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State Superintendent of Schools

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March 30, 2011

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1800 North Charles Street, Suite 400
Baltimore, Maryland 21201

Ms. Sarah Farr
Director of Special Education
Cecil County Public Schools
201 Booth Street
Elkton, Maryland 21921

RE: XXXXX
Reference: #11-060

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 February 4, 2011, MSDE received a complaint from Pamela Foresman, Esq., hereafter the “complainant,” on behalf of the above referenced student. In that correspondence, the complainant alleged that the Cecil County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student. MSDE investigated the following allegations:

1. CCPS did not ensure that the student’s Individualized Education Program (IEP) addresses his need for school nursing services, as a related service, since February 2010¹, in accordance with 34 CFR §§ 300.34 and .324;

¹ The complaint included allegations of violations that occurred more than a year before the date it was received. The complainant was advised, in writing, that this office may only investigate allegations of violations which occurred not more than one year prior to the receipt of the State complaint in accordance with 34 CFR §300.153.

2. CCPS did not follow proper procedures when providing the student with home and hospital teaching (HHT) since April 28, 2010, in accordance with COMAR 13A.03.05. and 13A.05.01.10(C)(5); and
3. CCPS did not follow proper procedures when determining whether the student required extended school year services (ESY) at the April 28, 2010 IEP team meeting, in accordance with 34 CFR §§300.106 and .503(b) and COMAR 13A.05.01.08B(2)(b).

INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On February 7, 2011, MSDE sent a copy of the complaint, via facsimile, to Ms. Sara Farr, Director of Special Education, CCPS.
3. On February 17, 2011, Ms. Moyo spoke with the complainant by telephone and clarified the allegations to be investigated.
4. On February 23, 2011, MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, MSDE notified Ms. Farr of the allegations and requested that her office review the alleged violations.
5. On March 9, 15, and 22, 2011, Ms. Samantha G. Wallace, Program Facilitator for Special Education Compliance, CCPS, sent correspondence to MSDE regarding the allegations in the complaint.
6. MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings (LOF), which includes:
 - a. Correspondence from the complainant to MSDE, dated February 4, 2011;
 - b. IEP, dated April 28, 2010;
 - c. Correspondence from CCPS personnel to MSDE, dated March 9, 2011;
 - d. Correspondence from CCPS personnel to MSDE, dated March 22, 2011; and
 - e. Electronic mail correspondence between the complainant and CCPS Legal Counsel, dated March 25, 2011.

BACKGROUND:

The student is twenty-one (21) years old. He is identified as a student with multiple disabilities under IDEA. The student attends XXXXXXXXXXXXXXXX (XXXXXXXXXX) where he receives special education and related services (Doc. a).

SUMMARY OF FINDINGS/CONCLUSIONS:

CCPS personnel acknowledge that school staff did not ensure that the student's IEP addressed the student's need for school nursing services from February 2010 until February 2011, as alleged in the complaint. However, CCPS staff further report that, in response to the in complaint, the IEP team met and revised the student's IEP to address this need, as appropriate.

CCPS personal further acknowledge that school staff did not follow proper procedures when providing the student with HHT services since April 28, 2010, and that school staff did not follow proper procedures when determining whether the student required extended school year services at the April 28, 2010 IEP team meeting. MSDE concurs with the school system's findings regarding the violations and appreciates the acknowledgement (Docs. a-d).

CORRECTIVE ACTIONS/TIMELINES:

Student specific

CCPS has provided MSDE with documentation that CCPS personnel have contacted the complainant and are working with her to determine a remedy to redress this loss of service to the student. MSDE requires that CCPS provide MSDE with a copy of the finalized agreement between the parties within thirty (30) days of the date of this LOF. MSDE further requires documentation that the student's parent was provided with the opportunity to participate in the IEP team meeting when the IEP was revised to address the student's need for school nursing services.

If, for any reason, the parties are unable to determine a remedy to redress the loss of services to the student, the IEP team must then meet, within forty-five (45) days of the date of LOF, to determine the amount and nature of *compensatory services*² or other remedy needed to redress the violations. The school system must provide the complainant with proper written notice of the team's determinations, including a written explanation of the basis for the determinations, as required by 34 CFR §300.503. If the parent disagrees with the team's decisions, he maintains the right to request mediation and to file a due process complaint to resolve the dispute consistent with IDEA.

School-based

MSDE requires CCPS to provide documentation, by June 1, 2011, of the steps it has taken to determine if the violations identified in this investigation are unique to this case or if they represent a pattern of noncompliance at XXXXXXXXXX. Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine

² Compensatory services, for the purposes of this letter, mean the determination by the IEP team as to how to remediate the denial of appropriate services to the student (34 CFR §300.151).

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if the regulatory requirements are being implemented, and must provide documentation of the results of this review to MSDE. If the school system reports compliance with the requirements, MSDE Complaint Investigation and Due Process Branch staff will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented, the school system must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the initial date that the school system determines non-compliance.

Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the United States Department of Education, Office of Special Education Programs Memorandum #09-02. Additionally, the findings in the LOF will be shared with MSDE's Office of Quality Assurance and Monitoring for Continuous Improvement for their consideration during monitoring of CCPS in the future.

Documentation of completion of the required actions is to be submitted to this office to the attention of: Chief, Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

Please be advised that the parties have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact or conclusions reached in this LOF. 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 LOF. If additional information is provided, it will be reviewed and 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 LOF.

Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The student's parent and the school system maintain the right to request mediation or to file a due process complaint, if they disagree with

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the identification, evaluation, placement, or provision of a free appropriate public education for the student, including issues subject to a State complaint investigation, consistent with IDEA. MSDE recommends that this LOF be included with any request for mediation or due process.

Sincerely,

Carol Ann Heath, Ed.D.
Assistant State Superintendent
Division of Special Education/
Early Intervention Services

CAH/km

c: D'Ette W. Devine
Samantha Wallace
XXXXXX
Martha J. Arthur
Dori Wilson
Koliwe Moyo