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March 11, 2016

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

RE: XXXXX
Reference: #16-067

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 January 11, 2016, the MSDE received a complaint from Mrs. XXXXXXXXX and Mr. XXXXXXXX, hereafter, “the complainants,” on behalf of their daughter, the above-referenced student. In that correspondence, the complainants 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 following allegations:

1. The CCPS did not ensure that the student’s speech/language services were implemented from January 11, 2015 to May 2015, in accordance with 34 CFR §§300.101.
2. The CCPS did not follow proper procedures when responding to a request to amend the student’s educational record, in accordance with 34 CFR §§300.618-.621.

INVESTIGATIVE PROCEDURES:

1. On January 15, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Christina Harris, Director of Special Education, CCPS.
2. On February 1, 2016, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified the CCPS of the allegations and requested that the school system review the alleged violations.
3. On February 22, 2016, the complainants provided the MSDE with documents to be considered.
4. On February 23 and 26, 2016, the MSDE requested and received documents to be considered from the CCPS.
5. On March 3, 2016, the MSDE received documentation from the complainants.
6. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, progress reports, dated April 21, 2014;
 - b. IEP, progress reports, dated December 18, 2015;
 - c. IEP, progress reports, dated April 16, 2015;
 - d. Notice of IEP team meeting and team summary report, dated April 16, 2015;
 - e. Notice of IEP team meeting and team summary report, dated December 18, 2015;
 - f. Notice of IEP team meeting and team summary report, dated April 21, 2014;
 - g. The speech/language pathologist's therapy service logs from October of the 2014-2015 school year through May 30, 2015;
 - h. The speech/language pathologist's schedule and attendance since January 1, 2015;
 - i. Notice of IEP team meeting and team summary report, dated February 24, 2014;
 - j. The student's general education core teachers' schedules for the 2014-2015 and 2015-2016 school years;
 - k. The school system's calendars for the 2014-2015 and 2015-2016 school years;
 - l. The student's attendance and class schedules for the 2014-2015 and 2015-2016 school years;
 - m. XXXXXXXXXXXXXXXX bell schedule and A-B calendar;
 - n. The CCPS' letter of response to the State complaint, #16-067 dated February 26, 2016;
 - o. Receipt of parental rights, dated December 18, 2015;
 - p. Correspondence containing allegations of violations of the IDEA, received by the MSDE on February 1, 2016;
 - q. Electronic (email) mail correspondence from the CCPS to the MSDE;

- r. The CCPS Policy #2150 and #1118 for the Investigation of Complaints;
- s. Summarized reports of interviews of teachers regarding the provision of speech/language services inside the classroom during the 2013-2016 school years;
- t. Email correspondence from the complainants to the MSDE; and
- u. Reports of Speech/Language, dated February 21, 2014, the Behavior Intervention Plan, dated April 25, 2014, a classroom observation, dated November 18, 2013, and a summary of the 2014 psychological assessment, dated February 24, 2014.

BACKGROUND:

The student is fifteen (15) years old and attends XXXXXXXXXXXXXXXX. She is identified as a student with a Speech and Language Impairment under the IDEA, and has an IEP that requires the provision of special education and related services (Docs. a and c).

There is documentation that, during the time period covered by this investigation, the complainants participated in the education decision-making process and was provided with notice of the procedural safeguards (Doc. a).

ALLEGATION #1: IEP IMPLEMENTATION OF SPEECH/LANGUAGE SERVICES

FINDINGS OF FACTS:

1. The student's IEP in effect from January 11, 2015 to May 2015 required that she be provided with one (1) thirty (30) minute session of speech/language therapy per week in the separate special education classroom and one (1) forty-five (45) minute session of speech/language therapy in a special education classroom (Docs. a and b).
2. The speech/language service logs and interviews with teachers reflect that the student was not being provided with the total amount of speech/language services required or that the services were consistently being delivered and in the placements required (Docs. g and s).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that each student with a disability is provided with the special education services required by the IEP (34 CFR §§300.101 and .323). The public agency is generally responsible for making alternative arrangements to provide the services required by the IEP when other school-related activities make either the student or the service provider unavailable during the time that the service is regularly scheduled. The public agency is not obligated to do so when the student is unavailable for other reasons, such as during absences from school (*Letter to Balkman*, OSEP, 23 IDELR 646, April 10, 1995).

In this case, the complainants allege that the student did not receive her speech/language services as required by the IEP from January 2015 to May 2015. Based on the Findings of Facts #1 and #2, the MSDE finds that there is documentation to support this allegation. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #2: RESPONSE TO REQUEST TO AMEND EDUCATIONAL RECORD

FINDINGS OF FACTS:

4. At the IEP team meeting conducted on December 18, 2015, the complainants expressed concern that the student did not receive the speech/language services required by the IEP. On December 20, 2015, the complainants sent an electronic mail (email) correspondence to the CCPS reiterating that speech/language services had not been provided and alleging that the records had been “falsified.” In the email, the complainants also requested that the CCPS conduct an investigation into the accuracy of the speech/language service provider’s logs to make a determination of compensatory services owed to the student (Docs. e and u).
5. On January 7, 2016, the CCPS provided a written response to the complainants stating that they were reviewing the speech/language service logs, that compensatory services would be provided for speech/language sessions missed and that there would be a change of the speech/language pathologist effective immediately (Doc. q).

DISCUSSION/CONCLUSIONS:

A parent who believes that information in the student’s educational record is inaccurate or misleading or violates the privacy or other rights of the student may request the participating public agency that maintains the information to amend the information. The public agency must decide whether to amend the information in accordance with the request, within a reasonable period of time, of its receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing (34 CFR §300.619).

In this case, the complainants allege that the CCPS did not respond to their request to amend the student’s record in a timely manner. Based on the Findings of Facts #4- #6, the MSDE finds that, since January 7, 2016, the school staff have followed proper procedures in responding to the request. 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 April 1, 2016 that compensatory services have been determined and are being provided to remediate the violation identified in this investigation.

School-Based

The MSDE requires the CCPS to provide documentation, by May 1, 2016, of the steps it has taken to determine if the violations identified in this Letter of Findings are unique to this case or if they represent a pattern of noncompliance at XXXXXXXXXXXXXXXXXXXX.

Specifically, a review of student records, data, or other relevant information must be conducted in order to determine if the regulatory requirements are being implemented and documentation of the results of this review must be provided to the MSDE. If compliance with the requirements is reported, the MSDE staff will verify compliance with the determinations found in the initial report.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violations do not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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 parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, at (410) 767-0255.

Please be advised that both the complainants 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 and conclusions contained in this letter should be addressed to this office in writing. The complainants 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/sf

c: Daniel D. Curry
Robin Welsh
XXXXXXXXXX
Dori Wilson
Anita Mandis
Sharon Floyd