the first State complaint or first due process complaint in a school year, when the student's educational placement changes as a result of a disciplinary removal, and upon request by a parent

(34 CFR §300.504, COMAR 13A.05.01.11 and 13A.08.03.04). Further, a disciplinary removal can only be considered a change in placement after the student is disciplinarily removed for ten or more school days in one school year (34 CFR §300.536).

In this case, the complainant alleges that she should have been provided the procedural safeguards following the student's disciplinary removal on May 2, 2016. Based on Findings of Facts #10 and #11, the MSDE finds that the student's one day disciplinary removal from school did not constitute a change in his educational placement. Therefore, the PGCPS was not required to ensure that the complainant was provided with a copy of the procedural safeguards following this removal. Further, based upon the Finding of Fact #11, when the complainant requested a copy of the procedural safeguards from school staff, in correspondence related to the removal, the school staff offered to provide a copy. Therefore this office does not find that a violation occurred with respect to this allegation.

### **Allegation #3: Provision of Adult Support Services**

The public agency must ensure that each student is provided with the special education instruction and related services required by the student's IEP (34 CFR §§300.101 and .323).

Based on Findings of Facts #1 - #2 and #8 - #9, the MSDE finds that the student was consistently provided with adult support services as required by his IEP. Therefore, the MSDE does not find that a violation occurred.

### **TIMELINE:**

Please be advised that the complainant and the PGCPS have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact 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.

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Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The complainant 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 due process.

Sincerely,

Marcella E. Franczkowski, M.S.  
Assistant State Superintendent  
Division of Special Education/Early Intervention Services

MEF:gl

c: Kevin Maxwell  
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