




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

September 5, 2019




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

RE: 
Reference: #20-001

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education 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 10, 2019, the MSDE received a complaint from Ms. , hereafter, "the complainant," on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Prince George's County 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 provide a copy of the Individualized Education Program (IEP) document within five (5) business days after the IEP team meetings held since November 15, 2018, in accordance with COMAR 13A.05.01.07.
2. The PGCPS has not ensured that the student was provided with the amount of special education classroom instruction, in the educational placement required by the IEP, since September 25, 2018, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is nine (9) years old and is identified as a student with Other Health Impairment under the IDEA. She attends the [REDACTED] and has an IEP that requires the provision of special education instruction.

ALLEGATION #1: PROVISION OF IEP

FINDINGS OF FACTS:

1. Since November 15, 2018, there has been one (1) IEP team meeting, which was held on June 12, 2019.
2. There is documentation that on June 19, 2019, the special education teacher provided the IEP to the complainant by electronic mail.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Fact #1 and #2, the MSDE finds that the PGCPS provided a copy of the Individualized Education Program (IEP) document within five (5) business days after the IEP team meeting held June 12, 2019, in accordance with COMAR 13A.05.01.07. Therefore, the MSDE does not find that a violation occurred with respect to this allegation.

ALLEGATION #2: IEP IMPLEMENTATION

FINDINGS OF FACTS:

3. The IEP requires that the student be provided with special education instruction in both general and special education classrooms.
4. On April 1, 2019, the IEP team met and discussed that the student required more time for accommodations, such as additional time to complete tests, than what is available during the regular school day, and that this resulted in less time for special education instruction in the special education classroom. In response, the team decided that the student would be provided with additional special education instruction prior to the start of each school day to make up for time utilized by testing. Additionally, the team agreed that the special education teacher would document the amount of time that special education instruction was being provided in the special education classroom each day.
5. On June 12, 2019, the IEP team met and considered the complainant's concern that the special education teacher's logs of the time being spent on the provision of special education instruction in the special education classroom reflected that the student was not provided with the amount of special education instruction required by the IEP.

The special education teacher reported that she has offered to provide additional time with the student during the time periods scheduled for nonacademic classes, but that the student refused services because she does not want to miss those classes. The IEP team offered to provide the student with additional special education instruction to remediate this loss of services, but the complainant refused the services.

6. There is documentation that the student is making sufficient progress towards achieving the annual IEP goals and has achieved some of the goals.

DISCUSSION/CONCLUSIONS:

In this case, the complainant alleges that the student requires the amount of special education instruction in the special education classroom stated in the IEP, and that the student requires compensatory services in the exact amount of the time that was not provided.

The complainant further alleges that there is not sufficient time in the special education teacher's schedule to provide the required amount of special education instruction. As a result, the complainant states that the "student's reading level has barely increased."

Based on the Findings of Facts #3-#5, the MSDE finds that the PGCPs did not ensure that the student was provided with the amount of special education instruction in the special education classroom required by the IEP, in accordance with 34 CFR §300.323. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #5, the MSDE finds that the student has been offered compensatory services. Therefore, no corrective action is required to remediate the violation.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence.

The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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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 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:dee

c: Monica Golden
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