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March 24, 2017

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

RE: XXXXX
Reference: #17-089

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 January 25, 2017, the MSDE received a complaint from Ms. XXXXXXXXX, 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 student.

The MSDE investigated the allegations listed below:

1. The PGCPS has not ensured that the Individualized Education Program (IEP) has addressed the student’s social, emotional, and behavioral needs since the start of the 2016-2017 school year, in accordance with 34 CFR §§300.324.
2. The PGCPS has not ensured that the student has been provided with the accommodations and supplementary aids and services required by the IEP since the start of the 2016-2017 school year, in accordance with 34 CFR §§300.323.

XXX

Ms. Trinell Bowman

March 24, 2017

Page 2

INVESTIGATIVE PROCEDURES:

1. On January 30, 2017, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Executive Director of Special Education, PGCPs, and Ms. Deborah Anzelone, Instructional Supervisor, Support Programs & Services and Due Process and Mediation, Department of Special Education, PGCPs.
2. On February 3, 2017, Ms. Sharon Floyd, Education Program Specialist, MSDE, conducted a telephone interview with the complainant to clarify the allegations to be investigated.
3. On February 6, 2017, 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 February 17, 2017, the PGCPs provided the MSDE with documentation for consideration.
5. On March 20, 2017, Ms. Floyd conducted a site visit at XXXXXXXXXXXXXXXX to review the student's educational record, and interviewed the following school staff:
 - a. XXXXXXXXXXXXXXXX, Special Education Department Chairperson;
 - b. XXXXXXXX, Principal;
 - c. XXXXXXXX, Special Education Teacher; and
 - d. XXXXXXXX, Special Education Teacher.

Ms. Jodi Kaseff, Compliance Instructional Specialist, PGCPs, and Ms. Angela Payne, Special Education Instructional Specialist, PGCPs, attended the site visit as representatives of the PGCPs and to provide information on the PGCPs policies and procedures, as needed.

6. On March 21, 2017, the PGCPs provided the MSDE with additional documentation from the student's educational record, via electronic mail.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated November 15, 2015, amended on May 31, 2016;
 - b. IEP, dated December 12, 2016, amended on March 17, 2017;
 - c. Behavioral Intervention Plan (BIP), dated March 10, 2017;
 - d. BIP, dated June 10, 2016;;
 - e. Report of Functional Behavioral Assessment (FBA), dated March 27, 2017;
 - f. Report of FBA, dated May 16, 2016;
 - g. Curriculum Framework Progress Guide for Academic Resource Class, PGCPs, dated July 24, 2014;

XXX

Ms. Trinell Bowman

March 24, 2017

Page 3

- h. Report of psychological assessment, dated November 29, 2016;
- i. School Mental Health Initiative Contact Note, dated September 2, 2016;
- j. Student's attendance, dated August 23, 2016 through March 24, 2017;
- k. Report of health suite office visits by the student, dated November 10, 2016 through March 1, 2017;
- l. Electronic mail (email) correspondence from central office staff to school staff, dated August 23, 2016;
- m. IEP team meeting, prior written notices, dated September 28, 2016, October 28, 2016, December 15, 2016, and March 13, 2017;
- n. Memorandum from the PGCPD Deputy Superintendent for Teaching and Learning to school principals, dated September 12, 2016;
- o. Accommodations, supplementary aids and services checklist process, dated December 1, 2016;
- p. Student schedule, teachers schedules and para-educators schedules for the 2016-2017 school year;
- q. Student's daily progress reports, dated November 16, 2016 through February 24, 2017;
- r. Student's agenda book, dated November 29, 2016 through March 19, 2017;
- s. IEP progress reports, dated November 15, 2016 and February 2, 2017; and
- t. Correspondence from the complainant containing an allegation of a violation of the IDEA, received by the MSDE on January 25, 2017.

BACKGROUND:

The student is twelve (12) years old and attends XXXXXXXXXXXXXXXX He is identified as a student with an Emotional Disability and Autism under the IDEA, and has an IEP that requires the provision of special education and related services.

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 and b).

ALLEGATION #1: ADDRESSING THE STUDENT'S, SOCIAL, EMOTIONAL, AND BEHAVIORAL NEEDS

FINDINGS OF FACTS:

- 1. The IEP in effect during the 2016-2017 school year was developed on November 15, 2015 and revised on May 31, 2016. The IEP documents that the student requires constant supervision to address his very short attention span and his impulsive behavior. It also documents that the student has difficulty interacting with peers, sometimes taking off his shoes and throwing them, having outbursts, and using inappropriate language on a daily basis. The IEP document indicates that the complainant also expressed concerns about the student's frustration with the academics. The IEP

XXX

Ms. Trinell Bowman

March 24, 2017

Page 4

- requires that the student receive social skills instruction to assist him in responding in an appropriate manner when he is frustrated and/or angry (Doc a).
2. The IEP indicates that the student requires constant re-direction. It states that he has difficulty focusing in class, is very fidgety, invades the personal space of others and engages in tapping, rocking, and hitting himself with books. The IEP requires the provision of additional adult support for his behavior and when making transitions within the school building (Doc a).
 3. The IEP goals to address the student's social, emotional and behavioral functioning include increasing the student's ability to function appropriately within the school environment by following rules during group activities, increasing his participation and his appropriate behaviors such as waiting his turn and asking for help, and finishing tasks. Another IEP goal addresses the student's need to increase his ability to cope when frustrated, overwhelmed, or upset by utilizing a "break card." This allows the student to access a resource room to prevent outbursts, using a five-point scale for monitoring stressful situations, and implementing a calming strategy to increase his coping skills. The IEP also includes a goal for the student to increase his social skills by acknowledging an interaction has been initiated by others and then identifying social rules for varying classroom and social situations (Doc. a).
 4. The student receives an academic resource class which provides opportunities for the development of social, emotional, and behavioral skills and compensatory strategies such as coping strategies and self-advocacy skills within a separate special education class. He receives instruction in core academic classes in a program designed for students with needs arising out of disabilities such as Autism, which uses small, highly structured co-taught classes. The student's Behavior Intervention Plan (BIP) in effect at the start of the 2016-2017 school year identified attention seeking, work avoidance, and frustration as trigger conditions that causes the student to exhibit "self-injurious" behaviors, use inappropriate language, and elope. The BIP includes a daily behavior chart with positive reinforcement and rewards as prevention strategies (Docs. a, b, d, g, and p).
 5. On August 23, 2016, a PGCPs special education specialist was called to assist the student when he engaged in two incidences of "self-injurious" behaviors. The special education specialist reported to school staff that the student responded positively to calming strategies and debriefing of the incidences. However, the complainant was called to transport him because school staff determined it may not be safe for him to be transported on the bus (Docs. l and t).
 6. On September 2, 2016, the school social worker intervened when the student became agitated and hit a student with his shoe. The social worker provided the student with a stress ball to calm himself, debriefed with him and accompanied him to his art class where she stayed to provide him with assistance (Doc. i)

7. On September 28, 2016, an IEP team meeting convened to propose a reevaluation of the student. The student's teacher reported that the student struggles to concentrate and focus and requires significant assistance to begin and complete tasks. Several teachers expressed concern regarding the student's "self-injurious" behaviors. The school nurse reported on the student's numerous visits to the health suite for various injuries to himself such as sticking himself with the pencil in the chest and hand, head slapping and banging, and various abrasions to his hands. The complainant indicated that the student has difficulty distinguishing between reality and fantasy, in addition to the self-harming comments he makes when frustrated. The complainant also reported that the student typically gravitates toward older children, has difficulty reading social cues, misinterprets social situations, and can be quick to anger. The IEP team decided that additional social, emotional, and behavioral information was needed, including a psychological assessment, to obtain the student's current adaptive, social, emotional and behavioral functioning (Doc. m).
8. At an IEP team meeting held on October 28, 2016, the school psychologist reported on the results of the student's social, emotional and behavioral functioning. The psychological assessment report indicates that the student has difficulties with socialization, has limited social and emotional reciprocity, sensory sensitivity, behavioral rigidity, and atypical attention. In addition, it indicates that the student struggles to control his many worries, has explosive and unpredictable behavior, argues with adults and has difficulty managing his anger and emotions. It further indicates that the student has made comments about self-harm, has thoughts of death and dying, and feels hopeless and worthless. The school psychologist reported that the student's behaviors impact his ability to access the curriculum, follow the routine of his school day, and be successful, as well as safe, in the academic setting (Doc. m).
9. On December 12, 2016, an IEP team meeting convened and reviewed the student's grades, assessment results, discipline record and behavior data and determined that the student meets the criteria for identification as a student with an Emotional Disability and Autism under the IDEA. The IEP team recommended that an updated Functional Behavioral Assessment (FBA) be conducted (Docs. d, f and m).
10. Also on December 12, 2016, the IEP was revised to reflect that the student has difficulty initiating and completing tasks, and self-regulating his emotions. The complainant expressed her concerns about the student's inability to interact with others, his poor decision-making skills, and his suspensions from school resulting in four days absence (Docs. b and m).

11. The IEP goals were revised to include a self-management goal for the student to improve his ability to identify and express positive feelings and strengths about himself and others by identifying signs of frustration and stress within himself, seeking assistance and support, and refraining from using negative comments about himself or others. The IEP was also revised to include a goal for the student to be able to identify and manage his feelings of anger, frustration, anxiety, and stress on a daily basis by making statements about the positive qualities and accomplishments of himself and others (Docs. b and m).
12. An IEP team meeting was convened on February 28, 2017. Teacher observations, daily behavioral charts, progress reports, and Antecedent Behavior Consequence (ABC) data was reviewed. A report on the FBA identified the student's target behaviors as "self-injurious" behaviors, elopement, hiding, and verbal protests, yelling, screaming, making negative comments, using profanity, suicidal ideation, threatening to burn down the school and making inappropriate drawings. Due to time constraints, the IEP team could not review and revise the BIP based on this data and decided to reconvene to do so (Docs. e and f).
13. On March 17, 2017, the BIP was reviewed and revised to include the implementation of a daily behavioral chart for the student, with scheduled breaks and the opportunity to earn rewards, use of the "break card" which was revised to allow the student to self-advocate by seeking assistance prior to getting overwhelmed, direct social skills training and emotional regulation training, included guided meditation, breathing techniques and sensory activities, redirection of perseveration on non-appropriate topics, a visual chart/reminder of appropriate topics, pre-teaching of behavioral expectations before each activity, and a visual schedule to prepare him for academic work and transitions (Doc. c).
14. The IEP was revised on March 17, 2017 to include the complainant input that the student has a heightened sense of anxiety regarding school. The student's teacher reported that the student has been absent twenty-nine (29) days since the start of the 2016-2017 school year and stressed the importance of consistent attendance in reducing the student's anxiety. The IEP team proposed anxiety reducing techniques and strategies for the complainant to use with the student. The student requires the assistance of adult support during transitions when he may remove himself out of his seat to wander, lay under his desk or elope out of the building. The PGCPS Autism Specialist observed the student and made recommendations to include behavioral supports such as sensory breaks, social stories, and visual supports to reduce his anxiety (Doc. c).
15. The IEP was also revised to include monitoring of the student's daily behavioral chart, social skills training, positive non-verbal and verbal behavioral supports, and a positive behavioral contract and fifteen (15) hours of counseling per week (Doc. c).
16. The IEP team also proposed that the student's classwork be modified in content and amount to reduce his feelings of being overwhelmed and to prevent anxiety, allowing the usage of fidgets to decrease his anxiety, movement breaks, and monitoring of the student's agenda book for accuracy (Doc. c).

XXX

Ms. Trinell Bowman

March 24, 2017

Page 7

DISCUSSION/CONCLUSIONS:

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that addressed 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 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. In the case of a student whose behavior impedes the student's learning or that of others, the team must consider the use of positive behavioral interventions and supports and other strategies, to address that behavior (34 CFR §§300.101, .320 and .324 and COMAR 13A.05.01.06).

Based on the Findings of Facts #1 - #17, the MSDE finds that the IEP team has met to consider behavioral supports to address the student's social, emotional, and behavioral needs. Therefore, this office finds no violation occurred with respect to the allegation.

**ALLEGATION #2: PROVISION OF ACCOMMODATIONS,
SUPPLEMENTARY, AIDS AND SERVICES**

FINDINGS OF FACTS:

18. The IEP requires accommodations, to be provided during instruction and testing, including:
 - a. Text to speech software;
 - b. Monitoring of test responses;
 - c. Math calculator;
 - d. Graphic organizers;
 - e. Extended time;
 - f. Multiple or frequent breaks;
 - g. Reduced distractions to the student; and
 - h. Reduced distractions to other students.

19. The IEP requires supplemental aids and services, to be provided daily, including:
 - a. Assistance with organization;
 - b. Directions repeated;
 - c. Questions and instructions paraphrased;
 - d. Provision of a consistent schedule;
 - e. Checking for understanding;
 - f. Reading and math intervention support;
 - g. Additional adult support;
 - h. Monitoring of the agenda book and progress reports;
 - i. Incorporation of high interest topics;
 - j. Positive behavioral contract (since March 17, 2017)
 - k. Altered and modified assignments;

XXX

Ms. Trinell Bowman

March 24, 2017

Page 8

- l. Social skills training;
 - m. Sensory input adjustments;
 - n. Visual supports;
 - o. Monthly occupational therapy consultation; and
 - p. Periodical speech/language pathologist consultation (Docs. a and b).
20. On September 22, 2016 the PGCPS conducted a system-wide professional development session to ensure the consistent use of accommodations, supplementary aids and services when supporting the instructional needs of students with IEPs (Doc. n).
21. While there is documentation to support that the student was provided with accommodations, supplementary aids and services, there is no documentation that they were provided consistently prior to December 1, 2016 (Docs. o, p and r).

DISCUSSION/CONCLUSIONS:

As stated above, 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).

In this case, the complainant alleges that the student is not being provided with the accommodations, supplementary aids and services as required by the IEP (Doc. t).

Based on the Findings of Facts #18 - #21, the MSDE finds that there is documentation to indicate that the supports are being implemented since December 1, 2016. However, based on the same Findings of Facts, the MSDE further finds that there is not documentation that they were being implemented consistently prior to December 1, 2016. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the PGCPS to provide documentation by June 1, 2017, that the IEP team has convened and determined whether the violation related to the implementation of supplementary aids and services had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The PGCPS must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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Ms. Trinell Bowman
March 24, 2017
Page 9

TECHNICAL ASSISTANCE:

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

Please be advised that 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 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 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 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 M. Maxwell
LaRhonda Owens
Jodi Kaseff
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