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October 21, 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: #17-027

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 August 29, 2016, the MSDE received a complaint from Ms. XXXXXXXX, 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 allegation that the PGCPS has not followed proper procedures when conducting an evaluation of the student that began on March 30, 2016, in accordance with 34 CFR §§300.111 and .301-.311 and COMAR 13A.05.01.06.

INVESTIGATIVE PROCEDURES:

1. On August 29, 2016, the complainant provided to MSDE with documentation to be considered.
2. On August 30, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Director of Special Education, PGCPS.

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3. On September 7, 2016, Ms. Sharon Floyd, Complaint Investigator, MSDE, conducted a telephone interview with the complainant to discuss the allegation.
4. On September 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 Ms. Bowman of the allegation to be investigated and requested that her office review the alleged violation.
5. On September 16, 2016, Ms. Floyd and Ms. Nichole Green, Dispute Resolution Data Specialist, MSDE, conducted a site visit to the XXXXXXXXXXXXXXXXXXXXXXXX
XXXX to review the student's educational record, and interviewed the following school staff:
 - a. Ms. XXXXXXXXXXXX, Instructional Specialist, Speech and Language;
 - b. Ms. XXXXXXXXXXXX, Instructional Supervisor, Early Childhood Special Education;
 - c. Ms. XXXXXXXXXX, Speech/Language Pathologist;
 - d. Ms. XXXXXXXXXX, Speech/Language Pathologist; and
 - e. Ms. XXXXXXXXXX, LRE Instructional Specialist.

Ms. Kerry Morrison, Compliance Specialist, PGCPs, 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. Notice of procedural safeguards, signed and dated on April 19, 2016, May 11, 2016 and September 6, 2016;
 - b. Log of Parent Contact, dated April 11, 2016 through September 6, 2016;
 - c. Child Find Referrals and Questionnaires, dated March 30, 2016 and July 18, 2016;
 - d. Notice and consent for assessments, dated April 19, 2016 and August 9, 2016;
 - e. Reports of a hearing screening, speech/language assessment, academic assessment, and an evaluation summary report, dated May 11, 2016;
 - f. Reports of a hearing screening, speech/language assessment, academic assessment, and an evaluation summary report, dated September 6, 2016;
 - g. Prior written notices, dated April 19, 2016, May 11, 2016, August 9, 2016, and September 6, 2016;
 - h. Report of a private speech/language assessment, dated September 6, 2016;
 - i. Electronic mail (email) correspondence between school staff, dated July 19-20, 2016;
 - j. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on August 29, 2016; and
 - k. Developmental Ages For Sound Mastery guide, dated 2009 and PGCPs Preschool Child Find Program Brochure, dated September 16, 2016.

BACKGROUND:

The student is four (4) years old and is identified as a student with a Speech/Language Impairment under the IDEA. The student is enrolled in a PGCPS preschool program.

During the time period covered by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. a, b, c, g, h, and j).

FINDINGS OF FACTS:

1. On April 19, 2016, when the student was three (3) years old, the Individual Education Program (IEP) team met to conduct an initial evaluation based on a referral by the complainant to the PGCPS Office of Child Find. She identified concerns about her son's speech articulation, specifically, his difficulty in being understood when trying to express his thoughts and ideas to unfamiliar listeners. Based on information provided by the complainant, the IEP team recommended that the student receive a hearing screening and assessments in the areas of articulation and pre-academics and the complainant provided consent (Docs. b, c, d and g).
2. On May 11, 2016, the IEP team convened to review the results of assessments. The special educator reported the results of the Battelle Developmental Inventory Second Edition, indicating that the student communicates using words, gestures and his own signs and that he is able to communicate his wants and needs verbally, primarily using words. The special educator also reported that the student should not have difficulty accessing and processing the general education curriculum and that he has the skills and foundational knowledge needed to meet the demands of the general education curriculum (Docs. a, b, e and g).
3. Also on May 11, 2016, the speech/language pathologist reported on the results of the Goldman-Fristoe Test of Articulation-Second Edition, which indicated that the student's speech articulation skills were within the "average range." The report reflected that the errors the student exhibited were developmental errors and his speech intelligibility was judged as "fair." The speech/language pathologist reported that "overall the student did not demonstrate significant speech articulation delays." She recommended that "the student be reassessed after his fourth birthday to determine if he was acquiring the appropriate developmental sounds for his age range." The student's hearing results were found to be within "the normal range." Based on the data, the IEP team determined that the student did not meet the criteria for identification as a student with a Speech/Language Impairment under the IDEA (Docs. b, e and g).
4. On July 18, 2016, the complainant made another referral to the PGCPS Office of Child Find based on continued concerns about her son's speech articulation. The complainant was informed that "she would have to wait six months to make another referral."

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However, the school system agreed to conduct another evaluation when the complainant indicated that she was unwilling to wait (Docs. b and c).

5. On July 19, 2016, the complainant was informed that an IEP team meeting would be scheduled to review her referral (Docs. c, b and i).
6. On August 9, 2016 an IEP team convened to review the information provided by the complainant, including a private speech/language assessment. The private speech/language assessment was completed at the Outpatient Rehabilitation of Anne Arundel Medical Center Outpatient Rehabilitation Center. The results of a Clinical Assessment of Articulation and Phonology-Second Edition was reviewed indicating that the student's intelligibility of single words is 60%-70% and is reduced in connected speech. The report included recommendations for the student to be provided with "speech/language therapy to address his mild to moderate speech disorder." Based on the results of the private assessment, the student's lack of preschool experiences and the complainant's concerns, the IEP team determined that additional assessments were needed in the areas of pre-academics and articulation and the complainant provided consent (Docs. b, d, g and h).
7. On September 6, 2016, an IEP team meeting was conducted to review the results of assessments in speech/language and pre-academics. Results of the Goldman-Fristoe Test of Articulation - Third Edition, indicated that the student's articulation is delayed, reflecting a "significant decrease in speech intelligibility" which was assessed at less than 30% for connected speech. Based on the data, the IEP team determined that the student's speech sound production skills significantly impact his speech intelligibility and that he requires special education and related services and that it would reconvene to develop the IEP (Docs. a, b, f and g).

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 are suspected of having disabilities and who need special education instruction and related services (34 CFR § 300.111). It is 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.

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, which will appropriately assist the student. However, the public agency must ensure that implementation of intervention strategies do not delay or deny a student's access to special education services under the IDEA (34 CFR §300.111).

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Upon receipt of a referral for an IDEA evaluation, the public agency must review the existing data, including evaluations, information provided by the student's parents, classroom-based assessments, and observations conducted by teachers. On the basis of that review, the public agency must determine whether additional data is needed and if so, that assessments and other evaluation measures needed to produce the data are conducted (34 CFR §§300.301 - .305 and COMAR 13A.05.01.04).

The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student is classified. The eligibility determination must be made on an individual basis and be based on the student's specific needs. The IEP team must review the evaluation data, and based on that data, determine whether the student meets the criteria for identification as a student with a disability under the IDEA (COMAR 13.A.05.01.06).

The United States Department of Education, Office of Special Education Programs (OSEP) requires that, during the investigation of a State complaint, the State Educational Agency (SEA) must review the procedures used by a school system to reach determinations about the program. Additionally, the SEA must review the evaluative data to determine if decisions made by the IEP team are consistent with the data (OSEP Letter #00-20, July 17, 2000 and *Analysis of Comments and Changes to IDEA*, Federal Register, Vol. 71, No. 156, p. 46601, August 14, 2006).

In this case, the complainant alleges that the student should have been identified as a student with a disability under the IDEA on May 11, 2016, if the evaluation that was conducted by the PGCPS was comprehensive and based on the student's needs.

Based on the Findings of Facts #1-#7, the MSDE finds that the PGCPS conducted an evaluation in the areas of concern expressed in the referral and made an eligibility determination that was consistent with the data.

However, based on the Finding of Fact #4, the MSDE finds that the proper procedures were not followed when initially refusing to conduct an evaluation in response to the July 2016 referral. Therefore, this office finds that a violation has occurred. Notwithstanding the violation, based on the Findings of Facts #4-#7, the MSDE finds that the initial refusal did not result in a delay in conducting the evaluation. Therefore, no student specific corrective action is required.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the PGCPS to provide documentation by December 1, 2016 of the steps taken to ensure that the PGCPS Office of Child Find staff understands and properly implements the requirements for responding to referrals for IDEA evaluations. The documentation must include a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violation does not recur.

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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that both the complainant 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 within the timelines reported in this Letter of Findings.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. 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:sf

c: Kevin Maxwell
Gwendolyn Mason
LaRhonda Owens
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