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State Superintendent of Schools

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January 7, 2015

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Ms. Christina Harris
Director of Special Education
Calvert County Public Schools
1305 Dares Beach Road
Prince Frederick, MD 20678

RE: XXXXX
Reference: #15-029

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 November 18, 2014, 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 Calvert County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the CCPS did not ensure that the complainant was provided with the opportunity to fully participate in the Individualized Education Program (IEP) meeting held on October 22, 2014, by ensuring that she received the proposed IEP at least five (5) business days prior to the IEP meeting, in accordance with 34 CFR §300.501 and COMAR 13A.05.01.07.

INVESTIGATIVE PROCEDURES:

1. Ms. K. Sabrina Austin, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On November 20, 2014, the MSDE sent a copy of the complaint, via facsimile, to Ms. Christina Harris, Director of Special Education, CCPS.
3. On December 2, 2014, Ms. Austin conducted a telephone interview with the complainant by telephone to discuss the allegation to be investigated and to clarify the requested remedy. On the same date, the complainant provided the MSDE with additional documentation related to the allegation being investigated, via email.
4. On December 2, 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 the school system review the alleged violation.
5. On December 4, 2014, Ms. Austin discussed the allegation by telephone with Ms. Harris.
6. On December 9, 2014, the MSDE requested documentation from the student's educational record from the CCPS.
7. On December 12, 2014, the CCPS provided the MSDE with documentation from the student's educational record related to the allegation being investigated.
8. On December 16, 2014, Ms. Austin and Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, interviewed Ms. XXXXXX, IEP Chairperson, CCPS. Ms. Janet Stephanson, Supervisor of Special Education, CCPS, also participated in the interview as a representative of the CCPS and to provide information on the CCPS policies and procedures, as needed.
9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated November 12, 2013;
 - b. IEP Amendment, dated January 15, 2014;
 - c. IEP Amendment, dated August 22, 2014;
 - d. Draft IEP, dated October 6, 2014;
 - e. Notice of IEP Meeting, dated October 7, 2014;
 - f. XXXXXXXX Elementary School Cover Letter transmitting documents prior to the IEP meeting, dated October 14, 2014;

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- g. Sign In Sheet for the IEP Meeting, dated October 22, 2014;
- h. IEP, dated October 22, 2014;
- i. Prior Written Notice, dated October 23, 2014;
- j. Checklist used by school system staff to ensure that documents are provided to parents prior to IEP team meetings; and
- k. Correspondence from the complainant alleging a violation of the IDEA, received by the MSDE on November 18, 2014.

BACKGROUND:

The student is eight (8) years old and attends XXXXXXXXXXXXXXXX. She 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 and related services (Doc. h).

During the time period covered by the investigation, the complainant was provided with notice of the procedural safeguards and parental rights (Docs. g and h).

FINDINGS OF FACTS:

1. The CCPS uses a form on which the school system staff is required to identify and list the documents sent to parents at least five (5) business days prior to an IEP team meeting at which the documents will be reviewed. The form instructs the parent to return the form to school system staff with his or her signature indicating receipt of the documents (Doc. f and interview with school system staff).
2. On October 14, 2014, the school system staff sent the complainant documents intended for discussion at an IEP team meeting, scheduled for October 22, 2014, to conduct the annual review of the IEP. The CCPS form was included with the documents and indicates that portions of an IEP, specifically present levels of performance and proposed goals and objectives, were among the documents sent to the complainant. The complainant signed the form acknowledging receipt of the documents, which included the proposed IEP goals and objectives (Doc. f).
3. The school system staff and the complainant both report that the complainant expressed concern at the start of the October 22, 2014 IEP team meeting that she had not been provided with the proposed IEP goals prior to the meeting. At the meeting, the complainant was provided with the entire draft IEP (Interviews with the complainant and school system staff).
4. It is the school system's practice that, when a draft IEP is developed in preparation for the annual IEP review, only those portions of the draft that contain proposed revisions are provided to the parent prior to the meeting, and not the entire draft IEP (Doc. j and interview with school system staff).

DISCUSSION/CONCLUSIONS:

The IEP team must review the IEP periodically, but not less than annually. In order to ensure that parents are provided with the opportunity to fully participate in discussions during an IEP team meeting, the public agency must ensure that parents are provided with a copy of each assessment, report, data chart, and draft IEP (to the extent one has been developed) that the team plans to discuss at a scheduled IEP team meeting. These documents must be provided to the parents at least five (5) business days prior to a scheduled IEP team meeting (34 CFR §300.324 and COMAR 13A.05.01.07D).

Based on the Finding of Fact #3, the MSDE finds that there is documentation that the school system staff developed a draft IEP that included proposed revisions to the annual goals, and that the IEP team made decisions regarding the entire draft IEP on October 22, 2014. Based on the Findings of Facts #1 and #2, the MSDE finds there is documentation that, prior to the IEP team meeting, the complainant was provided with the portions of the draft IEP containing revisions that were proposed by the school system staff.

However, based on the Findings of Facts #3 and #4, the MSDE finds that the complainant was not provided with the entire draft IEP that was developed prior to the October 22, 2014 IEP team meeting. Therefore, the MSDE finds a violation has occurred.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the CCPS to provide documentation by April 1, 2015 of the steps taken to ensure that school system staff provide parents with the entire draft IEP, if one is developed, at least five (5) business days in advance of IEP team meetings.

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.

TECHNICAL ASSISTANCE:

Technical assistance is available to the complainant and the CCPS through Ms. Bonnie Preis of the Family Support and Dispute Resolution Branch, MSDE, 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 available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

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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 a due process complaint.

Sincerely,

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

MEF/am

c: Daniel D. Curry (w/encl.)
Christina Harris (w/encl.)
XXXXXXXX (w/encl.)
Marcella E. Franczkowski
Anita Mandis
K. Sabrina Austin