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April 28, 2016

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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: #16-078

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.

**ALLEGATIONS:**

On March 1, 2016, the MSDE received a complaint from Mr. XXXXXXXXXXXX and Mrs. XXXXXXXXXXXXXXXX, hereafter, “the complainants,” on behalf of their son, the above-referenced student. In that correspondence, the complainants alleged that the Carroll County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the following allegations:

1. The CCPS has not ensured that the student has been provided with an assistive technology device, since August 31, 2015,<sup>1</sup> as required by the Individualized Education Program (IEP), in accordance with 34 CFR §§300.101 and .323.

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<sup>1</sup> The MSDE received clarification from the complainants that the alleged violation occurred as of August 31, 2015, and not as of March 1, 2015, as stated in the previous correspondence issued by this office on March 9, 2016.

2. The CCPS has not ensured that that student has been provided with assistance in organizing school binders, folders, and his locker, since December 3, 2015, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.
3. The CCPS has not ensured that the student has been provided with special education instruction in math in a separate special education classroom, since March 1, 2015, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

**INVESTIGATIVE PROCEDURES:**

1. On March 1, 2016, the complainants provided the MSDE with documentation to be considered.
  2. On March 2, 2016, the MSDE sent a copy of the complaint, via facsimile, to Mr. Russell Gray, Director of Special Education, CCPS.
  3. On March 3, 2016, Mr. Albert Chichester, Complaint Investigator, MSDE, conducted a telephone interview with the student's mother to discuss the allegations.
  4. On March 9, 2016, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegations subject to this investigation. The MSDE also notified Mr. Gray of the allegations to be investigated and requested that his office review the alleged violations.
  5. On April 11, 2016, Mr. Chichester and Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a site visit to the XXXXXXXXX School to review the student's educational record, and interviewed the following school staff:
    - a. Mr. XXXXXXXXXXXX, Principal;
    - b. Ms. XXXXXXXXXXXX, Special Educator;
    - c. Ms. XXXXXXXXXXXX Special Educator and IEP Team Leader;
    - d. Ms. XXXXXXXX, Assistive Technology Practitioner;
    - e. Ms. XXXXXXXXXXXX, Special Education Instructional Consultant; and
    - f. Ms. XXXXXXXXXXXX, General Educator.
- Mr. Wayne Whalen, Coordinator of Compliance, CCPS, attended the site visit as a representative of the CCPS and to provide information on the school system's policies and procedures, as needed.
6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
    - a. IEP, dated December 9, 2014;
    - b. IEP, dated August 31, 2015;
    - c. IEP, dated December 3, 2015;

- d. Substitute teacher plans, dated October 1, 2015, developed by the special educator;
- e. Student work samples during the 2015-2016 school year;
- f. Correspondence, dated between September 1, 2015 and February 24, 2016, between the complainants and the school staff;
- g. Photographs of the student's locker and binder, dated February 23, 2016 and February 26, 2016;
- h. Organization logs, dated between March 31, 2016 and April 8, 2016, developed by the special educator and instructional assistant;
- i. School bell schedule for the 2015 – 2016 school year;
- j. Math resource class rosters for the 2014 – 2015 and 2015 – 2016 school years;
- k. The student's report card for the 2014 - 2015 and 2015 – 2016 school years; and
- l. Correspondence from the complainants containing allegations of violations of the IDEA, received by the MSDE on March 1, 2016.

### **BACKGROUND:**

The student is twelve (12) years old and is identified as a student with an Other Health Impairment under the IDEA, related to XXXXXX. He has an IEP that requires the provision of special education instruction and related services.

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

### **ALLEGATION #1: PROVISION OF AN ASSISTIVE TECHNOLOGY DEVICE**

### **FINDINGS OF FACTS:**

- 1. The IEP in effect on August 31, 2015, documents that the student requires a “dedicated portable tablet device” and the use of an external keyboard for note taking and writing assignments, due to his difficulty with using paper and pencil. In addition, the student is to be provided with the option to use a portable word processor with editing software (Docs. a – c).
- 2. There is documentation that the student was allowed to use his computer or XXXXX during class instruction (Doc. d).
- 3. The work samples reviewed demonstrate that the student completed class work using an assistive technology device and printed the assignments to submit to the teacher (Doc. e).

**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 and .323).

Based on the Findings of Facts #1 - #3, the MSDE finds that there is documentation that the student has been provided with the use of assistive technology, as required by the IEP. Therefore, the MSDE does not find that a violation has occurred with respect to this aspect of the allegation.

**ALLEGATION #2: PROVISION OF ASSISTANCE WITH ORGANIZATION**

**FINDINGS OF FACTS:**

4. The IEP in effect on December 3, 2015, documents that on a *daily* basis, the school staff are to provide the student with organizational assistance with his binders, folders, and locker cleanout, to ensure that he has the materials that he needs to take home. However, the IEP also states that the student would be provided with these supports on a *weekly* basis, to maintain organization of his academic materials (Doc. c and f).
5. There is documentation that the special education teacher has been provided the student with organizational assistance since March 31, 2016 on a daily basis. However, there is no documentation that the student was provided with organizational assistance prior to March 31, 2016 (Docs. f, h, and l).

**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 and .323).

Based on the Findings of Facts #4 - #5, the MSDE finds that since March 31, 2016, there is documentation that the student has been provided with organizational assistance with binders, folders, and locker. However, based on the Findings of Facts #5, the MSDE further finds that there is no documentation that organizational assistance has been provided to the student on a daily basis, prior to March 31, 2016, as required by the IEP.

Further, based on the Finding of Fact #4, the MSDE finds that the IEP is not written clearly with respect to the frequency with which the organizational assistance is to be provided to the student. Therefore, this office finds that a violation occurred with regard to this allegation.

### **ALLEGATION #3: PROVISION OF SPECIAL EDUCATION INSTRUCTION IN MATH**

#### **FINDINGS OF FACTS:**

6. The IEP in effect on March 1, 2015, documents that the student requires special education instruction in math, in a separate special education classroom, for two (2) hours and fifteen (15) minutes each week (Docs. a – c).
7. The student receives “pull-out” special education instruction in math during his math resource class and each class session is forty-five (45) minutes in length. Based on the school’s A/B class schedule, the student is pulled for special education math instruction two (2) hours and fifteen (15) minutes during one (1) week, and one (1) hour and thirty (30) minutes on the proceeding week. This rotation remains constant throughout the school year and it does not afford the student the amount of special education instruction in math that is required by the IEP (Docs. i - l, and an interview with the school staff).

#### **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 and .323).

Based on the Findings of Facts #6 and #7, the MSDE finds that the student has been provided with special education instruction in math. However, based on the Finding of Fact #7, the MSDE finds that there is no documentation that the student has received special education instruction in math for two (2) hours and fifteen (15) minutes each week, as required by the IEP. Therefore, this office finds that a violation occurred with regard to this allegation.

#### **CORRECTIVE ACTIONS/TIMELINES:**

##### **Student-Specific**

The MSDE requires the CCPS to provide documentation by June 15, 2016 that the IEP team has convened and clarified the IEP in regard to the frequency with which the provision of organizational assistance are to be provided to the student. The CCPS must also determine the amount and nature of compensatory services or other remedy to redress the violations related to the lack of the provision of organizational assistance and special education instruction in math, and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The CCPS must ensure that the complainants are provided with written notice of the team’s decisions. The complainants maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team’s decisions.

### **School-Based**

The MSDE requires the CCPS to provide documentation by August 15, 2016 of the steps it has taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern of noncompliance at the XXXXXXXXX School. 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 violation does 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 noncompliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

### **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) 767-7770.

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.

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 within the timelines 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 parties 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.

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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:ac

c: Stephen Guthrie (w/encl.)  
Wayne Whalen (w/encl.)  
XXXXXXXXXX (w/encl.)  
Dori Wilson  
Anita Mandis  
Albert Chichester