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State Superintendent of Schools

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June 10, 2016

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Mr. Russell Gray
Director of Special Education
Carroll County Public Schools
125 North Court Street
Westminster, Maryland 21157

RE: XXXXXX
Reference: #16-120

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 April 29 and 30, 2016, and May 1, 2016, the MSDE received a complaint from Mr. XXXXXXXX and Mrs. XXXXXXXXXXXX, hereafter, “the complainants,” on behalf of their daughter, 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 student.

The MSDE investigated the allegations listed below.

1. The CCPS has not ensured that the student was provided with enlarged font materials, as required by the Individualized Education Program (IEP), since March 17, 2016, in accordance with 34 CFR §§300.101 and .323.

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2. The CCPS has not ensured that the student has been provided with homework to complete in her English class, which is assigned on a “nightly basis,” as required by the IEP, since the start of the 2015-2016 school year, in accordance with 34 CFR §§300.101 and .323.
3. The CCPS did not ensure that a Personal Needs Profile was developed in order for the student to be provided with the accommodations required by the IEP for her participation in Statewide assessments in January and April 2016, in accordance with 34 CFR §§300.101 and .323.
4. The CCPS did not ensure that the student was provided with physical education services on her last day of physical education class for the 2015-2016 school year, in accordance with 34 CFR §§300.101 and .323.
5. The CCPS has not ensured that monthly meetings have taken place between the parents and the school staff, as required by the IEP, since the start of the 2015-2016 school year, in accordance with 34 CFR §§300.101 and .323.
6. The CCPS did not ensure that a hearing was provided in order to dispute the accuracy of the grade that the student received for an assignment given on March 15, 2016 in response a request to amend the record, in accordance with 34 CFR §§300.618, .619, .621, and 34 CFR §99.22.
7. The CCPS has not ensured that the student will participate in the career and technology center’s “video production 5th mod program” during the 2016-2017 school year, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. On April 29, 2016, the MSDE sent a copy of the complaint, via facsimile, to Mr. Russell Gray, Director of Special Education, CCPS.
2. On April 30, 2016 and May 1, 3, 5, 6, 7, 8, 9, 10, 12, 15, 19, 27, 30, 2016, the complainants sent the MSDE additional information and documents, via electronic mail (email). The email from May 9, 2016 contained information about an additional violation of the idea.
3. On May 2, 4, 5, 9, 12, 16, 19, and 31, 2016, the MSDE sent a copy of the correspondence from the complainants to Mr. Wayne Whalen, Coordinator of Compliance, CCPS, via email.
4. On May 5, 2016, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and the additional email correspondence, and identified the

allegations subject to this investigation based on the information provided. On the same date, the MSDE notified the CCPS of the allegations and requested that the CCPS review the alleged violations.

5. On May 9, 2016, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, requested information from the complainants and was provided with the requested information on the same date.
6. On May 13, 2016, the MSDE notified the parties of the additional allegation being investigated.
7. On May 24, 2016, Ms. Mandis and Dr. Nancy Birenbaum, Compliance Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed the following school system staff:
 - a. Mr. XXXXXXXXX, Teacher – Visually Impaired;
 - b. Dr. XXXXXXXXX, Special Education Teacher, English;
 - c. Mr. XXXXXXX, Principal;
 - d. Ms. XXXXXXX, Special Education Teacher – Case Manager;
 - e. Ms. XXXXXXX, English Teacher.

Mr. Whalen, Ms. Kathy Kaufman, Supervisor of Special Education – High Schools, CCPS, and Ms. Julie Koontz, Special Education Instructional Consultant – High Schools, CCPS, attended the site visit as representatives of the CCPS and to provide information on the CCPS policies and procedures, as needed.

8. On May 25, 2016, the CCPS provided the MSDE with documents to consider.
9. On May 31, 2016, the MSDE sent the parties additional correspondence clarifying the allegations to be investigated. On the same date, the MSDE requested additional documents from the CCPS.
10. On May 31, 2016 and June 3, 2016, the MSDE received documents from the CCPS.
11. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated January 23, 2015;
 - b. Transcript of the audio recording of the January 23, 2015 IEP team meeting;
 - c. IEP, dated September 3, 2015;

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- d. Electronic mail (email) messages between the student's case manager and the student's mother, dated between October 29, 2015 and March 14, 2016 and the case manager's notes from the meetings conducted between them;
- e. IEP, dated November 11, 2015;
- f. Transcript of the audio recording of the November 11, 2015 IEP team meeting;
- g. Email message from the school staff to the complainants, dated November 18, 2015;
- h. Emails between the student's mother and the school staff, dated November 23 -25, and 30, 2015, and May 11, 13, and 15, 2016;
- i. Email message from the student's mother to the school staff, dated November 28, 2015;
- j. Email messages between the student's mother and the school staff, dated December 9, 11, and 13, 2015 and January 25, 2016;
- k. Email message from the student's mother to the school staff, dated February 4, 2016;
- l. Email message from the school staff to the student's mother, dated February 26, 2016;
- m. Samples of the student's work in English class, dated March 2016 and April 2016;
- n. Email message from the student's mother to the school principal, dated April 19, 2016;
- o. The student's completed English assignment, dated March 11, 2016 and completed second chance learning on the assignment;
- p. Email from the student's mother to the school staff, dated April 1, 2016;
- q. Email message from the student's mother to the school principal, forwarding work samples, dated April 9, 2016;
- r. Nurse's Office Visit Report, dated April 12, 2016;
- s. Email message from the student's mother to the MSDE, dated April 18, 2016;
- t. Letter from the CCPS Superintendent's designee to the complainants, dated April 20, 2016;
- u. Email messages between the school principal to the student's mother, dated May 3 - 5, 2016;
- v. Email messages between the student's mother and the school staff, dated May 3 - 5, 2016;
- w. Email message from the student's mother to the school principal, forwarding work samples, dated May 8, 2016;
- x. Email messages from the student's mother to the MSDE, forwarding work samples, dated May 7 and 12, 2016;
- y. Email message from the student's mother to the school principal, dated May 19, 2016;
- z. Correspondence from the complainants alleging allegations of violations of the IDEA, received by the MSDE on April 29 and 30, 2016 and May 1, 2016;
- aa. Email message from the CCPS to the MSDE, dated June 3, 2016;

- bb. Flex Tracker Report;
- cc. The student's agenda book;
- dd. The student's report card for the 2015-2016 school year;
- ee. English 11 Course Overview;
- ff. The CCPS Administrative Regulations, Board Policy IKAB: *Grading, Homework, and Communicating Student Achievement*; and
- gg. The Carroll County Board of Education Handbook.

BACKGROUND:

The student is seventeen (17) years old and is identified as a student with Multiple Disabilities under the IDEA, including a Speech/Language Impairment, Visual Impairment, and an Other Health Impairment related to diagnoses of XXX, XXXX, and XXXX (XXXXX). The student attends XXXXXXXXXXXX School and has an IEP that requires the provision of special education instruction and related services (Docs. a, c, and e).

During the period of time addressed by this investigation, the complainants were provided with written notice of the procedural safeguards (Docs. a – c, e, and f).

ALLEGATION #1 PROVISION OF LARGE FONT MATERIALS SINCE MARCH 17, 2016

FINDINGS OF FACTS:

1. The IEP requires that visual modifications be provided. The IEP states that the following “are suggested:”
 - Present visual targets in [the student's] preferred visual field (usually left field or right field, generally not central and rarely lower);
 - Present objects to [the student] against high contrast backgrounds;
 - Reduce “visual clutter” on worksheets and handouts; only 2-4 problems per page are suggested;
 - Encourage [the student's] listening skills, strengthening her ability to obtain information through auditory means in addition to using her vision;
 - Recommended print font size is 18 to 20 point font using Arial or Helvetica font;
 - Allow extra time for [the student] to complete all reading and writing tasks, including during testing;
 - Provide teacher notes, possibly including a few blanks for [the student] to complete during instruction;
 - Use of reading software for textbooks and leisure reading is suggested;
 - Slow down presentation of visual objects and targets;

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- Preferential seating in the front of the class;
 - Auditory testing should be considered when possible and when reading aptitude isn't being assessed;
 - Permit [the student] to circle her responses on written tests;
 - Provide access to word prediction software when possible;
 - Provide laminated picture cue cards of "cheat sheets" when possible;
 - Provide multi-sensory and hands-on instruction whenever possible; and
 - Instruct [the student] in the use of using a ruler or template when reading text that has not been enlarged (Docs. a, c, and e).
2. The student uses an iPad (tablet assistive technology device) to work on assignments that teachers send to her electronically. The iPad contains a feature which gives the student the flexibility to enlarge all of the material that is sent to her electronically to various sizes, which allows her to adjust the size of the material that she reads to a level that is most comfortable to her (Review of the iPad).
 3. A special education teacher works with the student to provide her with supports for the English assignments that she is required to complete. The special education teacher provides the student with paper copies of the assignments that are downloaded onto the student's iPad. These paper copies are modified into an enlarged font size, for the student's use with the special education teacher (Review of the student's work in English class).
 4. A review of the student's work in math and English since March, 2016 reflects that the student has been provided with enlarged font material (Docs. m and w).
 5. On March 11, 2016, the student was provided with a graded warm up in English entitled, "Animal Cures." The assignment that was completed by the student was provided with additional spacing between each line, and was modified into an enlarged font size (Doc. o).¹
 6. The MSDE was provided with two worksheets from the student's English class, dated April 18, 2016, which are entitled, "Literature Circles: Summarizer Modified Requirements." One of the worksheets was modified using an enlarged font size. This worksheet was completed by the student with the assistance of the special education

¹ The graded assignment that was completed by the student was not provided to the student's mother. Instead, she was provided with a copy of the assignment as it appeared prior to modification for use with the student. When the student's mother expressed concern that the student had not been provided with appropriate supports to complete the assignment the first time, the student was permitted to redo the assignment, also using an enlarged font size (Docs. o, q, and x).

English teacher. The other worksheet was printed out from the student's iPad in a normal font size (Doc. x).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that students are provided with the special education services required by the IEP (34 CFR §§300.101 and .323).

In this case, the complainants allege that materials for graded warm up activities and other assignments in English have not been provided to the student in an enlarged font size (Doc. z).

Based on the Findings of Facts #1 - #3, and #6, the MSDE finds that, while there are copies of the student's assignments that have not been modified using an enlarged font size, the student was not expected to read those documents in completing assignments. Based on the Findings of Facts #1 - #5, the MSDE finds that there is documentation that the school staff are providing the student with materials in an enlarged font size for use with completing assignments. Therefore, this office does not find a violation with respect to the allegation.

ALLEGATION #2 PROVISION OF HOMEWORK IN ENGLISH CLASS SINCE THE START OF THE 2015-2016 SCHOOL YEAR

FINDINGS OF FACTS:

7. The IEP states the following with respect to the student's present levels of performance in the area of reading comprehension:

One area of reading comprehension that interferes with [the student's] ability to understand a variety of levels of text is inferring. Given the opportunity to see pictures and/or discuss the selected section of text, [the student] was able to make appropriate inferences in 1 out of 4 opportunities. As [the student] continues to increase her ability to comprehend what she has read, her ability to infer also needs to grow (Docs. a, c, and e).

8. The IEP also states the following:

[The student's] reading comprehension goal was addressed daily with a variety of supports. [The student] reads informational text and narratives mainly online. The texts ranged from her high school grade level down to second grade, her instructional reading level. As expected, [the student] required fewer and fewer prompts as the text complexity decreased. At the high school level, [the student]

required sketches/photographs and key words written out to retell the text and identify the main idea. Following the rehearsal of ideas, [the student] improved in second and third retellings (Docs. a, c, and e).

9. The IEP further states:

When [the student] reads informational text sentence by sentence, she is usually able to state something relevant about the text. However, when pulling together the main idea and supporting details of a paragraph or series of paragraphs, is when adult intervention is necessary. [The student] needs information broken down to a very basic level in order for her to accurately retell what she has read. [The student] then relies on the notes, drawings, and concept maps that have been created as the information has been scaffold for her. Using this information allows [the student] to construct meaning of explicit text. At this time, [the student] does not comprehend implicit text at any level.

[The student] continues to learn new vocabulary. She is able to learn many new words but rarely uses them spontaneously in oral or written communication, unless the word is within her visual space.

At this time, it takes adult scaffolding of the pieces of the information for [the student] to be able to identify the main idea. This is true of text on grade level and text at her instructional level (Docs. a, c, and e).

10. The IEP states the following with respect to the student's present levels of performance in written language:

[The student] has been using accurate punctuation while editing the daily warm up. The only punctuation she is not using is quotation marks. At this time, [the student] is inconsistent in her use of capital letters. Following a discussion about what type of word should be capitalized, she will correctly edit the daily warm ups in about 2 out of 5 opportunities.

When reviewing text for grammar errors, [the student] can identify the error but is not able to reword the sentence to make it grammatically correct (Docs. a, c, and e).

12. The IEP also states that the student "needs to have text read aloud that is above her instructional level for comprehension and to keep focused on the task." It requires that the teacher "reduce length and complexity of course content and daily assignments to the extent that the curriculum allows and the material is still within diploma standards." It

further states that the student will be “prompted by the teacher to look back in her text for answers while completing classroom or homework assignments” (Docs. a, c, and e).

12. The IEP states that if the student is unable to complete classwork during the allotted class time, the work should not be sent home as additional classwork, but should be completed the next day during a support mod. However, it also states that, “homework assignments should still be sent home” (Docs. a, c, and e).
13. The CCPS Administrative Regulations, Board Policy IKAB: *Grading, Homework, and Communicating Student Achievement* reflects that regulations have been established to ensure consistent grading and homework practices in all schools within the school system. The Policy directs that more weight be given to summative assignments than to formative assignments, and that a final assessment be administered, which will count for ten percent of the student's grade for the course. It states that "homework shall be appropriate to the student's needs and abilities," and directs that homework "shall only be assigned on an as needed basis" and be limited in amount. The Policy indicates that any homework that is provided must be capable of being completed independently by the student. It does not indicate that completion of homework should be factored into a student's grade (Doc. ff).
14. The student is enrolled in an English 11 class. The course syllabus states the following:

You can expect reading and/or writing assignments every night. Homework is usually assigned a point value when given. Reading assignments often result in a reading check quiz the next day. If a homework is given that required computer or internet use and this is not available to you, please sign up for FLEX² to complete the assignment in the media center. Homework is always posted on the side board (Doc. ee).
15. The syllabus also indicates that sixty percent of the grade for the course is based on class work that consists of summative assignments and that forty percent is based on class work that consists of formative assignments. It further indicates that students will lose between ten and fifty percent of the grade for each class work assignment that is completed late. The syllabus does not reflect that grades are impacted by the completion of homework (Doc. ee).

² This is a period that is built into students' schedules that they can use in a flexible manner to work on developing a deeper understanding of class materials and remediate assignments that fall below expectations (www.carrollk12.org).

16. The English teacher reports that she has not, in fact, been assigning homework in the student's English 11 course. This is supported by a review of her assignment records for the student and other students in the student's English class (Review of the English teacher's assignment records and interview with the school staff).

DISCUSSION/CONCLUSIONS:

As stated above, the public agency must ensure that students are provided with the special education services required by the IEP (34 CFR §§300.101 and .323).

In this case, the complainants allege that the student has not been provided with the homework necessary to enable her to successfully complete her English 11 course (Doc. z).

Based on the Findings of Facts #13 - #16, the MSDE finds that students are not required to complete homework in the student's English 11 class and that completion of homework is not required to pass the student's English 11 course. Based on the Findings of Facts #7 - #13, the MSDE further finds that such a requirement would be inconsistent with the school system's policy since the student requires a significant amount of support to complete assignments, and would not be able to complete homework independently. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #3

DEVELOPMENT OF A PERSONAL NEEDS PROFILE

FINDINGS OF FACTS:

17. At an annual IEP review meeting held on January 23, 2015, the IEP team, including the complainants, discussed the student's participation in the Partnership for Assessment of Readiness for College and Career (PARCC) assessments and the accommodations that the student requires on Statewide assessments. The IEP team discussed that some of the accommodations on the IEP, such as the use of text-to-speech technology, are allowed only for students with limited decoding skills on the PARCC. The team also discussed that the State no longer conducts assessments using modified standards for students pursuing a Maryland High School Diploma. The student's mother reported that, because the student's needs had not changed since the last IEP, she wanted the student to be provided with all accommodations that were previously given. The IEP team agreed to request permission from the MSDE for the provision of unique accommodations to the student during the administration of Statewide assessments (Docs. a and b).

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18. At an IEP team meeting held on September 3, 2015, the IEP team, including the complainants, discussed that the MSDE Division of Curriculum, Assessment, and Accountability had rejected several of the unique accommodations that had been requested on the student's behalf for use on Statewide assessments. The team decided that the accommodations that had been approved would be sufficient (Review of the audio recording of the September 3, 2015 IEP team meeting).
19. On November 11, 2015, the IEP team began another review of the IEP. The team was unable to complete the review and the meeting was adjourned with the understanding that the school staff would develop proposed IEP goals for the complainants to review (Docs. e and f).
20. On November 18, 2015, the school staff sent a "draft" IEP to the complainants for their review (Doc. g).
21. On November 28, 2015, the student's mother provided the school staff with the complainants' proposed IEP goals for the school staff's review and feedback, and stated "we will sign whatever PARCC form you need" (Doc. i).
22. On December 3, 2015, the school staff sent the complainants a "finalized" IEP (Docs. e and k).
23. Since that time, the parties have been working to schedule an IEP team meeting to address the concerns that the complainants have expressed about the IEP. On June 3, 2016, the IEP team met to begin this process (Docs. e, h, j, k, l, s, and aa).
24. On May 19, 2016, the student's mother returned the PNP³ that was previously provided to her by the school staff, expressing concerns that the form does not include some accommodations that are listed on the IEP (Doc. y).

³ The Personal Needs Profile (PNP) is a form that documents the accommodations and accessibility features needed by a student. The form is submitted with other student information prior to the administration of the Partnership for Assessment of Readiness for College and Career (PARCC) assessments in order to ensure that needed accessibility features are enabled for the student while participating in these Statewide assessments. The form should be completed by the IEP team and be based on instructional observations and stated preferences by the student or parent on a student's testing needs that have been found to increase access during instruction and assessments (<http://parconline.org> and PARCC Accessibility Features and Accommodations Manual – Fourth Edition).

DISCUSSION/CONCLUSIONS:

In this case, the complainants allege that a Personal Needs Profile that was developed for the student's participation in PARCC assessments was not developed with their input and does not include all of the accommodations required by the IEP (Doc. z).

Based on the Findings of Facts #17 - #24, the MSDE finds that the decision about the accommodations to be provided to the student during the administration of the PARCC was made through the IEP team process, with the complainants' input, and that the IEP team is in the process of reviewing those decisions. Therefore, this office does not find that a violation occurred regarding this allegation.

**ALLEGATION #4 PROVISION OF PHYSICAL EDUCATION SERVICES ON
THE LAST DAY OF PHYSICAL EDUCATION CLASS**

FINDINGS OF FACTS:

25. The IEP, dated January 23, 2015, includes an annual goal for the student to improve strength and endurance. The goal reflects that it will be addressed in the student's physical education class and during dance activities, and that when she is not enrolled in either physical education or dance, it will be addressed one time every two weeks during FLEX² (Docs. a, c, and e).

26. At the IEP team meeting held on November 11, 2015, the IEP team discussed revising the physical education goal to focus on improving the student's knowledge of lifetime fitness. The team discussed that the physical education goal had only been addressed when the student was enrolled in a physical education or extracurricular activity such as dance class, and the school-based members of the team suggested that the student be enrolled in a physical education class throughout the school year to ensure that the goal is consistently addressed. However, the student's mother expressed concern that there was not enough time in the student's class schedule to ensure that a physical education class would be included in the schedule all year long. A review of the audio recording of the meeting reflects that the IEP team agreed that the goal did not have to be addressed in a physical education class, and decided that the student will be provided with instruction in personal fitness one time per month for thirty minutes⁴ (Docs. e and f).

⁴ The IEP team also decided that the student would be provided with compensatory services for the loss of special education to address the physical education goal (Docs. e, and f).

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27. The audio recording of the November 11, 2015 IEP team meeting reflects that the IEP team also considered the complainants' concerns that the student had not been given the opportunity to participate in a cooking class every other Friday, which is a transition activity on the IEP. The IEP states the following with respect to the transition services/activities to be provided: "[The student] will participate with the [life skills class] during their Friday cooking activities which will occur every other Friday (based on [the student's] schedule) or twice a month." The team discussed that the difficulty was that the school staff did not want the student to miss academic instruction in order to participate in cooking. The team discussed that, based on the student's current schedule, she would miss her chemistry class if she participated in cooking activities. The team discussed that the student would be enrolled in a physical education class during the Friday cooking activities starting the third marking period (February 1, 2016), and agreed that she could be pulled from that class every Friday in order to ensure that she could participate in cooking activities and to make up for the time missed (Review of audio recording of the November 11, 2015 IEP team meeting).
28. On April 12, 2016, the student was pulled from her physical education class to complete second chance learning on English assignments. This was a shortened school day with early dismissal and no FLEX² during which the second chance learning could be provided. In addition, the student arrived at school with stomach cramps and was directed by the nurse's office to rest with a heating pad. Therefore, it was believed that she should not be participating in physical education that day, and the time period could be spent completing the second chance learning in English (Docs. r, z, interview with the school staff).
29. The student earned a 95.73% in her physical education class, and there is documentation that, in addition, the student's physical education teacher has worked with the student on the physical education goal outside of the physical education class during FLEX² (Docs. bb and dd).

DISCUSSION/CONCLUSIONS:

As stated above, the public agency must ensure that students are provided with the special education services required by the IEP (34 CFR §§300.101 and .323).

In this case, the complainants allege that the student was removed from her physical education class on the last day of class for the semester in order to provide her with second chance learning on an English assignment, which impacted her ability to receive instruction on the physical education goal (Doc. z).

Based on the Findings of Facts #25 - #29, the MSDE finds that the student's loss of one day of instruction in her physical education class did not impact her ability to receive special education instruction to address the physical education goal. Therefore, this office does not find that a violation occurred with respect to the allegation.

**ALLEGATION #5 MONTHLY MEETINGS BETWEEN THE PARENTS AND
THE SCHOOL STAFF SINCE THE START OF THE
2015-2016 SCHOOL YEAR**

FINDINGS OF FACTS:

30. The IEP states the following:

Either [of the complainants] will have a meeting at least once a month to address concerns, needs, celebrations, or other areas determined by the school or parents with [the student's] case manager. The meeting can be in person or via phone conversation (Docs. a, c, and e).

31. There is documentation of the following with respect to monthly meetings involving the student's mother and the student's case manager during the 2015-2016 school year:

- September 3, 2015 - An IEP team meeting was held;
- October 30, 2015 - A telephone meeting was held;
- November 11, 2015 - An IEP team meeting was held;
- December 3, 2015 - An IEP team meeting was held;
- January 27, 2016 - A meeting was scheduled to review documents, but was rescheduled because the school was closed due to inclement weather;
- February 19, 2016 - A meeting was held to review documents;
- March 17, 2016 - A telephone meeting was held; and
- April 22, 2016- An IEP team meeting was scheduled, but was rescheduled to June 3, 2016 (Docs. c, d, f, n, and aa).

32. In addition to monthly contact with the case manager, the IEP requires daily communication between the school staff and the complainants. The IEP specifies that "special/unusual events such as assemblies, health room visits, are to be recorded in the agenda or email so parents can discuss these events at home with [the student]" (Docs. a, c, and e).

33. Excerpts of the student's agenda book reflects that the student's teachers provide information to the complainants about what the student works on in school on a daily basis (Doc. cc).

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34. In addition to the meetings with the case manager and the use of an agenda book, the student's mother regularly communicates with the school staff by electronic mail. On May 3, 2016, the school principal sent correspondence to the student's mother explaining that, due to the excessive amount of this electronic mail, all written communication should be directed to him and not to the teachers. The school principal indicated that he would provide the parents with a response to their correspondence every two weeks. In addition, the school principal indicated that he would respond to any questions about the IEP once per week (Doc. u).
35. The student's case manager and principal have maintained binders of email communication with the student's mother during the 2015-2016 school year, which reflect that there is regular communication with the student's mother. This includes a November 28, 2015 email from the student's mother to the case manager indicating the desire to postpone remediation on the High School Assessment in Government until later in the school year (Doc. i and review of binders of email correspondence with the student's mother maintained by the school staff).

DISCUSSION/CONCLUSIONS:

As stated above, the public agency must ensure that students are provided with the special education services required by the IEP (34 CFR §§300.101 and .323).

In this case, the complainants allege that a lack of sufficient communication has occurred, which has resulted in the loss of appropriate services to the student. They provide as an example, documentation that they had expressed a desire to have the student receive remediation for a High School Assessment in Government during the Spring of 2016, but that this did not occur (Docs. h and z).

Based on the Findings of Facts #30 - #35, the MSDE finds that, in addition to regular email communication between the student's case manager, the school principal, and the student's mother, and the daily use of an agenda book by the student's teachers, monthly meetings have been scheduled in which the complainants and the case manager could discuss issues. Based on the Findings of Facts #31 and #35, the MSDE further finds that there was communication with the case manager about the complainants' desire to have remediation for the High School Assessment in Government take place this spring, and meetings took place in which the matter could have been addressed with the case manager. Therefore, this office does not find that a violation occurred.

**ALLEGATION #6 PROVISION OF A HEARING TO DISPUTE THE
ACCURACY OF THE STUDENT’S EDUCATIONAL
RECORD**

FINDINGS OF FACTS:

36. The CCPS Administrative Regulations, Board Policy IKAB: *Grading, Homework, and Communicating Student Achievement*) states that, when a student or parent disagrees with the grade assigned to a student, a conference should be arranged with the teacher. If the issue is not resolved, the student or parent may appeal the grade to the principal. If the disagreement still exists after the principal's decision is rendered, the parent or student may appeal the principal's decision in writing to the Superintendent of Schools (Doc. ff).
37. On April 20, 2016, the CCPS Superintendent's designee informed the complainants of the denial of their April 2, 2016 appeal of the decision of the student's school principal with respect to their request to remove a grade for an English assignment. The correspondence from the CCPS Superintendent's designee reflects that he conducted a telephone conference with the complainants and a separate meeting with the school staff. The correspondence notifies the complainants of their right to appeal the decision to the Carroll County Board of Education (Doc. t).
38. The Carroll County Board of Education (CCBOE) Handbook states that appeals to the CCBOE may be made from a final action or decision by the Superintendent or the Superintendent’s designee. The Handbook states that when the CCBOE conducts a hearing, “it is performing its quasi-judicial function, i.e., serving as the judge in deciding a dispute.” The Handbook indicates that evidentiary hearings may be handled directly by the CCBOE or by a hearing examiner. It further indicates that all parties have the right to be represented by counsel, and the presiding officer will conduct an examination of witnesses under oath, admit evidence, and rule on the admissibility of evidence (Doc. gg).

DISCUSSION/CONCLUSIONS:

Pursuant to the Family Educational Rights and Privacy Act (FERPA), which is incorporated into the IDEA, 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 that the public agency amend the information. Upon receipt of such a request, the public agency must decide, within a reasonable period time of the receipt of the request, whether to amend the information. If the public agency refuses to amend the information, it must inform the parent of the refusal and advise the parent of the right to a hearing to challenge the information (34 CFR §99.22, and 34 CFR §§300.618 and .619).

However, the FERPA amendment procedure may not be used to challenge a grade, an opinion, or a substantive decision made by a school about a student. The FERPA was intended to require only that schools conform to fair recordkeeping practices and not to override the accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations. The school system is not required under FERPA to hold a hearing on such matters (<http://familypolicy.ed.gov>).

In this case, the complainants allege that, while they were provided with the opportunity to present information that was considered by a CCPS official when presenting their request for a change in the student's grade, they were not afforded a hearing (Doc. z).

Based on the Findings of Facts #36 - #38, the MSDE finds that, while the CCPS offers the opportunity for an evidentiary hearing on appeal of the determination of the Superintendent or the Superintendent's designee regarding a request for a change in grades, it is not required under the FERPA amendment procedures to do so. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #7 PARTICIPATION IN THE VIDEO PRODUCTION PROGRAM DURING THE 2016-2017 SCHOOL YEAR

FINDINGS OF FACTS:

39. The IEP states the following with respect to transition services/activities:

During high school, [the student] will attend either the Video Production Program at the [XXXXXXXXXXXXXXXXXXXXXXX] (XXXXXX) or the 5th Mod Video Production Program at the XXXXXXXX (Docs. a, c, and e).

40. The IEP in effect since the January 23, 2015 IEP team meeting states that the student is participating "in a 6 year program and is projected to exit/graduate school June 30, 2020." The audio recording of the January 23, 2015 IEP team meeting reflects that the team discussed that the student had not yet been accepted into the Video Production Program at the XXXXXXXX, and that if she was not accepted, the 5th Mod Video Production Program would be explored for her senior year of high school, "whatever year we deem that she would be a senior" (Docs. a – c, and e).

41. On April 1, 2016, the student's mother and the school staff corresponded by electronic mail (email) about the student's schedule for the upcoming 2016-2017 school year. The student's mother requested that the school staff advise her when the master schedule was completed so that the student's schedule could be finalized (Doc. p).

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42. On May 3, 2016, the student's mother contacted the school staff to express concern that the student's schedule had not yet been finalized. The student's mother indicated that the student was accepted into the 5th mod program at the XXXXX and that other parents have been given the opportunity to meet the counselor already (Doc. v).
43. On May 3, 2016, the school principal contacted the student's mother and indicated that the student's schedule had been developed and that there was no time in her schedule to participate in the 5th mod program at the XXXXXXXX. The school principal stated that the student "has provisionally been accepted to be in this program" for her final year at high school, and that the student's final year of high school will not be the 2016-2017 school year because she will not have met all of her graduation requirements by the end of that school year (Doc. u).
44. In response to the school principal's correspondence, the student's mother indicated that when they met with the XXXXXX staff on April 5, 2016, they reviewed all of the required courses and it was determined that the student would be able to complete those courses during the 2016-2017 school year, but that they had not factored in the time needed for support mods for academic classes. She then requested a meeting on May 6, 2016 to discuss the proposed schedule, stating, "We could make it work so [the student] has enough credits for graduation in 2017 so she can attend XXXXXX" (Doc. v).
45. On May 4, 2016, the school principal contacted the student's mother and indicated that there are no options in the schedule that can be removed other than Personal Fitness and that it would not be appropriate to remove the support mods for her academic classes. The school principal requested that the student's mother reconsider her decision that the student should attempt to complete all of her remaining required courses next year, and reminded her that "the plan all along has been for [the student] to be in high school for more than 4 years and her schedules have been built to reflect that plan." He suggested allowing the student to wait until the 2017-2018 school year to complete her graduation requirements and for her take the video production class during that last year of school (Doc. u).
46. On May 5, 2016, the student's mother responded to the school principal that she would not suggest the removal of the support mods from the student's schedule, but believes that the student "does have the potential and desire to meet graduation requirements in 2017, which is what the 5th mod program entrance requirements are." The student's mother expressed concern that the school staff had the student go through the interview process at the XXXXXX leading her to believe that she would be able to participate in the program next year. The student's mother also indicated that there did not appear to be a reason to meet to discuss the schedule further since it appeared that the decisions had already been made without the parents (Doc. u).

47. The school staff attempted to schedule the meeting with the student's mother to further discuss the student's schedule, but the student's mother indicated that her schedule had already been filled and that she was no longer available to meet (Doc. v).

DISCUSSION/CONCLUSIONS:

As stated above, the public agency must ensure that students are provided with the special education services required by the IEP (34 CFR §§300.101 and .323). In this case, the complainants allege that the IEP requires that the student participate in the 5th mod Video Production Program during the 2016-2017 school year (Doc. z).

Based on the Findings of Facts #39 and #40, the MSDE finds that the IEP does not require that the student participate in the 5th mod Video Production Program in the 2016-2017 school year. Based on the Findings of Facts #41 - #47, the MSDE finds that the school staff have explored the possibility of having the student participate in the course during the 2016-2017 school year, but found that there was not enough room in the student's schedule. Therefore, this office does not find that a violation occurred with respect to this allegation.

TIMELINE:

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.

Questions regarding the findings of facts, conclusions and corrective actions 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

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(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/am

c: Stephen H. Guthrie
Wayne Whalen
XXXXXXXX
Dori Wilson
Anita Mandis