



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

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July 22, 2016

Ms. Jessica Williams
711 Bain Dr. #205
Hyattsville, Maryland 20785

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

RE: XXXXX
Reference: #16-133

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.

ALLEGATION:

On May 27, 2016, the MSDE received a complaint from Ms. Jessica Williams, hereafter, "the complainant," on behalf of the above-referenced student, and her mother, Ms. XXXXXXXXXX. 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 allegation that the PGCPS should have suspected, since January 2016, that the student is a student with a disability, and conducted an evaluation under the IDEA, in accordance with 34 CFR §300.111 and COMAR 13A.05.01.06.

INVESTIGATIVE PROCEDURES:

1. On May 31, 2016, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan M. Rothgeb, former Director of Special Education, PGCPS.
2. On June 2, 2016, Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a telephone interview with the complainant and identified the allegation for investigation.

3. On June 3, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the PGCPs of the allegation and requested that the school system review the alleged violation.
4. On June 6, 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 Dr. Nancy Birenbaum, Compliance Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX to review the student's educational record and interviewed the following school staff:
 - a. Ms. XXXXXXXXXXX, Assistant Principal;
 - b. Ms. XXXXXXXXXXX, Reading Specialist;
 - c. Ms. XXXXXXXXXXX, Principal;
 - d. Ms. XXXXXXX, School Counselor; and
 - e. Ms. XXXXXXX, General Education Teacher.

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.

6. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. PGCPs "Proactive Student Services Intervention" administrative procedures, dated November 1, 2009;
 - b. SIT Referral Form, dated December 14, 2015;
 - c. SIT Meeting Minutes, dated January 15, 2016;
 - d. Retention SIT Information, dated January 15, 2016;
 - e. SIT Meeting Minutes, dated March 8, 2016;
 - f. Correspondence from the school staff to the parent, dated May 16, 2016;
 - g. SIT Meeting Minutes, dated May 17, 2016;
 - h. Correspondence from the complainant to school staff, dated May 18, 2016;
 - i. Prior Written Notice, dated June 15, 2016; and
 - j. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on May 12, 2016.

BACKGROUND:

The student is seven years old and attends XXXXXXXXXXXXXXXXXXXX. She is not identified as a student with a disability, but an IDEA evaluation is pending (Doc. 1).

There is documentation that the student's parent participated in the education decision-making process and was provided with notice of the procedural safeguards during the time period covered by this investigation (Doc. i).

FINDINGS OF FACTS:

1. On December 4, 2015, the student's teacher completed a "Student Instruction Team" (SIT)¹ referral because the student was struggling academically. The teacher noted that the student was reading below grade level, was easily distracted, and was missing many assignments (Doc. b).
2. The PGCPS "Proactive Student Services Intervention" policy requires that the school, upon receipt of a referral, convene a SIT to determine general education interventions available to assist a student. The PGCPS procedures require that the students be provided with intensive supports and, if necessary, with additional interventions for approximately nine (9) to twelve (12) week intervals, at which time the student's progress is measured. Based on the student's response to the interventions being provided, the services may be continued, discontinued if sufficient progress is made, or increased in frequency and duration. If the general education interventions are unsuccessful, the SIT is required to make a referral to the IEP team for an evaluation under the IDEA. The policy indicates that interventions cannot be used to delay or deny a student's access to special education services under the IDEA (Doc. a).
3. On January 15, 2016, the SIT met and determined that the student would receive additional reading support with the reading specialist in a small group (Docs. c and d).
4. On March 28, 2016, the SIT determined that the student requires accommodations through a Section 504 Plan² to include more adult support in the classroom. (Doc. e).
5. On May 16, 2016, the school staff determined that the student would be retained in the first grade due to her lack of progress on first grade benchmarks (Doc. f).
6. On May 17, 2016 the SIT determined that it would monitor the student's progress with the provision of accommodations and reconvene at the beginning of the 2016-2017 school year to review her progress (Doc. g).
7. On May 18, 2016 the parent, through the complainant, requested an IDEA evaluation (Doc. h).
8. The Individualized Education Program (IEP) team convened on June 15, 2016 to begin the evaluation process. The results of the evaluation are pending (Docs. h and i).

¹ SIT are "designed to assist school personnel in obtaining and channeling resources to students who are experiencing any type of difficulty or in need of enrichment and acceleration opportunities" (Doc. a).

² A "504 Plan" allows for the provision of accommodations if a student is determined to be eligible under Section 504 of the Rehabilitation Act of 1973.

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DISCUSSION/CONCLUSIONS:

The “Child Find” requirements of the IDEA impose an affirmative obligation on the school system to identify, locate, and evaluate all students residing within its jurisdiction who have disabilities and need special education and related services, or are suspected of having disabilities and being in need of special education and related services. It is, however, the intent of State and federal law that interventions and strategies be implemented to meet the needs of students within the regular school program, as appropriate, before referring students for special education services (34 CFR §300.111).

To meet this expectation, school staff may review a student’s academic and behavioral performance and determine teaching strategies, modifications to instruction and behavior management techniques in the general education program that will appropriately assist the student (34 CFR §300.111).

In this case, the complainant alleges that, as a result of the student’s lack of response to the supports provided in the general education program, an IDEA evaluation should have begun in January 2016.

Based on the Findings of Facts #1-8, the MSDE finds that supports were provided in the general education program and progress monitored, consistent with the school system’s procedures, prior to the complainant’s request for an evaluation under the IDEA. Therefore, the MSDE does not find that a violation occurred.

TIMELINE:

Please be advised that the PGCPS and the complainant 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.

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

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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
Gwen Mason
LaRhonda Owens
Jodi Kaseff
Kerry Morrison
XXXXXXXXX
Dori Wilson
Anita Mandis
Gerald Loiacono