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December 23, 2016

Ms. Debrah B. Martin
Best Solutions Educational Services
1300 Mercantile Lane Suite 129-2
Largo, Maryland 20774

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

RE: XXXXX
Reference: #17-042

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.

ALLEGATIONS:

On October 24, 2016, the MSDE received a complaint from Ms. Debrah B. Martin, hereafter, "the complainant," on behalf of the above-referenced student and Ms. XXXXXXXXXXXXX, the student's mother. 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 did not ensure that the student was provided with the special education and related services required by the Individualized Education Program (IEP) or comparable services since July 2016 when he transferred to the PGCPS from the XXXXXX XXXXX (XXX), in accordance with 34 CFR §§300.323;
2. The PGCPS did not ensure that the IEP includes the special education services needed to assist the student in achieving the annual IEP goals since revising the XXXX IEP in September 2016 in accordance with 34 CFR §§300.320 and .324; and

3. The PGCPS did not ensure that the student's transportation needs were addressed from July 2016 to October 2016, in accordance with 34 CFR §§300.134 and COMAR 13A.05.01.10.

INVESTIGATIVE PROCEDURES:

1. On October 24, 2016, the complainant provided the MSDE with documentation to be considered.
2. On October 25, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Director of Special Education, PGCPS and Ms. Debrah Anzelone, Instructional Supervisor Support Programs and Services and Due Process and Mediation, PGCPS.
3. On November 14, 2016, Ms. Sharon Floyd, Complaint Investigator, MSDE, conducted a telephone interview with the complainant to discuss the allegation to be investigated.
4. On November 17, 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 December 9, 2016, Ms. Floyd, Complaint Investigator, MSDE, conducted interviews with the following XXXXXXXXX staff:
 - a. Ms. XXXXXXXXXXXX, Special Education Chairperson;
 - b. Ms. XXXXXXXXXXXX, Assistant Principal;
 - c. Ms. XXXXXXXXXXXX, Professional School Counselor; and
 - d. Mr. XXXXXXXXXXXX, Principal.

Mr. Keith Blackson, Compliance Specialist, PGCPS, attended the meeting as a representative of the PGCPS and to provide information on the school system's policies and procedures, as needed.
6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
 - a. IEP, dated November 5, 2015, amended April 14, 2016, notice, team summary;
 - b. IEP, dated September 1, 2016, amended September 26, 2016 notice, team summary;
 - c. Request for records and a Release of Records form, dated July 18, 2016;
 - d. Electronic mail (email), dated September 16, 2016 through November 17, 2016;
 - e. Meeting summary, notice dated September 1, 2016;
 - f. Meeting summary, notice dated September 19, 2016;

- g. Receipt for procedural safeguards, dated September 1, 2016;
- h. Notice and consent for assessments;
- i. The 2016-2017 PGCPS calendar; and
- j. Correspondence from the complainant containing an allegation of a violation of the IDEA, received by the MSDE on October 24, 2016.

BACKGROUND:

The student is fourteen (14) years old and is identified as a student with an Intellectual Disability under the IDEA. During the time period covered by this investigation the student's mother participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. a, b, and g).

Prior to July 18, 2016, the student attended XXXXXXXXXXXXX, a XXXXXXXXXXX (XXX) public charter school. From July 18, 2016 to December 13, 2016 the student attended the XXXXXXXXXXX after the family moved to Prince George's County. The student currently attends XXXXXXXXXXXXXXXXXXXXX, in XXX, after the family moved back to that district (Docs. c, d and j).

FINDINGS OF FACTS:

1. On July 18, 2016, the student's mother provided school staff with a copy of the XXX IEP and indicated her desire to enroll the student in the PGCPS. She also provided the PGCPS with documentation regarding her residency, which was needed to enroll the student in the school system, and completed a Request for Records and Release of Records form. On the same date, the school staff sent a request to the student's previous school in XXX for his educational record (Doc. c and interview with school staff).
2. There is no documentation that the student's previous school in XXX responded to the PGCPS request for records (Interview with school staff).
3. The XXX IEP, dated November 5, 2015 and amended on April 14, 2016, contains the following:
 - a. Annual goals for the student to improve math, reading, written language, receptive and expressive language skills, and emotional, social, and behavioral skills.
 - b. A statement that the student was placed in a "transition setting¹ due to developmental delays."
 - c. The XXX IEP documented that the student was to be provided with 25 hours per week of specialized instruction in special education classes, 90 minutes per month

¹ In XX, the "transition" setting is a special education class with an emphasis on character education along with the core curriculum (www.theXXXXXXXX.org)

of speech/language services, and 120 minutes per month of behavioral support services, and special education transportation (Doc. a).

4. On August 22, 2016, the student received his schedule of assigned classes based on a review of the student's IEP by the special education department chairperson and the registrar. The student was placed in general education classes taught by a general education teacher and a special education teacher for English, reading, math, history, and non-academic courses. The student did not receive speech/language, special education transportation and behavior support services (Doc. b, e and interview with school staff).
5. On September 1, 2016, the IEP team reviewed the XX IEP and considered the following:
 - a. The assessment results documented in the XXXX IEP for math, which was completed in October 2015. The test results indicate that "the student needs to develop basic concepts leading toward addition and subtraction." Assessment results also indicate that "the student is performing at the second grade level in math, needing instructional supports in number sense, basic measurement and counting numbers from one (1) to one hundred (100)."
 - b. The assessment results documented in the XXXX IEP for reading, which was completed in October 2015. The test results indicate that "the student needs fundamental phonics, vocabulary and decoding skills." Assessment results also indicate that "the student is performing at the first grade in reading, needing comprehension instruction with prompts and a limited (1 to 2) number of details."
 - c. Informal writing assessments that were completed in October 2015 and documented in the XXX IEP. The informal assessments indicate that "the student is performing at a first grade level in written language with needs in the areas of sight words, initial consonant sounds, formulating two to three word sentences and parts of speech."
 - d. Observation and informal speech/language assessment results that were completed in October 2015 and documented on the XXXX IEP. The assessment results indicate that the student continues to have deficits in his speech intelligibility and receptive/expressive language skills.
 - e. Observations and informal assessment requiring a verbal response that were completed in November 2015 and documented on the XXXX IEP. The reports indicate that the student needs to use coping skills, ask adults for assistance, when needed, and follow the directions of adults.
 - f. The reports from the student's special education teachers in September 2016, which indicate that "the student requires one-to-one attention in order to complete assignments." The academic resource teacher reported that "even when one-to-one attention is being given, the student requires several prompts to stay on task."

She also stated that “since he requires someone to read for him, he often loses interest resulting in his use of avoidance tactics such as asking to use the restroom, seeking permission to speak with an administrator or going to sleep.”

- g. The reports from the history teacher which indicate that “the student struggles with reading and writing even when provided with support from the co-teacher.” She states that “the student is unable to copy when provided with notes.” She also states that “he often puts his head down in class and goes to sleep” (Docs. a, b and f).
6. At the September 1, 2016 IEP team meeting, the team determined that the PGCPS was providing services that were comparable to the services in the XXX IEP. However, there is no documentation of the basis for the decision (Doc. f).
7. At the September 1, 2016 IEP meeting, the team recommended that the student be provided with additional adult support throughout the school day based on reports from the student’s teachers indicating that the student needed one-to-one support to complete routine tasks, follow directions, maintaining materials, reading, writing, maintaining focus and copying from the board (Doc. f).
8. The IEP team determined that “the information received thus far from the XXXX school was insufficient to determine eligibility under IDEA and placement for the student.” As a result, the IEP team decided to conduct an evaluation that included assessments of the student’s cognitive, social, emotional, and behavioral skills, academic speech/language and functional skills and abilities. The student’s mother signed consent for the evaluation to be completed (Docs. a, f and h).
9. The IEP team meeting was continued on September 16, 2016. At that time, the IEP team determined the student needed special education transportation based on information provided by the student’s teachers, the complainant and the student’s mother that “the student misinterprets social cues, needs reminders to keep his hands to himself, and was involved in an altercation at the bus stop.” The IEP team also determined that “the student needed to receive special education services in all subject areas in a separate special education classroom with the emphasis on functional skills and the core curriculum called the XXXXXXXXXXXXXXXXXXXX Program² (Docs. a, b, e, and f).
10. On September 19, 2016, the student withdrew from the PGCPS and re-enrolled in the XXXXX public schools (Doc. d and an interview with the school staff).

² The XXXXXXXXXXXXXXXXXXXX provides academic, social and emotional assistance to prepare students to function independently in their community (www.pgcps.org).

DISCUSSION/CONCLUSIONS:

Allegation #1 Implementation of the XXXX IEP

If a student with a disability who had an IEP that was in effect in a previous public agency in another State transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the student with a Free Appropriate Public Education (FAPE), including services comparable to those described in the student's IEP from the previous public agency, until the new public agency conducts an evaluation, [emphasis added] if determined necessary, and either adopts the IEP from the previous public agency or revises the IEP (34 CFR §300.323).

“Comparable services” is defined as services that are similar or equivalent to those that are described in the IEP from the previous public agency, as determined by the IEP team in the new public agency [emphasis added] (Analysis of Comments and Changes to the IDEA, *Federal Register*, Vol. 71, No. 156, p. 46681, August 14, 2006).

Based on the Findings of Facts #1 - #8, the MSDE finds that from August 22, 2016 to September 1, 2016, when the IEP team determined comparable services, the PGCPS did not ensure that the XXX IEP was implemented. Based on those Findings of Facts, the MSDE also finds that the PGCPS did not ensure that the IEP team's September 1, 2016 decision about comparable services was consistent with the data because the team did not document how the services that were determined would address the student's transportation, speech/language, and behavioral needs. Therefore this office finds that a violation has occurred with respect to this allegation.

Allegation #2 Services to Assist the Student to Achieve Annual Goals

In order to provide a student with a FAPE, the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data. In developing each student's IEP, the public agency must ensure that it includes a statement of the student's present levels of performance, including how the disability affects the student's progress in the general curriculum. The IEP must also include measurable annual goals designed to meet the needs that arise out of the student's disability, and the special education instruction and related services required to assist the student in achieving the goals (34 CFR §§300.101 and .320).

Based on the Findings of Facts #1 - #10, the MSDE finds that the PGCPS did not ensure that the IEP that was revised on September 16, 2016 included services to assist the student with achieving the annual goals to improve speech/language needs. Therefore this office finds that a violation has occurred with respect to this allegation.

Allegation #3 Addressing Transportation Needs

As stated above, the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data (34 CFR §§300.101 and .320).

Based on the Findings of Facts #1 - #10, the MSDE finds that the PGCPS did not ensure that the student's transportation needs were addressed from August 22, 2016 to September 16, 2016. Therefore this office finds that a violation has occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by March 1, 2017 that compensatory services have been offered to the student for the loss of a FAPE from the start of the 2016-2017 school year to September 19, 2016. The documentation must demonstrate that the school system staff determined the services to offer after consultation with the student's mother and the XXXX school system staff.

Documentation of all corrective actions taken is to be submitted to this office to the attention of the Chief of the Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

School-Based/Systemic

The MSDE requires the PGCPS to provide documentation by April 1, 2017 that steps have been taken to ensure the future compliance by the XXXXXX School staff with the following requirements:

- a. That students transferring into the PGCPS with an IEP are provided with the same or comparable services, as determined by the IEP team, pending the completion of an IDEA evaluation and the IEP team's review and revision of the IEP; and
- b. That there is sufficient data to support the IEP team's decisions.

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

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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 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: XXXXXXXXXXXXX c/o Debrah Martin
 Kevin Maxwell
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