



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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June 14, 2018

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

RE: XXXXX  
Reference: #18-151

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 May 8, 2018, the MSDE received a complaint from Nabanita Pal, Esq. hereafter, “the complainant,” on behalf of the above-referenced student and his aunt and legal guardian, hereafter “the parent,” XXXXXXXXXXXX. 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 was evaluated and identified as a student with a disability between May 2017 and November 2017, in accordance with 34 CFR §300.111.

**BACKGROUND:**

The student is seventeen (17) years old.

In May 2017, the student was placed at XXXXXXXXXXXXXXXX, as an alternative educational placement, as a result of a disciplinary removal from XXXXXXXXXXXXXXXX. At that time, he was not identified as a student with a disability under the IDEA.

From September 25, 2017 to April 26, 2018, the student did not receive educational services as a result of being denied enrollment in a PGCPS school following a disciplinary removal from XXXXXXXXXXXXXXXX.

On April 26, 2018, the student was enrolled in XXXXXXXXXXXXXXXX.

On May 30, 2018, the student was identified as a student with an Emotional Disability under the IDEA. An IEP team meeting is scheduled for June 18, 2018 in order to develop an IEP.

**FINDINGS OF FACTS:**

1. The PGCPS Administrative Procedure #5124 describes a multi-tiered system of support designed to identify and assist students who may need support for school success. This Procedure states that interventions and strategies in the general education program are identified and implemented, and that student progress is monitored and documented in order to assist struggling students academically and behaviorally at the earliest signs of difficulty. If sufficient progress is not achieved, additional interventions and supports may be considered prior to referral for evaluation if a disability is not suspected.
2. On January 18, 2017, an IEP team at XXXXXXXXXXXXXXXX considered a referral for an IDEA evaluation that was made by the student's parent based on concerns about the student's anger, defiance, and difficulty dealing with authority figures. While the IEP team documented that there were "constant discipline issues that resulted in suspensions (bullying, fighting)," it also documented that the student's teachers reported that the student "has strong academic capabilities," that he is "a fast learner," and that he is "somewhat of a self starter." Based on this information, the IEP team decided that the student was not suspected of having a disability under the IDEA. However, the team decided that the student would be "placed on a progress report form," that a Functional Behavioral Assessment (FBA) would be conducted and a Behavior Intervention Plan (BIP) developed, and that the team would meet to review progress at the end of the third quarter of the school year.
3. In April 2017, the student was placed at XXXXXXXXXXXXXXXX, as an alternative educational placement, as a result of a disciplinary removal from XXXXXXXXXXXXXXXX XXXXX. Prior to his placement at XXXXXXXXXXXXXXXX, the student was absent from

school on 64.5 days, and there is no documentation that the IEP team's decisions were implemented at XXXXXXXXXXXX.

4. On April 16, 2018, the PGCPS held a meeting with the student's parent and the complainant. At that time, the school system agreed to provide the student with compensatory services to address the loss of educational services during the 2017-2018 school year, which occurred as a result of an expulsion that has been expunged from the student's record. The PGCPS also agreed to provide tutoring for the remainder of the 2017-2018 school year and during summer school at no cost to the parent, and to convene an Individualized Education Program (IEP) team meeting to consider the parent's request for another IDEA evaluation.
5. On May 15, 2018, the MSDE issued a Letter of Findings in State complaint #18-134, which was filed by the complainant on behalf of the student. As a result of the investigation of that complaint, the MSDE found that the PGCPS had not responded appropriately to requests made in November 2017 for an IDEA evaluation. The MSDE further found that the action taken by the school system on April 16, 2018 sufficiently remediated the violation.
6. On May 30, 2018, the IEP team identified the student as a student with an Emotional Disability under the IDEA.

#### **DISCUSSION/CONCLUSIONS:**

Based on the Finding of Facts #1 - #3, the MSDE finds that the PGCPS did not follow established procedures for the provision of interventions in the general education program to ensure that students with disabilities are appropriately evaluated and identified, in accordance with 34 CFR §300.111. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, the MSDE finds that, even if the school system had referred the student for an IDEA evaluation in May 2017, the evaluation would not have been completed and an IEP developed within sufficient time to initiate special education services during that school year (2016-2017 school year).

Based on the Findings of Facts #4 - #6, the MSDE further finds that the actions being taken by the PGCPS are sufficient to remediate the violation for the 2017-2018 school year. Therefore, no student-based corrective action is required.

#### **CORRECTIVE ACTION/TIMELINE:**

The MSDE requires the PGCPS to provide documentation by the start of the 2018-2019 school year of the steps taken to ensure that decisions made to provide interventions in the general education program are implemented when students are transferred to alternative schools as a result of disciplinary removals.

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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.

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 available to this office during the complaint investigation and a substantial reason must be provided for not submitting the documentation during the investigation. If additional documentation 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 action 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 student's parent 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 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

c:       XXXXXXXXX  
          Kevin Maxwell  
          Gwendolyn Mason  
          Barbara VanDyke  
          Gail Viens  
          Dori Wilson  
          Anita Mandis