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May 24, 2017

Ms. Ashley S. VanCleaf
Law Office of Brian K. Gruber, P.C.
6110 Executive Boulevard
Rockville, Maryland 20852

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

RE: XXXXX
Reference: #17-124

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 March 24, 2017, the MSDE received a complaint from Ms. Ashley S. VanCleaf hereafter, “the complainant,” on behalf of 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 student's Individualized Educational Program (IEP) addresses the student's academic needs, since March 2016¹, in accordance with 34 CFR §§300.320 and .324;
2. The PGCPS has not ensured that reports of the student’s progress towards achievement of

¹ 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).

the annual IEP goals have been made since March 2016, in accordance with 34 CFR §§300.101, .320 and .323;

3. The PGCPS has not ensured that the student was provided with special education instruction and supplementary aids and services, as required by the IEP, and that each service provider responsible for the implementation of the student's IEP was informed of their specific responsibilities related to implementing the IEP, since March 2016, in accordance with 34 CFR §§300.101 and.323;
4. The PGCPS has not ensured that the IEP team meetings convened since March 2016 included the required participants, in accordance with 34 CFR §300.321;
5. The PGCPS has not ensured that copies of documents the IEP team intended to consider at IEP team meetings were provided at least five days in advance of the meetings held since March 2016, in accordance with COMAR 13A.05.01.07D(3);
6. The PGCPS did not provide a copy of the IEP document within five (5) business days after the IEP team meeting on February 15, 2017, in accordance with COMAR 13A.05.01.07D(3);
7. The PGCPS has not ensured that access to the student's educational record since March 2016, in accordance with 34 CFR §300.613;
8. The PGCPS did not follow proper procedures when responding to a request to amend the student's record in January, 2017, in accordance with 34 CFR §§300.618 and .619; and
9. The PGCPS has not ensured that the student's parents were provided with prior written notice of the decisions made by the IEP team since March 2016, in accordance with 34 CFR §300.503.

INVESTIGATIVE PROCEDURES:

1. On March 28, 2017, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman Director of Special Education, PGCPS.
2. On April 5, 2017, Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a telephone interview with the complainant, and identified the allegations for investigation.
3. On April 7, 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 April 18, 2017, Mr. Loiacono contacted Ms. Barbara VanDyke, Compliance Specialist, PGCPS, to arrange a document review and site visit.

5. On May 9, 2017, Mr. Loiacono and Mr. Albert Chichester, Complaint investigator, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX to review the student's educational record and interviewed Ms. XXXXXXXXX, Special Education Chairperson and Ms. XXXXXXXXX, Assistant Principal. Ms. VanDyke 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. On May 11, 2017, the MSDE received additional documentation from the complainant.
7. On May 16, 2017, the MSDE received additional documentation from the PGCPS.
8. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated February 10, 2016;
 - b. IEP, dated February 15, 2017;
 - c. Prior Written Notice (PWN), dated February 10, 2016;
 - d. PWN, dated February 15, 2017;
 - e. Student schedule and classroom assignments, 2015-2016 and 2016-2017 school years;
 - f. Correspondence from the complainant to the PGCPS staff, dated January 16, 2017;
 - g. Response from the PGCPS staff to the complainant, dated February 24, 2017;
 - h. "IEP Snapshot Receipt," 2015-2016 and 2016-2017 school years;
 - i. IEP team sign-in sheet, dated February 15, 2017; and
 - j. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on March 24, 2017.

BACKGROUND:

The student is 17 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 instruction and related services (Doc. a).

ALLEGATIONS #1, #2, #3, AND #4: ADDRESSING THE STUDENT'S NEEDS, PROVISION OF PROGRESS REPORTS, IMPLEMENTATION OF THE STUDENT'S IEP, AND REQUIRED IEP TEAM MEMBER ATTENDANCE

FINDINGS OF FACTS:

1. The student's IEP was developed at an IEP team meeting on February 10, 2016. The IEP provided to the student's parents following the meeting contains present levels of performance in math, reading and writing, but does not contain specific information regarding the student's needs or strengths in reading and written language expression. No instructional grade level performance was provided for any academic area of need. In mathematics, the team noted that the student was able to solve exponential functions with assistance from notes. The team further noted that the student has difficulty solving

problems with scientific notation and angle relationships, and that he should "attend tutoring after school" (Docs. a and c).

2. The team developed goals for the student in mathematics problem solving related to measuring angles, reading comprehension, related to drawing conclusions, and written language expression, related to organizing writing. To assist the student in making progress towards his goals, the team determined that the student would receive instruction from both a special educator and general educator in reading/language arts, math, and science. The team also determined that the student would be provided with the following supplementary aids and services, to be provided on a daily basis:
 - Check for understanding;
 - Limit amount to be copied from board;
 - Monitor independent work;
 - Allow use of organizational aids;
 - Repetition of directions;
 - Provide proofreading checklist; and
 - Frequent and immediate feedback.

The team did not include the use of notes or tutoring indicated in his present levels of performance. The team noted that "other options were considered but rejected" but did not specify whether notes and tutoring were considered and rejected (Docs. a and c)

3. The IEP team determined that the reports of the student's progress would be provided to the student's parents on a quarterly basis. There is no documentation that the student's progress towards obtaining his goals was consistently measured or that reports of his progress were made to his parents (Doc. a, review of the student's record).
4. On February 15, 2017, the team met to review and revise, as appropriate, the student's IEP. The IEP team meeting was attended by the student's parents, a special educator teacher of the student, a general education teacher of the student, and an administrator (Docs. b and i).
5. Based on informal assessments, observations and teacher reports, the school-based members of the IEP team reported that the student was performing on the 5th grade level in reading comprehension and writing expression, and the 6th grade level in math problem solving. The team determined that the student has strengths in reading related to decoding and needs related to vocabulary. In written expression, the team noted that the student has needs related to organizing his thoughts and writing sentences. The complainant questioned the manner in which the student's progress was measured. The team based his level of performance in math on an informal inventory of his skills. They reported that he can solve basic problems in most math areas, but struggles with "retrieval of addition and multiplication facts." The team developed goals in reading related to comprehension of printed materials, in math related to manipulating geometric figures and written language related to organizing his writing. The team added the use of mnemonic devices, calculation devices, alternative ways to demonstrate learning, and use of notes to the student's supplementary aids and services (Docs. b and d).

6. The complainant and school staff documented that the student's math teachers were unable to attend the meeting, and did not provide input to the IEP team. Despite the lack of input on the student's math abilities, the team documented the student's present level of performance in math, in part, based on "teacher observations and reports" (Docs. b and d).
7. At the IEP team meeting, the team further determined that a reevaluation should be conducted, and recommended that a neuropsychological assessment, educational assessment and classroom observation be conducted. The results of the assessments are pending (Docs. b, d and i).
8. While there is documentation of some of the supplementary aids and services being provided to the student, there is no documentation that they were consistently provided to the student, as required by his IEP (Review of student's record).
9. There is documentation that a special educator and general educator were assigned to the student's classroom, but there are no progress reports or other documentation goals were addressed with the provision of specialized instruction required by his IEP, or that every staff member responsible for implementing the student's IEP was informed of their respective responsibilities (Docs. c and h).

DISCUSSION/CONCLUSIONS:

Allegation #1: Addressing the Student's Needs

In order to provide a student with a Free and Appropriate Public Education (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 enable the student to progress through the general education curriculum, 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, #1-7, the MSDE finds that there is no documentation that the annual IEP goals are designed to address the student's identified areas of need. Therefore, the MSDE finds that a violation occurred with respect to this allegation.

Allegation #2: Progress Reports

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

Based on Finding of Fact #3, the MSDE finds that there is no documentation that progress reports were consistently generated or provided to the student's parents since May 2016. Therefore this office finds that a violation occurred with respect to this allegation.

Allegation #3: Implementation of the IEP

As stated above, the public agency must ensure that each student is provided with the special education instruction, supports and supplementary aids and services required by the student's IEP. Furthermore, the public agency must ensure that the individuals responsible for implementing the student's IEP are informed of their responsibilities (34 CFR §300.101 and .323).

Based on the Findings of Facts #8-9 the MSDE finds that there is no documentation that the instruction and supports required by the student's IEP were consistently provided since the May 2016. Therefore this office finds that a violation occurred with respect to this allegation.

Allegation #4: IEP Team Participation

The IEP team must include the student's parents, at least one regular education teacher of the student, at least one special education teacher of the student, a representative of the public agency, an individual who can interpret the instructional implication of evaluation results and other individuals who have knowledge or special expertise regarding the student, and the student, when appropriate (34 CFR §300.321).

Based on Finding of Fact #4, the MSDE finds that all required members of the IEP team participated in the IEP team meeting. Therefore this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #5: PROVISION OF DOCUMENTS IN ADVANCE OF IEP TEAM MEETINGS

FINDINGS OF FACT:

10. There is documentation that the student's parents were provided a copy of a draft IEP to be discussed at February 2017 IEP team meeting. However, the parties report that the team actually reviewed a different version of the IEP at the meeting which had not been sent to the parents before the meeting (Review of the student's record, Doc. j)

DISCUSSION/CONCLUSIONS:

At least five (5) business days before a scheduled IEP team meeting, the student's parent must receive an accessible copy of each assessment, report, data chart, draft IEP, if applicable, or other document the team plans to discuss at the meeting (COMAR 13A.05.01 .07)

Based on Finding of Fact #10, the MSDE finds that there is no documentation that the complainants were provided with the documents that the IEP team reviewed at the February 15, 2017 IEP team meeting at least 5 days before the meeting. Therefore, this office

finds that a violation occurred with respect to this allegation. However, because a violation of this requirement does not result in a loss of a FAPE to a student, no student-specific corrective action is required to remediate the violation.

ALLEGATION #6: PROVISION OF THE COMPLETED IEP FOLLOWING THE TEAM MEETING

FINDING OF FACT:

11. There is no documentation that the student's parents were provided with completed copies of the student's IEP after the February 2017 IEP team meeting (Review of student's record).

DISCUSSION/CONCLUSIONS:

No later than five (5) business days after a scheduled IEP or other multidisciplinary education team meeting, appropriate school personnel are to provide parents an accessible copy of the completed IEP. If the IEP has not been completed by the fifth business day after the IEP team meeting, school personnel must provide the parents with the draft copy of the IEP. However, the failure of school personnel to comply with the timelines and actions listed above for providing copies of a child's completed IEP following the IEP team meeting does not constitute a substantive violation of the requirement to provide a FAPE (Md. Code Ann., Educ., §8-405).

Based on the Finding of Fact #11, the MSDE finds that the student's parents were not provided with the IEP within five (5) days after the April 11, 2016 IEP meeting. Therefore, this office finds that a violation has occurred with respect to this allegation. However, because a violation of this requirement does not result in a loss of a FAPE to a student, no student-specific corrective action is required to remediate the violation.

ALLEGATIONS #7 AND #8: REQUEST TO AMEND AND ACCESS THE STUDENT'S RECORD

FINDINGS OF FACTS:

12. On January 16, 2017, the complainant, on behalf of the student's parents, made a request to the PGCPS staff to amend the student's record due to inaccuracies in the student's draft IEP. The complainant also requested that documentation of an in-school suspension be removed from the student's record. The complainant, in the same correspondence, requested data used as a basis for the development of the first draft IEP provided to the student's parents. There is documentation that the PGCPS staff responded to the request, denying the request to amend the record with regard to the suspension. No response was made to the request for access to the student's educational records or the request to amend the draft IEP (Docs. f and g).

DISCUSSION/CONCLUSIONS:

Allegation #7: Request to Amend the Student's Record

A parent who believes that information in the student's education record is inaccurate or misleading or violates the privacy or other rights of the student may request that the public agency amend the information. Upon receipt of such a request, the public agency must decide, within a reasonable period time of the receipt of the request, whether to amend the information. If the public agency refuses to amend the information, it must inform the parent of the refusal and advise the parent of the right to a hearing to challenge the information (34 CFR §§300.618 and .619).

If the public agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it must amend the information and inform the parent in writing. If the public agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it must inform the parent of the right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the public agency in the education record (34 CFR §300.620).

Based on Finding of Fact #12, the MSDE finds that the PGCPS did not follow proper procedures when responding to a request to amend the student's record. Therefore, the MSDE finds that a violation occurred with respect to this allegation.

Allegation #8: Access to the Student's Record

The Family Educational Rights and Privacy Act (FERPA) requires public agencies to permit parents to inspect and review any educational records relating to their children that are collected, maintained, or used by the agency. The public agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any due process hearing or resolution meeting, and in no case more than forty-five (45) days after the request has been made (34 CFR §99.10). The IDEA parallels this requirement at 34 CFR §300.613.

Based on Finding of Fact #12, the MSDE finds that the PGCPS did not respond to the complainant's written request for access to information in the student's record. Therefore, the MSDE finds that a violation occurred with respect to this allegation.

ALLEGATION #9: PRIOR WRITTEN NOTICE

FINDINGS OF FACT:

13. There is no documentation that the student's parents were provided with prior written notice of IEP team decisions following the IEP team meetings in February 2017 (Review of student's record)

DISCUSSION/CONCLUSIONS:

The public agency is required to provide the parent of a student with a disability with written notice before proposing or refusing to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. This notice includes a description of the action proposed or refused, and an explanation of the action (34 CFR §300.503).

Based on Findings of Fact #13, the MSDE finds that there is no documentation that the student's parents were provided with prior written notice of the IEP team's decisions following the February 2017 IEP team meeting. Therefore, this office finds that a violation occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by July 1, 2017 of the following:

- a. The supplementary aides and services and instruction designed to assist the student in making progress on his goals, are being consistently provided to the student, in accordance with his IEP since the date of this Letter of Findings;
- b. The student's parents have been provided with copies of the completed IEP and prior written notice of the IEP team's decisions made in February 2017; and
- c. The student's parents be provided with updates of the student's progress on IEP goals.

The MSDE further requires that the PGCPS to provide documentation by July 15, 2017 of the following:

- a. The IEP team has reviewed and revised the student's IEP, as appropriate, to ensure that it addresses the student's needs; and
- b. The IEP team has determined the compensatory services to remediate the violations identified through this investigation.

School-Based

The MSDE requires the PGCPS to provide documentation by September 1, 2017 of the steps it has taken to ensure that XXXXXXXXXXXXXXXXXXXX school staff properly implement the requirements for conducting an IEP team meeting including the following:

- a. Providing prior written notice of the decisions made by IEP teams;
- b. Generating and providing reports of student's progress towards all IEP goals on a periodic basis to parents;
- c. Providing documents in advance of IEP team meetings;
- d. Developing an IEP to address the academic needs of a student; and

Ms. Ashley S. VanCleaf
Ms. Trinell Bowman
May 23, 2017
Page 10

- e. Implementation of an IEP including supports and services, specialized instruction in the general education setting

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 Ms. Bonnie Pries, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770. 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. 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, 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 due process.

Sincerely,

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

MEF:gl

c:	XXXXXXXXXX	Barbara VanDyke
	XXXXXXX	XXXXXXX
	Kevin Maxwell	Dori Wilson
	Gwen Mason	Anita Mandis
	LaRhonda Owens	Gerald Loiacono
	Debrah Anzelone	Bonnie Preis