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State Superintendent of Schools

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July 10, 2014

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Ms. Arden Sotomayor
Director of Special Education
Charles County Public Schools
P.O. Box 2770
La Plata, Maryland 20646

RE: XXXXX
Reference: #14-093

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 May 12, 2014, the MSDE received a complaint from Ms. XXXXXXXX, hereafter, “the complainant,” on behalf of her son. In that correspondence, the complainant alleged that the Charles County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and applicable State regulations with respect to the above-referenced student.

The MSDE investigated the allegation that the CCPS did not ensure that the student was provided with the supports required by the Individualized Education Program (IEP) during the 2013-2014 school year, in accordance with 34 CFR §§.300.101 and .323. Specifically, the complainant indicated that the student was not provided with the daily “check-in/check-out” support the IEP required and that his teachers did not provide him with written information about required homework.

XXX

Ms. Arden Sotomayor

July 10, 2014

Page 2

INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On May 12, 2014, the MSDE received correspondence from the complainant alleging a violation of the IDEA.
3. On May 13, 2014, the MSDE sent a copy of the complaint, via facsimile, to Dr. Arden Sotomayor, Director of Special Education, CCPS and Ms. Marsha Diaz, Director of Compliance, CCPS.
4. On May 19, 2014, Ms. Moyo conducted a telephone interview with the complainant to clarify the allegation.
5. On May 30, 2014, 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 and requested that her office review the alleged violation.
6. On May 15 and 19, 2014, Ms. Moyo conducted telephone interviews with Ms. Diaz regarding the allegation being investigated and the State complaint investigation procedures.
7. On June 12, 2014, the CCPS staff provided the MSDE staff with a written response to the allegation.
8. 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 May 12, 2014;
 - b. IEP, dated March 25, 2014;
 - c. The CCPS written response to the MSDE, dated June 12, 2014; and
 - d. IEP, dated July 1, 2014.

BACKGROUND:

The student is twelve (12) years old and he attends XXXXXXXXXXXXXXXXXXXX. He is identified as a student with a Specific Learning Disability under the IDEA. 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 IEP team decisions and notice of the procedural safeguards (Docs. a, b, and d).

FINDINGS OF FACTS:

1. The CCPS acknowledges that the student was not provided with the supports required by the IEP. Specifically, the school staff did not ensure that a “check-in/check-out”¹ process was completed with the student and the teachers did not sign his agenda book to ensure that he was provided with written information about his homework on a daily basis, as required by the IEP (Docs. b - d).
2. On June 12, 2014, the CCPS sent correspondence to the MSDE which included its proposal for remediating the violation by providing the student with the opportunity to make-up any assignments that were not turned in to the teachers. The CCPS also indicated that it would provide professional development to the school’s teachers and administration in order to ensure the future provision of appropriate services to students with disabilities (Doc. c).
3. On July 1, 2014, an IEP team, including the complainant, was convened. At the meeting, the team discussed that the student continues to struggle with remaining “on-task” and maintaining his focus while in class. The IEP team revised the student’s IEP to ensure that it is written in a manner that is clear to all members of the IEP team and to those responsible for implementation of the IEP. Specifically, the team further clarified the manner in which the student would be provided with supports, including the “check-in and check-out” process and the daily use of the agenda book as a communication device between the complainant and school staff. The team also revised the goals to provide the student with additional assistance with maintaining focus and include additional supports (Doc. d).

DISCUSSION/CONCLUSION:

The public agency is required to ensure that each student is provided with the special education and related services in the placement required by the IEP (34 CFR §§300.101 and .323). Based on the Finding of Fact #1, the MSDE finds that the school staff did not provide the student with the supports required by the IEP and that a violation occurred. Based on the Findings of Facts #2 and #3, the MSDE finds that the CCPS has proposed the steps it will take to remediate the violation and has begun to take those steps.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the CCPS to provide documentation by September 1, 2014 that it has completed the corrective actions that it proposed.

¹ The “check-in/check-out” process requires that the student check with a teacher each morning and afternoon to ensure that he has the items he requires for class and to complete homework (Docs. b and d).

XXX
Ms. Arden Sotomayor
July 10, 2014
Page 4

Documentation of all corrective actions 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.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through the Family Support and Dispute Resolution Branch. The Branch staff can be reached at (410) 767-7770.

Please be advised that both parties 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 fact 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 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 due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Special Education/Early Intervention Services

MEF/km

cc Kimberly A. Hill
 XXXXXXXXX
 Anita Mandis

Marsha Diaz
Dori Wilson
Koliwe Moyo