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December 22, 2016

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Ms. Nancy Fitzgerald
Executive Director of Special Education
and Student Services
Howard County Public Schools
10910 Route 108
Ellicott City, Maryland 21042-6198

RE: XXXXX
Reference: #17-057

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 October 31, 2016, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the HCPS did not ensure that the student was provided with the use of highlighted paper, as required by the Individualized Education Program (IEP), from November, 2015¹ to May, 2016, in accordance with 34 CFR §§300.101 and .323.

¹ While the complainant alleged that the violation occurred prior to this date, she was informed, in writing, that this office has authority to address allegations of violations that occurred not more than 1 year prior to the date of the filing of the State complaint, in accordance with 34 CFR §300.153).

INVESTIGATIVE PROCEDURES:

1. On November 3, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Nancy Fitzgerald, Executive Director of Special Education and Student Services, HCPS.
2. On November 9, 2016, the MSDE requested documentation from the HCPS.
3. On November 21, 2016, Mr. Albert Chichester, Ms. Sharon Floyd, Ms. K. Sabrina Austin, and Mr. Gerald Loiacono, Education Program Specialists, MSDE, conducted a telephone interview with the complainant about the allegation.
4. On November 22, 2016, 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 HCPS of the allegation and requested that the school system staff review the alleged violation.
5. On November 29, 2016, the MSDE received additional documentation from the complainant to be considered.
6. On December 12, 2016, the HCPS provided the MSDE with documentation to be considered.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated August 3, 2015;
 - b. IEP, dated November 6, 2015;
 - c. IEP, dated January 27, 2016;
 - d. IEP, dated May 13, 2016;
 - e. Writing samples completed by the student during the 2015 - 2016 school year;
 - f. Occupational therapy services logs, dated between November 3, 2015 and June 7, 2016; and
 - g. Correspondence from the complainant containing an allegation of a violation of the IDEA, received by the MSDE on October 31, 2016.

BACKGROUND:

The student is 11 years old and attends XXXXXXXXXXXXXXXXXXXX. She is identified as a student with Autism under the IDEA and has an IEP that requires the provision of special education and related services (Docs. a - d).

During the time period addressed by this investigation, the complainant was provided with notice of the procedural safeguards (Docs. a - d).

FINDINGS OF FACTS:

1. The IEP in effect between November, 2015 and May, 2016, required the provision of highlighted paper, primarily by the occupational therapist, to assist the student with writing, "as needed" (Docs. a - d).
2. There is documentation of writing samples completed by the student on highlighted paper during the 2015 - 2016 school year and service logs kept by the occupational therapist documenting the student's use of the highlighted paper (Docs. e and f).

DISCUSSION/CONCLUSIONS:

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

In this case, the complainant alleges that, from November, 2015 to May, 2016, the IEP required the use of highlighted paper, but that the HCPS did not ensure that it was provided (Doc. g).

Based on the Findings of Facts #1 and #2, the MSDE finds that the student was provided with highlighted paper as required by the IEP. Therefore, this office does not find that a violation has occurred with respect to the allegation.

TIMELINE:

Please be advised that the HCPS and the complainant 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 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, conclusions and corrective actions 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.

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The MSDE recommends that this Letter of Findings be included with any request for mediation or due process.

Sincerely,

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

MEF:ac

c: Renee A. Foose
Kelly Russo
XXXXXXXXXX
Dori Wilson
Anita Mandis
Albert Chichester
Nancy Birenbaum