



July 20, 2015

XXX
XXX
XXX

Mrs. Bonnie Walston
Director of Special Education
Wicomico County Board of Education
101 Long Avenue
P.O. Box 1538
Salisbury, Maryland 21802-1538

RE: XXXXX
Reference: #15-080

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention 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 May 26, 2015, the MSDE received correspondence from Ms. XXXXXXXXX, hereafter, “the complainant,” filed on behalf of the above-referenced student, her son. In that correspondence, the complainant alleged that the Wicomico County Public Schools (WCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related State requirements with respect to the above-referenced student.

This office investigated the allegation that the WCPS did not ensure that the student was provided with the accommodations required by the Individualized Education Program (IEP) during the 2014-2015 school year, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. On May 27, 2015, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. The MSDE also notified Mrs. Bonnie Walston, Director of Special Education, WCPS, of the allegation to be investigated and requested that her office review the alleged violation.

XXX

Mrs. Bonnie Walston

July 20, 2015

Page 2

2. On June 29, 2015 and July 6, 2015, the school system provided the MSDE with documentation to be considered.
3. On July 13, 2015, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, conducted a telephone interview with the complainant about the allegation.
4. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
 - a. IEP, dated October 24, 2013;
 - b. IEP, dated September 30, 2014;
 - c. IEP, dated February 3, 2015;
 - d. IEP, dated May 14, 2015;
 - e. A snapshot of the English teacher's grade book using the x2-Aspen electronic system;
 - f. Copy of the environmental science teacher's calendar from September 2014 to May 2015;
 - g. Electronic mail (email) messages between the complainant, the student's father, and the school staff, dated between September 23, 2014 and May 29, 2015;
 - h. Emails among the student's teachers, dated between September 25, 2014 and February 10, 2015;
 - i. Reports of the student's progress toward achievement of the annual IEP goals, dated November 10, 2014, January 30, 2015, April 16, 2015, and June 16, 2015;
 - j. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on May 22, 2015;
 - k. The student's report card for the 2014-2015 school year; and
 - l. An email from the WCPS to the MSDE, dated July 6, 2015.

BACKGROUND:

The student is seventeen (17) years old, is identified as a student with an Other Health Impairment under the IDEA related to XXXXXXXXXXXX, and has an IEP that requires the provision of special education and related services. He attends XXXXXXXXXXXXXXXXXXXX (Docs. a - d).

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

FINDINGS OF FACT:

1. The IEP, which was developed on October 24, 2013, and revised on September 30, 2014, February 3, 2015, and May 14, 2015, requires the following:

XXX

Mrs. Bonnie Walston

July 20, 2015

Page 3

- a. Seating in close proximity to instruction on a daily basis;
 - b. Encouragement to ask for assistance, re-explanation and clarification of assigned tasks, and monitoring of completion of those tasks on a daily basis;
 - c. Copies of teacher notes periodically so that the student does not miss instruction while trying to complete classroom notes;
 - d. Extra time to complete assignments and testing; and
 - e. Weekly reports to the complainant regarding the student's progress, either by telephone or electronic mail, to assist the student to not fall behind on his work (Docs. a - d).
2. The WCPS utilizes an electronic student information system (x2-Aspen). This electronic system includes a grade book that teachers are required to use to post grades and information about assignments that are due, through which students and parents can obtain access through a "Parent Portal." This electronic system indicates to teachers which students have an IEP, and allows teachers to access information about the requirements of the IEP by clicking on an icon. A snapshot of the English teacher's grade book reflects that the x2-Aspen system includes information from the student's IEP, including the accommodations required by the IEP (Doc. e).
3. At the September 30, 2014 IEP meeting, the team considered information about the accommodations being provided, including copies of teacher notes, extended time, and a home/school communication system. The team also considered information that the student is provided with clarification of assignments before he begins work as well as repetition of what he is to do when he is completing work, and that his progress is monitored and he is prompted to complete class work (Doc. b).
4. At the February 3, 2015 IEP team meeting, the IEP team considered information that the student was experiencing stress and anxiety that was "having a direct effect on his emotional stamina." Based on this information, the team decided that the student would be provided with a "flash pass" to enable him to leave the classroom in order to practice soothing strategies and seek adult support (Doc. c).
5. The student's environmental science teacher maintained a calendar documenting weekly contact with the complainant about the student's progress from September 2014 through May 2015 (Doc. f).
6. Electronic mail messages between the complainant and the student's teachers reflect that there was regular communication about the student's progress during the school year, including reports of the assignments that were due that the student had not completed. Many of these communications occurred between the complainant and the student's coaching class teacher, who reported on the student's progress in all of his classes. These emails reflect that the student was provided with extra time to complete assignments and prompting to complete his class work (Doc. g).

XXX

Mrs. Bonnie Walston

July 20, 2015

Page 4

7. An electronic mail message from the student's coaching class teacher to the student's environmental science teacher, dated September 25, 2014, documents that the environmental science teacher was notified of a new assistant who had been assigned to the student's class and that the coaching teacher requested a roster of students with IEPs so that the coaching teacher could review with the assistant the required accommodations for each student. The email also documents that the student's coaching class teacher had discussed the assignment of the new assistant with the complainant (Doc. h).
8. A November 10, 2014 email from the student's coaching class¹ teacher to his other teachers documents that the complainant had expressed a desire to have the teachers provide their reports of the student's progress in writing (Doc. h).
9. Electronic mail messages between the student's father and the student's environmental science teacher, dated November 17 and 18, 2014, document that the student's father expressed concern about the student's grade and the fact that the teacher had not acknowledged receiving homework that he had assisted the student with completing. The teacher indicated that the student's grade was impacted by an "increase in socializing" instead of completing classwork, and by the fact that the student was not taking work from the "makeup work bin" for the days he was absent from school. The email messages reflect that the teacher and the student's father would meet to discuss how to further assist the student (Doc. g).
10. In a February 10, 2015 email from the student's environmental science teacher to the other teachers, the environmental science teacher informed the other teachers that the complainant requested that they be "a little more authoritative" with the student in order to obtain his cooperation with completing class work (Doc. h).
11. The school system staff report that the student's seating could change daily based on the classroom activity (Doc. l).
12. The reports of the student's progress towards achieving the annual IEP goals, dated November 10, 2014, January 30, 2015, April 16, 2015, and June 16, 2015 state that the student made sufficient progress towards achievement of the annual goals (Doc. j).
13. The November 10, 2014 progress report reflects that the student was earning an "E" in environmental science because he was not completing required assignments. An April 22, 2015 email from the student's coaching class teacher to the complainant reflects that at that time, the student continued to have an "E" in his environmental science class as well as in physical education. However, a May 18, 2015 email from the student's physical education teacher to the student's coaching class teacher states that at that time, the student was doing "a much better job of coming to class prepared," which had brought his grade up (Docs. h and j).

¹ This is a class in which the student receives assistance completing assignments and homework.

XXX

Mrs. Bonnie Walston

July 20, 2015

Page 4

14. A May 22, 2015 email from the student's coaching class teacher to the complainant reflects that at that time, the student had brought up his grade in environmental science to a "D." An email from the student's environmental science teacher to the complainant on the same date indicates that the teacher informed the student that his final assignment would be given the following week and that he was warned to pick his partner for the assignment wisely because the assignment "will incorporate all we have talked about this year" (Doc. g).
15. The student's report card reflects that his final grade in physical education was a "B" and his final grade in his environmental science class was a "C." He earned "Bs" and "Cs" in his remaining classes (Doc. k).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that special education services, accommodations, and supplementary aids and services, are provided in accordance with each student's IEP (34 CFR §300.101). In order to do so, the public agency must make sure that each teacher and provider is informed of the IEP requirements and their responsibility for implementing the IEP (34 CFR §§300.320 and .323).

In this case, the complainant alleges that she was informed by the case manager that the environmental science teacher had reported that she was unaware that the student had an IEP and by the student that he was not being provided with the accommodations required by the IEP. The complainant specifically asserts that: (a) the student has not consistently been seated in the front of the class; (b) the student has not been provided copies of teacher notes when he misses class due to medical appointments; (c) she was not provided with written reports from each teacher on each Friday. The complainant alleges that the fact that the student was receiving failing grades demonstrates that he was not consistently provided with the supports required by the IEP. She asserts that, due to the lack of supports required by the IEP, the student was not able to access the curriculum and that he should repeat the eleventh (11th) grade. However, the complainant states that the student's case manager "makes sure everyday that [the student] works on assignments and completes tasks" (Doc. i and interview with the complainant).

Based on the Finding of Fact #2, the MSDE finds that there is documentation that the student's teachers had access to the IEP. Based on the Finding of Fact #1, the MSDE finds that the IEP does not require that the student be seated at the front of the class, that teacher notes be provided when the student is absent from class, or that the teachers provide a written report to her each Friday.

Based on the Findings of Facts #3 - #15, the MSDE finds that there is documentation that the student was provided with the accommodations required by the IEP, and that the documentation does not support the allegation that the student's grades were impacted by lack of implementation of the IEP. Therefore, this office does not find that a violation occurred with respect to the allegation.

XXX

Mrs. Bonnie Walston

July 20, 2015

Page 6

Please be advised that both the complainant and the WCPS 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.

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.

Questions regarding the findings and conclusions 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: John Fredericksen

Lynne Smoak

XXXXXX

Dori Wilson

Anita Mandis

Kathy Aux