



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

September 16, 2020

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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: #21-004

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.

ALLEGATION:

On July 22, 2020, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, "the complainant," on behalf of her daughter, 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 Individualized Education Program (IEP) team convened to review and revise, as appropriate, the student's Individualized Education Program (IEP) to address the lack of expected progress toward achieving the IEP transition goals during the 2019 - 2020 school year, in accordance with 34 CFR §§300.101, .320, and .324.

BACKGROUND:

The student is twenty-one (21) years old and is identified as a student with Multiple Disabilities, under the IDEA, related to Autism and an Intellectual Disability. She had an IEP that required the provision of special education instruction and related services.

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The PGCPS placed the student at the XXXXXXXXXXXXXXXXXXXX, a nonpublic separate special education school, where she attended school until a March 16, 2020 Statewide closure of all schools as a result of the national COVID-19 pandemic.

On June 16, 2020, the student was awarded a Maryland High School Certificate of Program Completion.

FINDINGS OF FACTS:

1. The IEP in effect during the 2019 - 2020 school year contained goals for the student to improve her performance in the areas of communication, social interaction, social, emotional, and behavioral functioning, daily living skills, math problem-solving, reading comprehension, and written language expression. The IEP required the provision of special education instruction and related services to assist her in achieving the goals.
2. The IEP in effect during the 2019 - 2020 school year also reflected that transition goals were developed based on a student interview conducted on September 10, 2019 and career interest inventories that were administered. The IEP stated that the student participated in the information technology and horticulture industry programs. It stated that her use of technology was a relative strength, but that she was “sometimes unsafe with the computer hardware that results in the denial of access.” It further stated that the student struggled with flexibility and was and often required alternative assignments when she became uninterested in a task.
3. The IEP in effect during the 2019 - 2020 school year included a postsecondary employment goal to work with computers in a community-based business upon exiting high school. It also included a postsecondary training goal to participate in on-the-job training within the community-based computer business, and included various transition activities to prepare the student to work on the postsecondary goals upon exiting high school.
4. The reports of the student’s progress towards achievement of the annual IEP goals and the transition services reflect that while the student was making sufficient progress towards achievement of the annual IEP goals by the end of January 2020, she was “demonstrating regression” of skills as a result of her refusal to participate in some of the employment training transition services. The January 22, 2020 report on the completion of one (1) of the employment training transition activities states that the student refused to work and instead “chooses to sit there and do nothing.” By April 7, 2020, the student was reported to have “demonstrated significant regression in regards to this goal.”
5. The reports of the student’s progress reflect that, following the closure of school buildings due to the COVID-19 pandemic and the initiation of virtual learning, the

student demonstrated work refusal behavior that negatively impacted her achievement of the annual IEP goals to improve reading, writing, math, and functional daily living and her participation in employment training transition services. The reports made on June 10, 2020 state “despite good faith effort to provide [the student] with special education services during the mandated school closure, [the student] has not engaged in the learning activities.” The report on the annual IEP goal to improve social interaction states:

“This goal was not able to be implemented through telehealth services due to [the student’s] lack of participation in her group counseling sessions where this social interaction skills goal is typically targeted. Additionally, this goal was not included on the student’s Individualized Continuity of Learning Plan (ICLP). It had been anticipated that this goal may be included in an ICLP amendment should [the student] have shown a willingness to actively engage in her group counseling sessions. However, after several refusals to participate in group counseling opportunities this goal was not addressed and/or introduced during the mandated school closure.”

6. However, the documentation of an IEP team meeting held on May 12, 2020 to discuss the student’s exit from high school states that the team decided that the student “will continue to participate in virtual learning,” and does not reflect that the team considered positive behavioral interventions to address the student’s behavior that interfered with implementation of the IEP. The IEP team documented that linkages had been made with the Developmental Disabilities Administration (DDA) for the provision of adult services following the student’s exit from high school, and that provider options were being explored.
7. At the May 12, 2020 IEP team meeting, the complainant expressed concern about the lack of availability of adult services and expressed a desire for the student to remain in school beyond the 2019 - 2020 school year. The team documented “June 16, 2020 continues to be the date of exit. The parents may contact MSDE to voice their concerns,” and did not consider positive behavioral interventions to address the student’s interfering behavior.

CONCLUSION:

Based on the same Findings of Facts #1 - #7, the MSDE finds that the IEP team did not consider the use of positive behavioral interventions and supports, and other strategies, to address the student’s refusal to participate in virtual instruction while she remained in school, which impacted her completion of transition activities and achievement of annual IEP goals, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTION:

The MSDE requires the PGCPS to provide documentation that it has offered to promptly assist the complainant with initiating services from the DDA.

TIMELINE AND TECHNICAL ASSISTANCE:

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152).

A reasonable timeframe has been established to ensure that noncompliance is corrected in a timely manner.¹ This office will follow up with the public agency to ensure that it completes the required actions consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that the time frame below may not be met, or if either party seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770.

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.

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 (FAPE) for the student, including issues subject to this State complaint investigation,

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, the MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

² The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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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 Early Intervention/Special Education Services

MEF:ac

c: Monica Goldson
 Barbara Vandyke
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