



November 5, 2012

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Mr. Jeff Gladhill
Director of Special Education
Washington County Public Schools
820 Commonwealth Avenue
P.O. Box 730
Hagerstown, Maryland 21740-0730

RE: XXXXX
Reference: #13-010

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 September 17, 2012, the MSDE received a complaint from Ms. XXXXXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Washington County Public Schools (WCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student. The MSDE investigated the allegation that the WCPS has not ensured that the student was provided with the occupational therapy services required by the Individualized Education Program (IEP) since August 21, 2012, in accordance with 34 CFR §300.101.

INVESTIGATIVE PROCEDURES:

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.

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2. On September 18, 2012, the MSDE sent a copy of the complaint, via facsimile, to Mr. Jeff Gladhill, Director of Special Education, WCPS.
3. On September 24, 2012, 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 WCPS of the allegation and requested that the WCPS review the alleged violation.
4. On October 8 and 12, 2012, the WCPS provided the MSDE with documentation to be considered during the investigation of the complaint, via electronic mail (email).
5. On October 11, 2012, Ms. Hartman conducted a telephone interview with the complainant to obtain additional information regarding the allegation being investigated.
6. On October 15, 2012, the complainant provided the MSDE with additional documentation to be considered during the investigation of the complaint, via mail.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - A. IEP, dated May 2, 2012, and written documentation of the decisions made at the May 2, 2012 IEP team meeting;
 - B. Occupational Therapist Service Provider Log, from August 28, 2012 to October 9, 2012;
 - C. Communication log between school staff and the complainant, from August 29, 2012 to October 10, 2012; and
 - D. State complaint, received by the MSDE on September 17, 2012.

BACKGROUND:

The student is fifteen (15) years old and is identified as a student with multiple disabilities under the IDEA (intellectual disability and orthopedic impairment). The student attends XXXXXXXXXXXXXXXXXXXX, and has an IEP that requires the provision of special education instruction and related services (Doc. a).

During the period of time addressed by this investigation, the complainant participated in the education decision-making process, and she was provided with written notice of the procedural safeguards and prior written notice of the IEP team's decisions (Doc. a).

FINDINGS OF FACTS:

1. The IEP in effect during the time period covered by this investigation was developed on May 2, 2012. The IEP indicates that the student's teacher and instructional assistants are

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- to assist the student in completing activities that require fine motor skills, including “hand-over-hand” assistance (Doc. a).
2. The IEP also indicates that, on a weekly basis, the occupational therapist will provide consultative services to school staff. In order to provide this consultation, the IEP requires the occupational therapist to identify any assistance needed by school staff through discussion with the staff or through observation of the student. Based upon this information, the occupational therapist is required to provide the identified assistance (Doc. a).
 3. The service log, maintained by the occupational therapist, documents that she has provided consultative services since the start of the 2012 – 2013 school year, as required by the IEP (Doc. b).
 4. A daily communication log is utilized by the classroom staff and the complainant to convey information about the student’s daily school activities. This communication log also documents the student’s performance in completing fine motor activities, and the assistance provided to her by the classroom staff in completing these activities, including “hand-over-hand” assistance (Doc. c).

DISCUSSION/CONCLUSIONS:

The public agency is required to ensure that the student is provided with the special education and related services, as well as the supplementary aids and services, required by the IEP (34 CFR §300.101).

The complainant alleges that the IEP requires that assistance with fine motor skills activities in the classroom, such as “hand-over-hand” assistance, be provided by an occupational therapist, but that this service is not being provided by the occupational therapist. The basis for the allegation is that the daily communication log does not document that the occupational therapist is working with the student in the classroom each week (Doc. d and interview with the complainant).

However, based on the Findings of Facts #1 – #3, the MSDE finds that the IEP does not require the occupational therapist to work directly with the student, as the complainant asserts. Rather, based on the same Findings of Facts, the MSDE finds that the IEP requires the occupational therapist to provide consultation services to school staff, and the classroom staff to assist the student in completing fine motor activities. Based on the Findings of Facts #1 – #4, the MSDE further finds that there is documentation that both the occupational therapist and the classroom staff are providing the services required by the IEP. Therefore, the MSDE does not find that a violation has occurred.

Please be advised that the complainant and the school system have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date

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of this letter, if they disagree with the findings 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/ch

cc: Clayton M. Wilcox
Marjorie Gray
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Dori Wilson
Anita Mandis
Christine Hartman