



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

July 9, 2018

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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: #18-153

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 May 10, 2018, the MSDE received correspondence 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 above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the student has been provided with the accommodation of verbatim reading required by the Individualized Education Program (IEP) since May 10, 2017¹ in accordance with 34 CFR § 300.101.

¹ While this complainant alleged that the allegation occurred beyond this period of time, she was informed, in writing, that only those allegations of violations that occurred within one year of the date of the complaint can be addressed through a State complaint (34 CFR §3009.153).

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2. The PGCPS did not ensure that a special education teacher has provided the student with the special education instruction, as required by the IEP, from the start of the 2017-2018 school year to November 27, 2017, in accordance with 34 CFR §§300.101 and .323.
3. The PGCPS has not ensured that the student has been provided with special education services in the educational placement required by the IEP, since the start of the 2017-2018 school year, in accordance with 34 CFR §§ 300.101 and .323.
4. The PGCPS has not developed an IEP that addresses the student's identified needs since the start of the 2017-2018 school year, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is ten (10) years old is identified, under the IDEA, as a student with an Other Health Impairment due to a diagnosis of Attention Deficit with Hyperactivity Disorder. The student has an IEP that requires the provision of special education instruction and related services, and he attends XXXXX XXXXXXXXXXXXXXXXXXXX.

FINDINGS OF FACTS:

November 15, 2016

1. The IEP identifies the student's disability as having an effect on the student's math calculation, math problem solving, reading comprehension, reading fluency, reading phonics, and written language expression. The IEP documents the student's verbal working memory, self-regulation and executive functioning weaknesses impact his ability to access the general education curriculum without the provision of special education. The IEP also documents the impact of the student's inattention and distractibility on his working memory which impacts his ability to follow directions in all areas. The IEP also documents an emotional component of his needs, which is characterized as the student's lack of tolerance to frustration causing him to "shut down" behaviorally.
2. The IEP states that the student's reading fluency skills were measured at the first grade level indicating that the student was able to read nonsense words accurately until he had to apply phoneme grapheme relationships. The student's reading comprehension skills were measured at the first grade level. The documentation indicates that when given a short passage to read, he had difficulty identifying a correct word to fill in the blank. Further, he was not able to apply semantic cues and reading contained hesitations, repetition of words, insertions and substitutions.
3. The IEP states that the student's math calculation and math problem solving skills are at a kindergarten level and his writing skills are at a first grade instructional level. He experienced difficulty adding and subtracting basic facts and was unsuccessful using his fingers and scrap paper. The student showed difficulty identifying pennies and nickels.

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4. A psychological assessment was conducted as part of the initial evaluation, which indicated that the student experiences emotional dysregulation marked by frequent crying, difficulty responding to soothing attempts, and low frustration tolerance.
5. The report of psychological testing revealed variable scores ranging between “average” and “low average.” His working memory was in the “low average range.” Overall verbal comprehension fell in the “borderline” range. A marked weakness was seen in the area of abstract verbal reasoning. The psychologist reported that the student shows a “very low frustration tolerance for perceived difficulty and is not a risk taker.” The psychologist reported that the use of verbal and visual prompts will be necessary to ensure that he is on task and becomes aware of his own attentional capacity and he will need to be taught how to break a task down into pieces that fit his attentional capacity.
6. According to the psychological assessment, in reading, the student continues to need a targeted reading intervention program to address areas of decoding, fluency, comprehension, and vocabulary development. In math, the student needs to build automaticity with basic facts through drill and practice and should be provided with a list of strategies to increase fluency. He continues to benefit best from instruction that incorporates chunking of new information, scaffolding, interacting and monitoring to ensure that information is presented in adequate quantities to allow for processing and encoding as well as to ensure that the can clarify any confusion which he may have.
7. The psychological report indicated that “given his low frustration tolerance, teachers are to ensure understanding of concepts and skills before independent problem solving is required for the student to be successful.” Further, the report indicated that he would continue to benefit from advanced graphic organizers and semantic mapping techniques to assist him with planning and organizing more elaborate written language assignments. The report also indicated that it will be important for the student to be taught to use a proofreading procedure that involves checking for one element at a time, such as punctuation, capitalization, spelling, sentence structure and organization and emphasizes writing as a problem solving process involving planning, drafting, and revision and editing.
8. The educational assessment report indicated that the student is performing “below average” in written language, reading and math. The student demonstrated difficulty in spelling. Many of his mistakes came from not applying the word ending or spelling the word phonetically. When given a topic with a picture and a sentence starter the student is able to write a sentence. When the topic becomes more difficult the student demonstrates difficulty responding and may “shut down.”
9. The report of speech/language assessment indicated that, the student presents with receptive/expressive language skills within the “average” range. In addition, his articulation skills, voice, fluency and hearing acuity were within “average” range compared to same-age peers.

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10. The IEP includes a goal for the student to increase his reading phonics by demonstrating an understanding of basic word families, basic letter/sound correspondence in consonants, blends, digraphs and vowels and to be able to read second and third grade sight words. The IEP also includes a reading goal for the student to increase his reading fluency skills by reading aloud, reading multi-syllabic words in context and use conventions of print, e.g. comma, period, and question mark. Further, the IEP also includes a goal for the student to improve his reading comprehension skills by locating supporting information to support conclusions, use of illustrations, headings, and graphs to comprehend the material and to recall main ideas and supporting details in a reading selection.
11. The IEP includes a goal for the student to improve his math calculation skills, the student is expected to be able to add and subtract basic facts, multi-digit problems with and without regrouping and identify the value of a set of coins. The IEP also includes a goal for the student to improve his math problem solving skills through the use and communication of a variety of strategies to solve grade level problems including determining the operations needed and solving word problems involving money.
12. The IEP documents that the student will participate in a special education classroom for (6) hours per week for reading, written language and math with a special education teacher. The student will also receive two (2) hours thirty (30) minutes of special education inside the general education classroom for reading and thirty (30) minutes per week of counseling.
13. The accommodations required by the IEP include:
 - Provision of a human reader;
 - Provision of verbatim reading;
 - Provision of text to speech;
 - Provision of a small group for instruction;
 - Provision of a calculator;
 - Provision of a graphic organizer;
 - Provision of extended time to complete work;
 - Provision of multiple or frequent breaks; and
 - Provision of reduced distractions to the student.
14. The supplementary aids, services program modifications and supports required by the IEP, include:
 - Instructional Supports: Daily use of a word bank; provision of alternate ways to demonstrate learning; peer tutoring/paired work arrangement; frequent and/or immediate feedback; repetition of directions; monitor independent work; check for understanding;

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- Programmatic Supports: Daily use of pictures to support reading passages; chunking of texts; limited amount of required reading; modified content;
- Social/Behavioral Supports: Daily use of point behavioral chart; weekly counseling; daily encouragement to ask for assistance when needed; strategies to initiate and sustain attention; and
- Physical/Environmental Supports: Daily preferential seating.

November 7, 2017 IEP Team Meeting

15. On November 7, 2017, the IEP team conducted an annual review. The teacher reported that the student has shown improvement when the spelling lists are modified. When provided with one-to-one support, the student is able to complete short tasks. The documentation indicated that the student will “shut down” when he has to write. It further indicated that the student has extreme organizational issues and is challenged to remember material from one day to the next. The teacher reports that the student will only write one short sentence with adult support and his handwriting is often difficult to read.
16. During the annual review, the math teacher reported that the student is able to solve one-step word problems and short, simple tasks with one-to-one support. The student showed weaknesses in place value, addition, subtraction, multiplication and division.
17. The IEP team decided to add two (2) behavioral goals for the student to be able to manage his anger and frustration and to remain on task and work independently. The documentation indicated that counseling support was added to the IEP for one (1) thirty (30) minute session per week to address the student’s behavioral goals.
18. The November 9, 2017 progress report indicates that the student was making sufficient progress in reading fluency, reading comprehension, math calculation and problem solving and written language expression. Behaviorally, the student was making sufficient progress to be able to meet the two behavioral goals.

November 27, 2017 IEP Team Meeting

19. On November 27, 2017, the IEP team discussed that the student missed six (6) hours of “pull-out” special education services over twelve (12) weeks which was caused by the special education teacher being on leave. The IEP team determined that the student was progressing academically and awarded ten (10) hours of compensatory services. There is no documentation to support how the compensatory hours were determined.
20. Also on November 27, 2018, the complainant expressed concerns about the student’s decoding, comprehension skills, reading level and behavior during the times when he is

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to use the electronic tablet device. The IEP team considered the results of the student's current grades, assessment results, progress on the IEP goals and objectives and behavior to determine that the student needs additional support in reading. Even though the student improved on the Developmental Reading Assessment (DRA), the IEP team determined that the student will participate in a reading intervention program. The IEP team determined that a Functional Behavioral Assessment (FBA) was not necessary since his behavior was not impacting his ability to access instruction. The IEP team agreed to communicate with the complainant about the student's tests, homework and writing samples. The IEP team decided to reconvene in sixty (60) days to review the student's progress.

February 9, 2018 IEP Team Meeting

21. The IEP team met on February 9, 2018 and determined the student qualified for the verbatim reading accommodation for instruction and testing even though he had not been participating in a reading intervention for two years, which is the criteria for the inclusion of the verbatim accommodation. According to his DRA, he is reading on a third grade level.
22. The IEP progress reports for February, 2018, stated that the student was making sufficient progress to meet the goals. There is no documentation of the February, 2018 progress reports on the student's behavior.
23. There is documentation that the student received the verbatim accommodation during the April 16, 2018 – May 25, 2018 administration of State assessments.

June 5, 2018 IEP Team Meeting

24. The IEP team met on June 5, 2018 at the request of the complainant who shared concerns about the student's grades. The results of a private evaluation were shared by the complainant along with the request for additional "pull-out" services for the 2018-2019 school year. The IEP team decided to reconvene after reviewing the results of the private evaluation.

June 12, 2018 IEP Team Meeting

25. The IEP team met on June 12, 2018, and considered the results of the private assessment from the XXXXXXXXXXXXXXXXXXXXXXXX. As a result of the student's progress, the complainant's concerns and the results of the private assessment, the IEP team recommended that additional assessments be completed including a FBA. The complainant requested that the IEP team utilize all of the data when making decisions for the student. The complainant also requested that the assessments be completed from Central Office Staff instead of the staff at XXXXXXXXXXXXXXXXXXXXXXXX. The

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complainant requested that the FBA be conducted at the start of the 2018-2019 school year to capture the student's behaviors while in classes.

26. The complainant questioned whether the student received all of the required counseling services during April 2018 and May 2018. The student was to receive thirty (30) minutes, twice per month of counseling until November 27, 2017, when the services were changed to thirty (30) minutes of counseling per week. There is documentation that the counseling services continued being provided thirty (30) minutes, twice per month instead of once per week. The IEP team discussed that the student did not receive all of the counseling sessions required by the IEP.
27. The IEP team discussed that the student began the 2017-2018 school year reading on a first grade level and is now reading on a third grade level. The IEP progress reports for June, 2018 indicated that the student was making sufficient progress to meet the goal. The complainant continued to share her concerns about the student's lack of progress. In response to the complainant's concerns, the IEP team determined to conduct the student's reevaluation during the summer of 2018 with evaluators that are not based at the school at which the student attends. There is no documentation that the IEP team responded to the complainant's request for additional hours of services.
28. There is documentation that the student received daily behavioral support through observation and tracking as required by the IEP.
29. There is documentation that the student received special education classroom instruction within the general education classroom provided by the general education teacher, the special education teacher and the para-educator since November 27, 2017.

CONCLUSIONS:

ALLEGATION #1

PROVISION OF THE VERBATIM READING ACCOMMODATION

Based on the Findings of Facts #13, #21 and #23, the MSDE finds that the verbatim reading accommodation was provided as required by the IEP, in accordance with 34 CFR § 300.101. Therefore, the MSDE does not find that a violation occurred with this allegation.

ALLEGATIONS #2 AND #3

PROVISION OF SPECIAL EDUCATION BY A SPECIAL EDUCATION TEACHER IN THE EDUCATIONAL PLACEMENT

Based on the Findings of Facts #1 - #14, the MSDE finds that the student did not receive special education instruction by a special education teacher, as required by the IEP from the start of the 2017-2018 school year until November 27, 2017, in accordance with 34 CFR §§300.101 and .323.

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Further, based on the Finding of Fact #19, the MSDE finds that the student was not in the placement required by the IEP from the start of the school year until November 27, 2017, in accordance with 34 CFR §§300.101 and .323.

However, based on the Finding of Fact #29, this office finds that the student was provided with special education instruction in the placement required by the IEP from November 2017 through the 2017-2018 school year. Therefore, the MSDE finds that a violation occurred with this allegation from the start of the 2017-2018 school year until November 2017.

ALLEGATION #4 ADDRESSING THE STUDENT’S NEEDS

Based on the Findings of Facts #1 - #14, #17, #19, #22 and #26, the MSDE finds that there is no documentation that the IEP team’s decision regarding the services needed to compensate the loss of special education instruction was based on the student’s needs and consistent with the data, in accordance with 34 CFR §300.324. Therefore, the MSDE finds that a violation occurred with this allegation.

CORRECTIVE ACTION/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by the start of the 2018-2019 school year, that the IEP team has determined the compensatory services needed to remediate the violations identified, with supporting documentation for the basis of those decisions.

Similarly-Situated Students

The MSDE requires the PGCPS to provide documentation by November 1, 2018 that it has identified all similarly situated students who were impacted by the lack of a special education teacher at XXXXX XXXXXXXXXXXXX from the start of the 2017-2018 school year to November 27, 2017. For those students identified, the PGCPS must ensure that an IEP team convenes and determines the amount and nature of compensatory services or other remedy to be provided to the student for the loss of services.

School-Based

The MSDE requires the PGCPS to provide documentation by the start of the 2018-2019 school year, of the steps it has taken to ensure that the violations do not recur at XXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXX. The documentation must include a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, 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 a Free and Appropriate Public Education 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 Maxwell	XXXXXXXXX
	Trinell Bowman	Dori Wilson
	Gwendolyn Mason	Anita Mandis
	Barbara Vandyke	Sharon Floyd
	Kerry Morrison	Nancy Birenbaum