



December 27, 2013

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Ms. Elizabeth Anthony
Interim Supervisor of Special Education
Caroline County Public Schools
204 Franklin Street
Denton, Maryland 21629

RE: XXXXX
Reference: #14-036

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 October 30, 2013, the MSDE received a complaint from Ms. XXXXXXXXXX, the student's grandmother and legal guardian, hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Caroline County Public Schools (CCPS) 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 CCPS has not provided the student with the supports and accommodations, as required by his Individualized Education Program (IEP), since the beginning of the 2013-2014 school year, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the complaint.

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2. Prior to filing the complaint, the complainant sent the MSDE electronic mail (email) correspondence that included an allegation of a violation of the IDEA by the CCPS.
3. On October 15, 2013, Ms. Anita Mandis, Section Chief, Family Support and Dispute Resolution Branch, MSDE, contacted the complainant, via telephone, to clarify the concerns raised, and informed her of the requirement to provide a requested remedy in order for the MSDE to initiate a State complaint investigation into the allegation.
4. On October 30, 2013, the MSDE received a requested remedy from the complainant and a State complaint investigation was initiated.
5. On November 4, 2013, the MSDE sent a copy of the complaint, via facsimile, to Ms. Rosemary D. Thomas, Former Supervisor of Special Education, CCPS.
6. On November 14 and 25, 2013, and December 2, 2013, Ms. Williams requested information and documentation from the CCPS.
7. On November 25, 2013, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the CCPS of the allegation subject to the investigation and requested that the CCPS review the alleged violation.
8. On December 2 and 9, 2013, Ms. Williams conducted telephone interviews with the complainant regarding the allegation being investigated.
9. On December 2, 2013, the complainant sent the MSDE documentation to be considered when conducting the investigation.
10. On December 4, 2013, Ms. Williams and Ms. Martha J. Arthur, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed the following school staff:
 - a. Ms. XXXXXXXXX, School Counselor;
 - b. Ms. XXXXXXXXX, Social Studies Teacher;
 - c. Ms. XXXXXXX, Special Education Teacher, Case Manager;
 - d. Ms. XXXXXXX, Special Education Teacher; and
 - e. Ms. XXXXXXXXXXXX, Principal.

Ms. Elizabeth Anthony, Interim Supervisor of Special Education, CCPS, attended the site visit as a representative of the CCPS and to provide information on the CCPS policies and procedures, as needed.

11. December 18, 2013, Ms. Williams conducted a telephone interview with Ms. Anthony regarding the allegation being investigated.

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12. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings are listed below.
 - a. Correspondence and attachments from the complainant to the MSDE, received on October 30, 2013 and December 2, 2013;
 - b. School Counselor first semester schedule;
 - c. Biology class first semester roster;
 - d. Student disciplinary incident log, dated April 5, 2013 through December 3, 2013;
 - e. Behavioral Intervention Plan, dated June 12, 2013;
 - f. Log of student accommodations and classroom performance, dated August 26, 2013 through November 26, 2013;
 - g. IEP, dated August 29, 2013;
 - h. Teacher contact log, dated August 29, 2013 through November 19, 2013;
 - i. First semester teacher assignments, 2013-2014 school year;
 - j. Email correspondence between the complainant and the school staff, dated October 3 and 4, 2013;
 - k. Disciplinary referral explanation, dated October 11, 2013;
 - l. Email correspondence from the school staff to the complainant, dated October 11, 2013;
 - m. Log of the student's use of supports and accommodations, dated October 15, 2013 through December 3, 2013;
 - n. Academic planning workbook, dated October 21, 2013 through December 4, 2013;
 - o. Email correspondence between the complainant and the school staff, dated October 23, 2013; and
 - p. Email correspondence between the complainant and the school staff, dated October 30, 2013.

BACKGROUND:

The student is fifteen (15) years old and attends XXXXXXXXXXXXXXXXXXXX (XXXXX XXXXXXXXXXXX). He is identified as a student with a Specific Learning Disability under the IDEA and has an IEP that requires the provision of special education instruction.

During the period of time addressed by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Doc. g).

FINDINGS OF FACTS:

Reducing Distractions

1. The IEP in effect since the beginning of the 2013-2014 school year requires that the student be provided with the opportunity to complete tasks in a school area, with reduced

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distractions, to increase his ability to focus on independent work and testing, as needed (Doc. g).

2. On October 11, 2013, the school staff offered the student the opportunity to move to another work area, with reduced distractions, prior to the start of a quiz. At that time, the student refused the accommodation. However, after beginning the quiz, the student requested that he be allowed to take the quiz in an area with reduced distractions, but there is no documentation that he was permitted to do so (Docs. f, h, k, and l and interview with the school staff).

Chunking of Assignments

3. The student's Behavioral Intervention Plan (BIP) and IEP state that the student's assignments are to be broken down into small tasks to be completed one at a time (Docs. e and g).
4. There is documentation that the student's assignments have not been consistently broken down into smaller tasks in the manner described in the IEP (Docs. g and j).

Provision of Positive Learning Strategies

5. The student's BIP indicates that the student will meet with the school staff at the start of each school day to focus on positive learning strategies for the day, and that he will meet with the school staff at the end of each day to discuss his progress (Doc. e).
6. On October 21, 2013, the school staff began using more formalized research-based strategies with the student in response to the complainant's concern about the provision of this support (Docs. h, n, and interview with school staff).
7. There is no documentation that the student is scheduled to regularly meet with the school staff twice a day for the provision of this support (Docs. b and c and interview with school staff).

Self-Monitoring and Behavior Tracking

8. The BIP indicates that the student will be taught "to self-monitor and track his on task behavior" using a "signaling device" to prompt himself to think about whether he is on-task and doing what is expected and to record the results in order to track his progress (Doc. e).
9. There is documentation that the student has refused to use the device when it has been provided, but there is no documentation that the student has been taught how to use the device (Docs. e and m and review of the educational record and interview with the school staff).

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Provision of Self-Advocacy Strategies

10. The BIP states that the student be provided with instruction on the use of appropriate strategies to advocate for assistance (Doc. e).
11. There is no documentation that the student has been provided with instruction on self-advocacy (Review of the educational record and interview with the school staff).

Home/School Communication

12. The BIP states that “home/school communication will be maintained,” via email correspondence, to notify the complainant on each day that the student displays inappropriate behavior and also to inform her of major projects, tests, and assignments (Doc. e).
13. There is documentation of several incidents where the student demonstrated inappropriate, noncompliant behaviors. However, there is no documentation that the complainant was provided with notice of these incidents, via email, on the days when they occurred (Doc. d and review of educational record).
14. There is documentation that tests were given to the student for which there was no notice provided to the complainant, via email, as required (Docs. n and o).
15. While the school staff report that the student’s supports and accommodations have been consistently provided, there is no documentation that they have been provided consistently and in the manner determined by the IEP team (Interview with school staff and review of the educational record).

DISCUSSION/CONCLUSION:

The public agency must ensure that the student is provided with the special education and supports determined necessary by the IEP team (34 CFR §§300.101 and .323). The public agency must also ensure that documentation of compliance with the IDEA is maintained for three (3) years (34 CFR §§76.1, 76.731, and 80.42).

In this case, the complainant alleges the student has not been consistently provided with specific supports determined necessary by the IEP team to address the student’s needs (Doc. a). Based on the Findings of Facts #1 - #15, the MSDE finds that while there is documentation of the provision of some of the supports, there is no documentation that the student has been consistently provided with specific supports in the manner determined necessary by the IEP team. Therefore, this office finds that a violation occurred with respect the allegation.

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CORRECTIVE ACTIONS/TIMELINES:

Student Specific

The MSDE requires the CCPS to provide documentation by February 1, 2014, that immediate steps have been taken to ensure that the student is provided with the supports and accommodations determined necessary by the IEP team. Also, the MSDE requires the CCPS to provide documentation that the IEP team has convened and determined the amount and nature of *compensatory services*¹ to be provided to the student to remediate the identified violations.

The MSDE requires the CCPS to provide the complainant with proper written notice of the IEP team's decisions, as required by 34 CFR §300.503. If the complainant disagrees with the IEP team's decisions, she may request mediation or file a due process complaint to resolve the dispute.

School Based

The MSDE requires the CCPS to provide documentation by March 1, 2014 of the steps taken to determine if the identified violations are unique to this case or if they represent a pattern at XXXXXXXXXXXXXXX.

Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine if the regulatory requirements are being implemented and must provide documentation of the results of this review to the MSDE. If the school system reports compliance with the requirements, the MSDE Family Support and Dispute Resolution Branch will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented, the school system must identify the actions that will be taken to ensure the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the initial date that the school system determines non-compliance.

Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the Office of Special Education Programs. Additionally, the findings in this Letter of Findings will be shared with the MSDE's Monitoring and Accountability Section for its consideration during present or future monitoring for the CCPS.

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.

¹ Compensatory services, for the purposes of this letter, mean the determination by the IEP team as to how to remediate the denial of appropriate services to the student (34 CFR §300.151).

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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

Please be advised that the complainant and the school system 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 this 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 consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the Findings, Conclusions and Corrective Actions contained in this letter should be addressed to this office in writing. The complainant 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 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 due process.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Special Education/Early Intervention Services

MEF:tw

cc : Khalid N. Mumin
Rosemary D. Thomas
XXXXXXXXXXXX
Donna Riley
Dori Wilson
Anita Mandis
Tyra Williams