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May 24, 2017

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Ms. Trinell Bowman
Executive Director of Special Education
Prince George's County Public Schools
John Carroll Building
1400 Nalley Terrace
Hyattsville, Maryland 20785

RE: XXXXX
Reference: #17-129

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 April 18, 2017, the MSDE received a complaint from Ms. XXXXXXXXXXXX, 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 did not ensure that the student has been provided with a Free Appropriate Public Education (FAPE) since the start of the 2016-2017 school year, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. On April 19, 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 April 22, 2017, Ms. Linda Koban, Compliance Specialist, MSDE, conducted a telephone interview with the complainant about the allegation to be investigated.
3. On May 2, 2017, 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 staff review the alleged violation.
4. On May 22, 2017, the PGCPS provided the MSDE with documentation to consider.
5. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Electronic mail (email) communications between the complainant and the school staff, dated between September 7, 2016 and May 22, 2017;
 - b. Written summary of a December 8, 2016 IEP team meeting;
 - c. IEP, dated April 12, 2017;
 - d. Correspondence from the complainant containing an allegation of a violation of the IDEA, received by the MSDE on April 18, 2017; and
 - e. Invitation to a May 22, 2017 IEP team meeting.

BACKGROUND:

The student is 12 years old and attends XXXXXXXXXXXXXXXXXXXX. He is identified as a student with an Other Health Impairment under the IDEA due to inattention and hyperactivity, and has an IEP that requires the provision of special education instruction (Doc. c).

There is documentation that, during the time period covered by the investigation, the complainant participated in the education decision-making process and was provided with notice of the procedural safeguards (Doc. c).

FINDINGS OF FACTS:

1. The IEP requires the provision of special education instruction from general and special education teachers (Doc. c).
2. On December 8, 2016, the IEP team documented that the student missed services from August 23, 2016 to September 28, 2016. Electronic mail (email) correspondence between

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the complainant and the school staff reflects that there was confusion about whether the complainant's request to transfer the student to XXXXXXXXXXXX School for the 2016-2017 school year had been approved. As a result, the special education chairperson was not informed of his placement at the start of the school year and his teachers were not informed of the IEP (Doc. b).

3. On December 8, 2016, the IEP team documented the school staff's proposal that compensatory services be provided by the special education chairperson, and the complainant's objection to the proposal. The team further documented that it reached an agreement for the services to instead be provided by the end of the school year by the student's teachers prior to the start of the school day (Doc. b).
4. On March 28, 2017, the complainant informed the school staff that she could no longer bring the student to school early in the morning. The parties discussed alternative arrangements for the completion of the compensatory services, including the provision of the services during school hours or after school, but were unable to agree upon how the services would be provided (Docs. a and d).
5. On May 16, 2017, the PGCPS staff offered to fund a tutor to provide the remaining compensatory services in the student's home or another community-based location, such as the library (Doc. a).
6. On May 19, 2017, the complainant rejected the offer (Doc. a).
7. On May 22, 2017, an IEP team meeting was scheduled, but the complainant cancelled the meeting. On the same date, the PGCPS staff contacted the complainant to reiterate the offer of tutoring services, and requested that she agree for the IEP team meeting to be rescheduled (Docs. d and e).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that each student with a disability is provided with a Free Appropriate Public Education (FAPE) through the implementation of an IEP that addresses all of the student's special education and related service needs (34 CFR §§300.101 and .323). Compensatory services provide the educational benefit that likely would have accrued from the provision of special education services that were denied. Therefore, when there is a loss of services needed in order for a student to receive a FAPE, compensatory services are an appropriate remedy (*Letter to Anonymous*, 4 ECLPR 510, United States Department of Education, Office of Special Education Programs, August 19, 2003 and *Reid v. District of Columbia*, 43 IDELR 32, 401 F.3d 510, March 25, 2005).

In this case, the complainant alleges that the school system has not provided compensatory services to remediate the delay in implementation of the IEP at the start of the school year, resulting in a loss of a FAPE to the student (Doc. and interview with the complainant).

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Based on the Findings of Facts above, the MSDE finds that the facts do not support the allegation because the school system has taken appropriate steps to provide compensatory services. Therefore, no violation is found.

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 and conclusions 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:lk

c: Kevin Maxwell
Gwendolyn Mason
LaRhonda Owens
Deborah Anzelone
XXXXXXXXX
Kerry Morrison
Dori Wilson
Anita Mandis