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State Superintendent of Schools

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April 5, 2013

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Ms. Diane McGowan
Special Education Supervisor
Queen Anne's County Public Schools
202 Chesterfield Avenue
Centreville, Maryland 21617

RE: XXXXX
Reference: #13-047

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 February 5, 2013, MSDE received correspondence from Ms. XXXXXXXXXXXX, hereafter "the complainant," filed on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Queen Anne's County Public Schools (QACPS) 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 QACPS did not ensure that the student was provided with the assistive technology, accommodations, and supplementary aids and services, in English and math class, as required by the Individualized Education Program (IEP) from the start of the 2012-2013 school year until February 12, 2013, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On February 6, 2013, the MSDE sent a copy of the correspondence, via facsimile, to Ms. Diane McGowan, Special Education Supervisor, QACPS.
3. On February 12, 2013, Ms. Moyo contacted the complainant by telephone and clarified the allegation to be investigated.
4. On February 14, 2013, 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 also notified Ms. McGowan of the allegation to be investigated and requested that her office review the alleged violation.
5. On March 6, 2013, Ms. Moyo and Ms. Christine Hartman, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX to review the student's educational record, and conducted interviews with the following school staff:
 - a. Mr. XXXXXXXXXXX, Principal;
 - b. Ms. XXXXXXXXXXX, Academic Dean;
 - c. Ms. XXXXXXXXXXX, IEP Chairperson;
 - d. Dr. XXXXXXXXXXX, School Psychologist;
 - e. Ms. XXXXXXXXX, Special Education Teacher;
 - f. Ms. XXXXXXXXXXX, Para Educator;
 - g. Ms. XXXXXXXXXXX, Para Educator,;
 - h. Ms. XXXXXXXXXXX, Teacher;
 - i. Ms. XXXXXXXXXXX, Teacher; and
 - j. Ms. XXXXXXXXXXXXXXX, Teacher.

Ms. McGowan and Ms. Christina Schindler, Assistive Technology Specialist, QACPS, attended the site visit as representatives of the QACPS and to provide information on the QACPS policies and procedures, as needed. On the same date, school staff provided Ms. Moyo with documentation from the student's educational record.

6. On March 15, 2013, Ms. McGowan provided the MSDE with additional documents from the student's educational record.
7. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings (LOF) include:

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- a. IEP, revised on April 10, 2012, September 11, 2012, December 10, 2012, and February 12, 2013;
- b. Receipt of IEP Snapshots, dated August, 2012 and January 2013;
- c. Written summaries of IEP team meetings held on September 11, 2012, December 10, 2012, and February 12, 2013;
- d. Electronic mail (e-mail) messages between the complainant and school staff from the start of the school year through January 2, 2013;
- e. School psychologist report, dated November 27, 2012;
- f. E-mail messages between school system staff and the complainant, dated December 20 and 21, 2012;
- g. Correspondence from the complainant to the school principal, dated January 19, 2013;
- h. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on February 5, 2013; and
- i. Samples of work assignments and tests administered to the student during the 2012-2013 school year.

BACKGROUND:

The student is seventeen (17) years old and attends XXXXXXXXXXXXXXXX. She is identified as a student with an Other Health Impairment under the IDEA “due to multiple health concerns,” and has an IEP that requires the provision of special education instruction and related receives. During the time period covered by this investigation, the complainant has participated in the educational decision-making process (Docs. a, c, and e).

FINDINGS OF FACT:

IEP Content

1. The IEP requires the student to be provided with instructional and testing accommodations and supplementary aids and services. These include verbatim reading of text, audio materials, copies of notes/outlines/instructions, use of a scribe, visual or graphic organizers, extended time, frequent breaks, small group setting for tests, breaking down projects into smaller tasks, monitoring of the completion of work, positive feedback, provision of advanced study guides, checking for understanding of directions, an additional set of textbooks for home, “opportunities for project-based assessments,” and the use of the elevator (Docs. a and c).
2. The IEP in effect from the start of the school year until February 12, 2013 required that the student be provided with the use of a word processor with spelling and grammar

applications, as well as *WordQ/SpeakQ* software.¹ It also required that an Assistive Technology Specialist work with the student's English teacher to implement the use of *WordQ/SpeakQ*¹ (Docs. a and c).

IEP Implementation

3. There is documentation that the student's teachers were informed of the IEP requirements in August 2012 and of the provision of accommodations and supplementary aids and services to the student. This includes a September 18, 2012 electronic mail (e-mail) message from the student's English teacher to the complainant indicating that the student's grade was negatively impacted by her absences from school and that she would be provided with extra time to make up work when she returned to school (Docs. b, d, and i).
4. There are e-mail messages between the complainant and school staff that document that the complainant expressed concerns since the start of the school year about the manner in which services were being provided to the student² (Doc. d).
5. There is no documentation that the Assistive Technology Specialist worked with the student's English teacher to implement the use of *WordQ/SpeakQ*¹ (Interviews with school system staff).
6. There is no documentation that the student had consistent access to a computer in each classroom to utilize the *WordQ/SpeakQ*¹ software for use during the provision of instruction, as required by the IEP (Interviews with school system staff).
8. There are e-mail messages between the complainant and school staff and documentation of IEP team meetings reflecting that the IEP team considered the complainant's concerns about the manner in which services were being provided.² At the December 10, 2012 IEP team meeting, the IEP team decided that the student would be provided with the use of an *iPad* assistive technology device for use in school and at home, and that the Assistive Technology Specialist would meet with the English teacher to provide consultation and direction for the use of assistive technology in completing written

¹ This software makes visual and audio word suggestions as the student is writing, and produces audio of the words that are being typed so that the student can hear spelling or grammatical errors while completing a writing assignment. On February 12, 2013, the IEP was revised to require the use of either *WordQ/SpeakQ* or a tablet device (Docs. a and c).

² Documents reflect discussions and disagreements between the complainant and school staff about issues including whether the student should be graded on her demonstration of the mastery of skills or on the effort she puts forth, the amount of additional time the student is permitted to take to complete assignments, when the student would meet with teachers to receive feedback on guidance on her work, the format used for the provision of notes and graphic organizers, and the group of classmates with whom the student is pulled out of class to take assessments (Docs. a, c, and d).

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assignments. The team also decided that in math, the instruction would be broken down into discrete steps for problem solving and that tests would assess only one concept at a time (Docs. a, c, and d).

8. There is e-mail correspondence between school staff and the complainant that reflects that the complainant was informed that, on December 17, 2012, the Assistive Technology Specialist consulted with the student's English teacher on the use of the *iPad* tablet and use of the computer to draft assignments in *WordQ*¹ (Doc. f).
9. A December 18, 2012 e-mail message between school staff documents that the student's teachers began "making changes" to the manner in which accommodations were provided² based on the complainant's concerns. E-mail messages between school staff and the complainant document that school staff attempted to schedule a meeting with the complainant that week in order to discuss changes being made to the manner in which accommodations were provided² in order to address her concerns, but that the complainant was unavailable to meet (Doc. d).
10. On December 20, 2012, the student was provided with the use of an *iPad* tablet (Doc. f).
11. On January 2, 2013, the complainant sent e-mail correspondence to school staff expressing appreciation for "all of the efforts made on behalf of [the student] to date," and requesting an IEP team meeting to revise the IEP to reflect specific strategies for implementing the accommodations and supplementary aids and services that were discussed by the IEP team on December 10, 2012 (Doc. d).
12. On January 19, 2013, the complainant sent correspondence to the school principal indicating that, despite "multiple communications with various staff members, a parent/teacher conference with the Supervisor of Special Education present, a recent assessment review for IEP purposes, separate meetings with upper level staff and teachers, and a request for an expedited IEP meeting," her concerns had not been addressed (Doc. g).
13. On February 12, 2013, the IEP team, including the complainant, convened. Documentation of the meeting reflects that the IEP team again reviewed and revised the accommodations and supplementary aids and services to provide clarification of the supports required in order to implement the IEP in the current educational placement (Docs. a and c).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that special education and related services are available to each student in accordance with the IEP. In order to ensure that the student is provided with the

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services required by the IEP, it must be written in a manner that is clear to those involved in the development and implementation of the IEP (34 CFR §§300.101, .320, and .323).

The complainant alleges that, from the start of the school year until February 12, 2013, there was inconsistent implementation of accommodations and supplementary aids and services and assistive technology due to a lack of understanding by the student's English and math teachers of how the services were to be provided. She asserts that the lack of consistent implementation of these services resulted in the student receiving lower grades (Doc. h).

Based on the Findings of Fact #1, #3, and #9, the MSDE finds that there is documentation that the student has been provided with the supplementary aids and services and accommodations in math and English class since the start of the 2012-2013 school year. Based on the Findings of Facts #4, #7, #9, and #11 - #13, the MSDE finds that there is documentation that the complainant expressed concerns about the manner in which the services were being provided,² and that school staff attempted to respond to these concerns, including convening the IEP team to provide clarification of how the supports were to be provided.

However, based on the Findings of Fact #2, #5 - #8 and #10, the MSDE finds that there is no documentation that the student was provided with the assistive technology services and devices required by the IEP prior to December 20, 2012. Therefore, the MSDE finds that a violation occurred.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the QACPS to provide documentation by the end of the 2012-2013 school year that the IEP team has determined the amount and nature of *compensatory services*³ or other remedy necessary to redress the loss of assistive technology in accordance with the IEP from the start of the 2012-2013 school year until December 20, 2012.

Documentation of completion of the corrective action 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 both parties 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

³ 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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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 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 LOF.

Questions regarding the findings, conclusions and corrective action 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 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 be included with any request for mediation or due process complaint.

Sincerely,

Marcella E. Franczkowski
Assistant State Superintendent
Division of Special Education/
Early Intervention Services

MEF/km

cc: Carol A. Williamson
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XXXXXXXXXXXX
Dori Wilson
Anita Mandis
Martha J. Arthur
Koliwe Moyo