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September 23, 2016

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

RE: XXXXX
Reference: #17-015

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 July 27, 2016, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, "the complainant," on behalf of her son, the above-referenced. 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 special education instruction in an "intensive" classroom setting as required by the Individualized Education Program (IEP) from the start of the 2015-2016 school year until November 2015, in accordance with 34 CFR §§300.101 and .323.

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2. The PGCPS has not ensured that the IEP addresses the student's need for special education instruction in an "intensive" classroom setting since November 2015, in accordance with 34 CFR §300.324.
3. The PGCPS did not ensure that the student was provided with the amount of speech/language therapy required by the IEP during the 2015-2016 school year, in accordance with 34 CFR §§300.101 and .323.
4. The PGCPS did not ensure that there were proper participants at a February 23, 2016 IEP team meeting in which the team proposed the discontinuation of speech/language goals, in accordance with 34 CFR §§300.321 and .324.

INVESTIGATIVE PROCEDURES:

1. On July 27, 2016, the MSDE received the State complaint and documentation to be considered.
2. On August 1, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Director of Special Education, PGCPS.
3. On August 2, 2016, Ms. Anita Mandis, Complaint Investigation Section Chief, MSDE, conducted a telephone interview with the complainant to discuss the allegations.
4. On August 3, 2016, Ms. Mandis conducted a telephone interview with the complainant's educational advocate to discuss the allegations.
5. On August 3, 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 allegations to be investigated and requested that her office review the alleged violations.
6. On August 24, 2016, Mr. Albert Chichester, Complaint Investigator, MSDE, conducted a telephone interview with the complainant to clarify the allegations.
7. On September 14, 2016, Mr. Chichester and Ms. Sharon Floyd, Complaint Investigator, MSDE, conducted a site visit to the XXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed the following school staff:
 - a. Ms. XXXXXXXX, Principal;
 - b. Ms. XXXXXXXX; Assistant Principal; and
 - c. Ms. XXXXXXXXXXX, Special Education Chairperson.

Ms. Jodi Kaseff, Special Education Instruction Specialist, PGCPS, attended the site visit as a representative of the PGCPS and to provide information on the school system's policies and procedures, as needed.

8. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
 - a. IEP, dated June 22, 2015;
 - b. IEP, dated November 30, 2015;
 - c. IEP, dated February 23, 2016;
 - d. IEP meeting notification for the February 23, 2016 IEP meeting;
 - e. IEP meeting summary for the October 20, 2015 IEP meeting;
 - f. IEP meeting summary for the November 30, 2015 IEP meeting;
 - g. IEP meeting summary for the February 23, 2016 IEP meeting;
 - h. IEP meeting summary for the March 14, 2016 IEP meeting;
 - i. IEP meeting summary for the June 16, 2016 IEP meeting;
 - j. Speech and language logs, dated between September 9, 2015 and June 14, 2016;
 - k. The student's 2015-2016 class schedule;
 - l. The student's 2015-2016 report card;
 - m. The school's 2015-2016 master class schedule;
 - n. Electronic mail (email), dated between February 22, 2016, among school staff; and
 - o. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on July 27, 2016.

BACKGROUND:

The student is 18 years old and is identified as a student with Autism under the IDEA. He attends XXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services (Docs. a - c).

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 - c).

ALLEGATIONS #1 AND #2: PROVISION OF AND NEED FOR SPECIAL EDUCATION INSTRUCTION IN AN "INTENSIVE" CLASSROOM DURING THE 2015 - 2016 SCHOOL YEAR

FINDINGS OF FACTS:

1. The IEP in effect at the start of the 2015-2016 school year required the student to be provided with special education instruction in an "intensive"¹ classroom for English, math, science, and social studies (Doc. a).

¹ An "intensive" classroom is a separate special education classroom that has no more than fifteen students with one special education teacher and one instructional assistant (Interview with PGCPs personnel).

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2. On October 20, 2015, the IEP team convened to review the student's IEP. The complainant raised concern about the lack of progress the student was making in his social studies class "intensive" classroom. The school-based members of the team reported that the student was currently placed in an "intensive" classroom for English but was placed in a combination of general and special education classrooms for math, science, and social studies. At the meeting, they explained that this was because the school was moving away from the "intensive" classroom model and instead, providing instruction in a combination of general and special education classes by general and special education teachers. The team decided to reconvene on November 30, 2015 to "properly document the student's services based on the model currently used at the school" (Docs. e, k - m, o, and an interview with the school staff).
3. On November 30, 2015, the IEP team reconvened to revise the student's IEP to accurately reflect the placement in which he is receiving instruction in math, science, and social studies. However, there is no documentation which indicates that the team determined that the student's IEP could be implemented in this setting (Docs. f and o).

DISCUSSION/CONCLUSIONS:

Allegation #1: Provision of Special Education Instruction in an "Intensive" Classroom

The public agency must ensure that special education services, accommodations, and supplementary aids and services, are provided in accordance with each student's IEP in the placement required by the IEP (34 CFR §§300.101 and .323).

In this case, the complainant alleged that the student was not placed in "intensive" classes from the start of the 2015 - 2016 school year until November 2015.

Based on the Findings of Facts # 1 - #3, the MSDE finds that the student was provided with special education instruction in an "intensive" classroom for English, as required by the IEP. However, the student was not provided with special education instruction in math, science, and social studies, from the start of the 2015-2016 school year to November 30, 2015, in the placement required by the IEP. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2: Addressing the Student's Need for Special Education in an "Intensive" Classroom

Educational placements must be individually determined on the basis of each student's abilities and needs and each student's IEP. Decisions may not be made solely on factors such as category of disability, severity of disability, availability of special education and related services, configuration of service delivery system, availability of space, or administrative convenience (*Analysis of Comments and Changes to the IDEA*, Federal Register, Vol. 71, No. 156, p. 46588, August 14, 2006).

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In determining the educational placement in which special education instruction is to be provided, the public agency must ensure that the placement is based on the IEP and that the student is placed in the Least Restrictive Environment (LRE) in which those services can be successfully provided (34 CFR §300.116). This meant that, to the maximum extent appropriate, students with disabilities must be educated with students who are not disabled. Removal of students from the regular education environment may only occur if the nature of severity of the student's disability is such that education in regular classed with the use of supplementary aids and services cannot be achieved (34 CFR §300.114).

In this case, the complainant alleges that the educational placement decision that was made on October 20, 2015 was not based on the student's needs (Doc. o).

Based on the Findings of Facts #1 - #3, the MSDE finds that there is no documentation that the team based the placement decision on the student's needs or determined whether the IEP could be implemented in the placement determined by the team. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #3: PROVISION OF SPEECH/LANGUAGE THERAPY

FINDINGS OF FACTS:

4. The student's IEP requires that he be provided with 4 sessions of speech/language therapy each month for 30 minutes each session (Docs. a - c).
5. The speech/language therapist's service logs, dated between September 9, 2015 and June 14, 2016, reflect that the student was provided with the amount of speech/language therapy required by the IEP (Doc. j).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that special education services, accommodations, and supplementary aids and services, are provided in accordance with each student's IEP (34 CFR §§300.101 and .323).

Based on the Findings of Facts #4 and #5, the MSDE finds that there is documentation that the student was provided with the amount of speech and languages services during the 2015-2016 school year required by the IEP. Therefore, this office does not find that a violation has occurred with respect to this allegation.

**ALLEGATION #4: PROPER PARTICIPANTS AT THE
FEBRUARY 23, 2016 IEP TEAM MEETING**

FINDINGS OF FACTS:

6. On November 30, 2015, the PGCPS sent the complainant a written invitation to attend a

February 23, 2016 IEP team meeting for an annual review of the IEP. The invitation provided information including the names of those individuals who were expected to attend which included the speech/language therapist (Doc. d).

7. On February 23, 2016, the IEP team convened to review the IEP. The IEP team needed to reconvene on March 14, 2016 with the speech/language therapist because she did not participate in the February 23, 2016 IEP meeting and her input was necessary to consider the student's speech/language service needs (Docs. g, h, and o).
8. On March 14, 2016, the IEP team recommended that a speech/language assessment be conducted (Doc. h).
9. On June 16, 2016, the IEP team reviewed the results of the speech/language assessment, and decided that, based on the data, the student no longer requires speech/language services to address pragmatic language (Doc. i).

DISCUSSION/CONCLUSIONS:

The IEP meeting notice must indicate the purpose, time, and location of the meeting and who will be in attendance, and inform the parents of the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student (34 CFR §300.322).

A member of the IEP team may be excused from attending an IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent, in writing, and the public agency consent to the excusal, and the member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting (34 CFR §300.321).

Based on the Findings of Facts #6 - #8, the MSDE finds that there was a delay in the consideration of the student's speech/language needs because the speech and language therapist was not in attendance as was indicated on the written invitation for the February 23, 2016 IEP meeting. Therefore, this office finds that a violation occurred with respect to this allegation.

Notwithstanding the violation, based on the Finding of Fact #9, the MSDE finds that the delay in consideration of the student's needs in this area did not negatively impact the student. Therefore, no student-specific corrective action is required.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by November 30, 2016, that the IEP team has convened and determined the LRE in which the IEP can be implemented. If the IEP cannot be implemented at the XXXXXXXX School, the PGCPS must provide documentation that the student has been placed in a school in which the IEP can be implemented

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and document that the IEP team has determined the compensatory services to redress the lack of an appropriate educational placement. The PGCPS must also provide documentation that the IEP team has developed a plan for the provision of those services within one year of the date of this Letter of Findings. The MSDE also requires the PGCPS to provide documentation, within one year of the date of this Letter of Findings, that the compensatory services have been provided.

Similarly-Situated Student

The MSDE requires the PGCPS to provide documentation by January 31, 2017 that it has identified all similarly-situated students at XXXXXXXXXXXXXXXX and that IEP teams have convened for each student identified and determined whether the IEP can be implemented at the school, and if not, that the student has been placed in a school where the IEP can be implemented.

School-Based

The MSDE requires the PGCPS to provide documentation by January 31, 2017 of the steps it has taken to ensure that the XXXXXXXXXXXXXXXX staff implement the requirements for determining educational placement, implementing the IEP in the required placement, and ensuring proper participants at IEP team meetings.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

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 Free Appropriate Public Education for the student, including issues subject to this State complaint investigation, consistent with the IDEA.

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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:ac

c: Kevin Maxwell
Gwendolyn Mason
Kerry Morrison
XXXXXXXXX
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