



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

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May 29, 2014

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Mr. Russell Gray
Director of Special Education
Carroll County Public Schools
125 North Court Street
Westminster, Maryland 21157

RE: XXXXX
Reference: #14-080

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.

ALLEGATIONS:

On March 31, 2014, the MSDE received a complaint from Mr. XXXXXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of his son, the above-referenced student. In that correspondence, the complainant alleged that the Carroll County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegations listed below:

1. The CCPS has not ensured that the student has been provided with instruction to assist him in achieving the annual Individualized Education Program (IEP) goals to improve his reading, math, written language, study/organization, and life skills since the start of the 2013-2014 school year, in accordance with 34 CFR §§300.101 and .323.

2. The CCPS has not ensured that the student has been consistently provided with the services of a dedicated aide, as required by the IEP, since the start of the 2013-2014 school year, in accordance with 34 CFR §§300.101 and .323.
3. The CCPS has not ensured that the IEP has addressed the student's motor skills needed to fully participate in special education instruction since the start of the 2013-2014 school year, in accordance with 34 CFR §300.324.
4. The CCPS has not ensured that the student has received the appropriate assistance to strengthen areas of weakness in order to achieve satisfactory scores on the biology and reading Maryland High School Assessments (HSAs) since the start of the 2013-2014 school year, in accordance with COMAR 13A.03.02.07.
5. The CCPS did not ensure that the IEP team convened on April 10, 2014 included at least one (1) special education teacher or, as appropriate, one (1) special education provider of the student, as required by 34 CFR §300.321.

INVESTIGATIVE PROCEDURES:

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On April 1, 2014, the MSDE sent a copy of the complaint, via facsimile, to Mr. Russell Gray, Director of Special Education, CCPS.
3. On April 5 and 15, 2014, Ms. Hartman conducted telephone interviews with the complainant to clarify the allegations to be investigated.
4. On April 7, 14, and 16, 2014, the complainant provided the MSDE with information and documentation, via electronic mail (email).
5. On April 22, 2014, the MSDE sent correspondence to the complainant that identified the allegations being investigated. On the same date, the MSDE notified the CCPS of the allegations and requested that the CCPS review the alleged violations.
6. On April 22, 23, 24, 28, 29, and 30, 2014, and May 13, 20, and 27, 2014, the CCPS provided the MSDE with information and documentation, via email.
7. On April 24, 2014, Ms. Hartman and Ms. Koliwe Moyo, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX (XXXXX) to review the student's educational record, and interviewed the following CCPS staff:
 - a. Ms. XXXX, Culinary Arts Teacher, XXXXX;

- b. Ms. XXXXXXXXXXXX, Instructional Assistant, XXXXX and XXXXXXXXXXXX XXXX (XXXXXX);
- c. Mr. XXXXXX, Special Education Resource Teacher and the student's IEP Case Manager, XXXX;
- d. Ms. XXXXX, Special Education Resource Teacher, XXX;
- e. Mr. XXXXXXXXXXX, Principal, XXXXX;
- f. Mr. XXXXXX, Support Services Coordinator, XXXXX;
- g. Ms. Julie Koontz, Special Education Instructional Coordinator, CCPS; and
- h. Ms. Kathy Kaufman, Supervisor of Special Education, CCPS.

Mr. Wayne Whalen, Coordinator of Compliance, CCPS, attended the site visit as a representative of the CCPS and to provide information on the CCPS policies and procedures, as needed.

- 8. On May 21 and 28, 2014, Ms. Hartman conducted telephone interviews with the complainant concerning the allegations contained in the complaint.
- 9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Correspondence and attachments from the complainant to the MSDE, received on March 31, 2014;
 - b. IEP and Prior Written Notice document, dated April 23, 2013;
 - c. IEP and Prior Written Notice document, dated January 17, 2014;
 - d. Prior Written Notice document, dated April 10, 2014;
 - e. Student work samples for his culinary arts class;
 - f. The CCPS *High School Program of Studies and Career Pathways Planning Guide* for the 2013-2014 school year;
 - g. The CCPS *Culinary Arts I Syllabus*;
 - h. Photographs provided to the student of what the specific knife-cuts that he was to be graded on looked like;
 - i. Video recording demonstrating how to perform the various knife-cuts;
 - j. Log of communication between the dedicated aide and the complainant, dated August 26, 2014 through March 31, 2014;
 - k. Report from a database containing information about HSA remediation services provided to the student and teacher notes regarding the provision of tutoring and practice exams for the biology and English HSAs;
 - l. Student's report card for the 2013-2014 school year;
 - m. The MSDE *High School Graduation Requirements Questions & Answers*, dated Summer 2011;
 - n. Reports of the student's progress toward achievement of the annual IEP goals during the first three (3) marking periods of the 2013-2014 school year;

- o. Computer print-outs of the student's formative and summative assignment scores in reading, history, and math classes during the first semester of the 2013-2014 school year;
- p. Computer print-out of the student's HSA performance history;
- q. Summary of a parent/teacher conference convened on March 28, 2014; and
- r. Schedule of the XXXXX special education staff for the first semester of the 2013-2014 school year.

BACKGROUND:

The student is eighteen (18) years old and is identified as a student with Autism under the IDEA. He attends both the XXXXXXXXXXXXXXXX (XXXX) and the XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX (XXXXX), where he receives 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 (Docs. a-e and h-l, and n-r).

ALLEGATION #1: PROVISION OF INSTRUCTION TO ASSIST THE STUDENT IN ACHIEVING ANNUAL IEP GOALS TO ADDRESS HIS READING, MATH, WRITTEN LANGUAGE, STUDY/ORGANIZATION, AND LIFE SKILLS SINCE THE START OF THE 2013-2014 SCHOOL YEAR

FINDINGS OF FACTS:

1. The CCPS *High School Program of Studies and Career Pathways Planning Guide* states that students may fulfill the requirements for graduation by substituting career or technology classes for the foreign language requirement. One of the approved alternatives for fulfilling the graduation requirements is to complete six (6) credits in the culinary arts at the XXXX, called the Culinary Arts Completer Program. A student enrolled in the Culinary Arts Completer Program takes a single three (3) credit class at the XXXX for two (2) consecutive semesters. The classes take place during three (3) of the four (4) class periods in a student's schedule, and the student completes the fourth class period at his or her high school (Docs. f and g, and interviews with the CCPS staff).
2. The parties agree, and the documentation reflects, that the student is currently enrolled in the Culinary Arts Completer Program at the XXXX. The documentation reflects that the student, who is working towards a Maryland High School Diploma, enrolled in the first culinary arts class at the start of the second semester of the 2013-2014 school year (Docs. c and l, and interviews with the CCPS staff and the complainant).

Life Skills

3. There is no documentation that the student has been identified with life skills needs, and the student's IEP does not require the provision of instruction to address life skills (Docs. b-d and review of the student's educational record).

Reading, Math, Written Language, and Study/Organization Skills

4. The IEP in effect at the start of the 2013-2014 school year was developed on April 23, 2013. It contained annual goals for the student to improve reading comprehension, math problem solving, written language expression, and studying/organizational skills. To assist the student in achieving the annual IEP goals, the IEP required that the student receive ten (10) hours per week of direct instruction from a special education teacher in the general education classroom, and that the student receive the services of a dedicated aide throughout the school day (Doc. b).
5. On January 17, 2014, the IEP team convened to review the student's education program in preparation for his participation in the culinary arts program. At this meeting, in order to accommodate the change in the student's schedule due to his participation in the culinary arts class, the team revised the IEP by reducing the amount of direct instruction from a special education teacher in the general education classroom to one (1) hour per week. The IEP was also revised to requiring that the student receive direct instruction from a special education teacher in a separate, special education classroom for six and one-half (6-1/2) hours per week (Doc. c).
6. There is documentation that, during the first semester of the 2013-2014 school year, the student was provided with direct instruction from a special education teacher. There is no documentation that the student has been provided with direct instruction from a special education teacher since the start of the second semester of the 2013-2014 school year. However, the complainant reports that a special education teacher has recently started providing the student with direct instruction (Doc. r and review of the student's educational record and interviews with the complainant).
7. The documentation reflects that, for the first semester of the 2013-2014 school year, the student received instruction in academic classes at XXXX that included reading, math, and history (Docs. j and l).
8. The documentation reflects that, since the start of the second semester of the 2013-2014 school year, the student's class schedule includes participation in the culinary arts class at the XXXXX for the first three (3) periods of the school day. The documentation further reflects that, as part of the curriculum in the culinary arts class, the student is required to utilize reading comprehension, math problem solving, written language expression, and studying/organizational skills (Docs. e, g, j, and l, and interviews with the CCPS staff).

9. The documentation reflects that, after the culinary arts class, the student returns to XXXX for the fourth period of the school day, where he participates in a “resource class,” which is a separate, special education class. The documentation reflects that, during the “resource class,” the student receives remedial instruction on the skills necessary as part of the culinary arts program by a dedicated aide (Docs. e, g, j, and l, and interviews with the CCPS staff).
10. There is documentation that, on occasion, the student has been asked to deliver mail during a “sensory break,” which is required by the IEP, but that, at the complainant’s request, the school system has agreed to not ask the student to deliver mail in the future. There is no documentation that the student was provided with instruction related to life skills (Doc. q and review of the student’s educational record).
11. An IEP team meeting was convened on April 10, 2014 in order to conduct an annual review of the student’s program. At that meeting, the team considered information from the student’s teachers that he has achieved the annual goal related to improving his math problem solving skills. However, while the school staff reported that the student had been making sufficient progress to achieve the remaining goals within a year of their development, those goals were not achieved. The documentation of the IEP team meeting reflects that, because the student’s present levels of academic and functional performance were based on classroom-based data, the team determined additional data was needed to update the information. The documentation does not reflect a discussion of why the student did not achieve the annual IEP goals. The IEP team determined that the meeting would be continued pending the results of a re-evaluation (Docs. d and n).

DISCUSSION/CONCLUSIONS:

The public agency is required to ensure that the student is provided with the special education services required by the IEP in order to assist the student in achieving the annual IEP goals (34 CFR §§300.101 and .323).

In this case, the complainant asserts that the CCPS is not providing the student with instruction to assist him in achieving the annual IEP goals because he is not currently enrolled in any academic classes. He further asserts that, during the student’s “resource class,” he is asked to deliver mail and is provided instruction in life skills instead of receiving academic support (Doc. a and interviews with the complainant).

Life Skills

Based on the Finding of Fact #3, the MSDE finds that there is no documentation that the student has been identified with life skills needs, or that the IEP requires the provision of services to address needs related to life skills. Therefore, the MSDE does not find a violation with regard to this aspect of the allegation.

Reading, Math, Written Language, and Study/Organization Skills

Based on the Findings of Facts #4, #7, and #11, the MSDE finds that, during the first semester of the 2013-2014 school year, there is documentation that the student was enrolled in academic classes to assist him in achieving the annual IEP goals. Based on the Findings of Facts #1, #2, #4, #5, #8, and #11, the MSDE finds that there is documentation that the student has continued to receive instruction to assist him in achieving the annual goals in his culinary arts class.

Based on the Finding of Fact #9, the MSDE finds that there is documentation that, during the student's "resource class," he receives remedial instruction to assist him in obtaining the skills necessary in the culinary arts program. Based on the Finding of Fact #10, the MSDE finds that the student's IEP requires that he be provided with "sensory breaks," and that there is documentation that the school staff utilized delivering mail as a method of providing the "sensory breaks." Based on the same Finding of Fact, the MSDE further finds that there is no documentation that the student was provided with life skills instruction during the "resource class."

Based on the Findings of Facts #4 and #6, the MSDE finds that there is documentation that the student was provided with direct special education instruction from the special education teacher during the first semester of the 2013-2014 school year. However, based on the Findings of Facts #5 and #6, the MSDE finds that, while the complainant reports that there is now a special education teacher providing instruction, there is no documentation that the student was provided with direct special education instruction from the special education teacher, as required by the IEP, since the start of the second semester of the 2013-2014 school year. Therefore, the MSDE finds that a violation occurred with regard to this aspect of the allegation.

ALLEGATION #2: PROVISION OF THE SERVICES OF A DEDICATED AIDE SINCE THE START OF THE 2013-2014 SCHOOL YEAR

FINDINGS OF FACTS:

12. The documentation reflects that the student did not enroll in the culinary arts class until the second semester of the 2013-2014 school year (Doc. l).
13. The documentation reflects that the student was provided with the services of a dedicated aide, as required by the IEP, and that the dedicated aide assisted the student during the culinary arts class (Doc. j).

DISCUSSION/CONCLUSIONS:

As discussed above, the public agency is required to ensure that the student is provided with the special education services required by the IEP (34 CFR §§300.101 and .323).

In this case, the complainant asserts that the student has not been permitted to receive the services of a dedicated aide in his culinary arts class (Doc. a and interviews with the complainant).

Based on the Findings of Facts #4, #12 and #13, the MSDE finds that there is documentation that the student has been provided with the services of a dedicated aide in his culinary arts class. Therefore, the MSDE does not find that a violation occurred with regard to this allegation.

**ALLEGATION #3: IEP THAT ADDRESSES THE STUDENT’S MOTOR SKILLS
NEEDED TO FULLY PARTICIPATE IN SPECIAL EDUCATION
INSTRUCTION SINCE THE START OF THE 2013-2014 SCHOOL
YEAR**

FINDINGS OF FACTS:

14. The documentation reflects that demonstrating proficient knife-cutting skills is part of the culinary arts curriculum, and that the student first began receiving instruction in knife-cutting skills on March 6, 2014 (Docs. g and j).
15. The documentation reflects that the student has participated in knife-cutting skills activities during the culinary arts class, has been provided with opportunities to practice those skills, and has been provided with remedial instruction in knife-cutting skills during his “resource class.” However, the documentation further reflects that the student has had difficulty with passing the knife-cutting skills requirements because he has been unsuccessful in creating uniform cuts in the proper dimensions within the allotted time period (Docs. h-j and q).
16. The documentation further reflects that, as part of the student’s re-evaluation, the school system is assessing the student’s needs in this area (Doc. d).

DISCUSSION/CONCLUSIONS:

In developing each student’s IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student (34 CFR §300.324).

In this case, the complainant asserts that the CCPS has not ensured that the student’s motor skills needs have been met because he has not been receiving assistance in mastering the knife-cutting skills that are a part of the grade he will receive in the culinary arts class (Doc. a and interviews with the complainant).

Based on the Findings of Facts #14 and #15, the MSDE finds that the student has participated in knife-cutting skills training during class, and has received additional remedial support to address this newly-identified need. Based on the Finding of Fact #16, the MSDE further finds that the CCPS is exploring how to further address this need as part of the re-evaluation. Therefore, the MSDE does not find that a violation occurred with regard to this allegation.

ALLEGATION #4: ASSISTANCE TO STRENGTHEN AREAS OF WEAKNESS IN ORDER TO ACHIEVE SATISFACTORY SCORES ON THE BIOLOGY AND READING MARYLAND HIGH SCHOOL ASSESSMENTS (HSAs) SINCE THE START OF THE 2013-2014 SCHOOL YEAR

FINDINGS OF FACTS:

17. The documentation reflects that the student took and passed the math HSA on the first attempt, but has taken and failed the biology HSA on three (3) occasions since May 1, 2013, and the English HSA on five (5) occasions since May 1, 2012. The complainant acknowledges that the CCPS offered him the option of having the student participate in the Bridge Plan for Academic Validation (Bridge Plan)¹ in order to complete the biology and English HSA requirements since the second time that the student failed to pass each of those assessments. However, the complainant reports that he chose to have the student continue to take these assessments (Doc. p and interviews with the CCPS staff and the complainant).
18. The documentation reflects that the CCPS staff has provided the student with tutoring and practice HSA tests in both biology and English since the start of the 2013-2014 school year (Docs. j, k, and o).
19. The documentation of the April 10, 2014 IEP team meeting reflects the team's discussion that the student has been encouraged to participate in the Bridge Plan in order to complete the biology and English HSA requirements for graduation. The complainant reports that he is now in agreement with the recommendation that the student participate in the Bridge Plan (Doc. d and interviews with the complainant).

DISCUSSION/CONCLUSIONS:

In Maryland, the local school system must provide assistance to strengthen areas of weaknesses for students who have not achieved satisfactory scores on the Maryland HSAs (COMAR 13A.03.02.07).

¹ The Bridge Plan is an alternative method of fulfilling the HSA requirements for graduating with a Maryland High School Diploma. Through the Bridge Plan, students have an opportunity to complete a project that is selected to help the student demonstrate the content and skills related to the HSA that the student has failed to pass after the student has failed to pass on at least two (2) occasions. Participation in the Bridge Plan is voluntary (Doc. m).

Students who have failed one (1) or more HSAs on at least two (2) occasions may satisfy the HSA requirements by participating in the Bridge Plan (COMAR 13A.03.02.09).

In this case, the complainant had asserted that the student has failed the biology and English HSAs on numerous occasions and, because the student is not currently enrolled in English and biology classes, is not receiving assistance from the school system to help him pass these assessments (Doc. a and interviews with the complainant).

Based on the Findings of Facts #17 and #18, the MSDE finds that there is documentation that the CCPS has provided the student with assistance in strengthening the skills required to achieve passing scores on the biology and English HSAs. Based on the Findings of Facts #17 and #19, the MSDE further finds that the complainant's concerns about the student's ability to fulfill the HSA requirements has been addressed by the decision for the student to participate in the Bridge Plan. Therefore, the MSDE does not find that a violation occurred with regard to this allegation.

ALLEGATION #5: IEP TEAM CONVENED ON APRIL 10, 2014 INCLUDED AT LEAST ONE (1) SPECIAL EDUCATION TEACHER OR, AS APPROPRIATE, ONE (1) SPECIAL EDUCATION PROVIDER OF THE STUDENT

FINDINGS OF FACTS:

20. The documentation of the April 10, 2014 IEP team meeting indicates that the student's dedicated aide, who provides the student with special education services, was in attendance at the meeting (Docs. d and l).

DISCUSSION/CONCLUSIONS:

The IEP team must include at least one (1) special education teacher of the student, or, where appropriate, at least one special education provider of the student (34 CFR §300.321). Parents may invite individuals who have knowledge or special expertise regarding the student, including public agency personnel. However, decisions as to which particular teachers or special education providers will participate on the IEP team are left to the public agency (34 CFR §300.321 and *Analysis of Comments and Changes to the IDEA*, Federal Register, Vol. 71, No. 156, pp. 46670 and 46674).

In this case, the complainant asserts that, because the April 10, 2014 IEP team did not include a special education teacher of the student, the team did not include the proper participants (Doc. a and interviews with the complainant).

Based on the Finding of Fact #20, the MSDE finds that the IEP team convened on April 10, 2014 included a special education provider of the student. Therefore, the MSDE does not find that a violation occurred with regard to this allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the CCPS to provide documentation, by July 1, 2014, that an IEP team has convened and determined the following based on the evaluation data:

1. the student's current levels of academic and functional performance;
2. the levels of academic and functional performance that were expected to be achieved by that time;
3. the amount and nature of services needed to compensate the student for the violation identified, based upon any identified discrepancy between the student's expected and actual levels of performance; and
4. a plan for how and when the compensatory services are to be provided within a year of the date of this Letter of Findings.

The CCPS must ensure that the complainant is provided with proper written notice of the decisions made, including the options considered, the basis for the decisions, and the data upon which the decisions were based.

School-Based

The MSDE requires the CCPS to provide documentation by the start of the 2014-2015 school year, of the steps taken at XXX and the XXXX to ensure that students are provided with the special education services required by the IEP.

Documentation of all corrective actions taken is to be submitted to this office to the attention of the Chief of the Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

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

Please be advised that both the complainant and the CCPS 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

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Mr. Russell Gray
May 29, 2014
Page 12

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 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 (FAPE) 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/ch

c: Stephen H. Guthrie
Wayne Whalen
XXXXXXX
XXXXXXXXXXX
Dori Wilson
Anita Mandis
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Martha J. Arthur