



Karen B. Salmon, Ph.D.  
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

February 3, 2017

XXX  
XXX  
XXX

Dr. Susan Austin  
Director of Special Education  
Harford County Public Schools  
102 South Hickory Avenue  
Bel Air, Maryland 21014

RE: XXXXX  
Reference: #17-067

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 December 6, 2016, the MSDE received a complaint from Mr. XXXX, hereafter, “the complainant,” on behalf of his son, the above-referenced student. In that correspondence, the complainant alleged that the Harford County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the HCPS has not ensured that the student has been provided with the special education services, accommodations, and supplementary aids as required by Individualized Education Program (IEP), since December 6, 2015, in accordance with 34 CFR §§300.101 and .323.

**INVESTIGATIVE PROCEDURES:**

1. On December 6, 2016, the MSDE sent a copy of the complaint, via facsimile, to Dr. Susan Austin, Director of Special Education, HCPS.
2. On December 15, 2016, Ms. Sharon Floyd, Education Program Specialist, MSDE, conducted a telephone interview with the complainant about the alleged violation.
3. On December 19, 2016, the MSDE sent the complainant correspondence clarifying the allegation subject to the investigation. On the same date, the MSDE notified the HCPS of the allegations and requested that the HCPS review the alleged violations.
4. On December 22, 2016, Ms. Floyd spoke to the complainant about the IEP team meeting held on December 20, 2016 and on the same date the complainant sent an electronic mail (email) correspondence to the MSDE for consideration.
5. On January 18, 2017, Ms. Floyd and Ms. Nicole Green, Data Analyst, Due Process and Mediation, MSDE, conducted a site visit at XXXXX to review the student's educational record, and interviewed the following school system staff:
  - a. Mr. XXXXXXXXXXX, Principal;
  - b. Mr. XXXXXX, Case Manager; and
  - c. Ms. XXXXXXX, Special Educator.

Ms. Pam O'Reilly, Coordinator of Compliance, HCPS, attended the site visit as a representative of the HCPS and to provide information on the HCPS policies and procedures, as needed.
6. On January 19, 20 and 24, 2017, the HCPS provided documentation for the MSDE to consider.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP, dated December 20, 2016;
  - b. IEP, dated December 8, 2015;
  - c. IEP, dated December 12, 2014;
  - d. Written summary of the December 20, 2016 IEP team meeting;
  - e. Written summary of the December 1, 2016 IEP team meeting;
  - f. Written summary of the September 22, 2016 IEP team meeting;
  - g. Written summary of the December 8, 2015 IEP team meeting;

- h. A report of the IEP team's determination of the student's specific learning disability, dated December 1, 2016;
- i. Student report cards, dated June 2015, 2016, and December 2017;
- j. Student schedule for the 2016-2017 school year;
- k. Master schedule for special education teachers for the 2016-2017 school year;
- l. Progress reports from English, history, and geometry for the first and second quarters of the 2016-2017 school year;
- m. Student work samples of modified work for the 2016-2017 school year;
- n. Accommodations matrices submitted by the student's teachers, dated December 12, 2016; and
- o. Correspondence from the complainant to the MSDE, received on December 6, 2016.

**BACKGROUND:**

The student is seventeen (17) years old and attends XXXXXXXXXXXXXXXXXXXX. He is identified as a student with a Specific Learning Disability under the IDEA, and has an IEP that requires the provision of special education instruction and related services (Docs. a-h, and o).

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

**FINDINGS OF FACTS:**

- 1. The IEPs in effect during the time addressed by this investigation include IEPs dated December 12, 2014, December 8, 2015, and December 20, 2016. During this time period, the student's accommodations, and supplementary aids and services required by the IEPs remained the same (Docs. a-c).
- 2. The IEP requires the student be provided with the accommodations of math calculation devices which may include math manipulatives, a hundreds chart, a number line, counters, and a matrix, graphic and visual organizers, and extended time to complete assignments and assessments. The IEP states that extended time means that the student will be provided with time and one-half for problem solving, studying, researching, and brainstorming on classroom assignments "in order to be successful on math assignments and assessments" (Docs. a-c).
- 3. The IEP also requires that the student be provided with the following supplementary aids and supports:
  - a. The opportunity to repeat and paraphrase directions and information when uncertain, provided daily;
  - b. Graphic organizers, visual aids and models, provided monthly;

XXX

Dr. Susan Austin

February 2, 2017

Page 4

- c. Independent work that is monitored, daily, with the provision of frequent checks for understanding;
  - d. Assignments which will be reduced in complexity of content and organized into smaller chunks, provided daily; and
  - e. Directions will be repeated to the student daily (Docs. a-c).
4. There is no documentation that the accommodations, supplementary aids and services were provided from December 6, 2015 through to the end of the 2015-2016 school year (Docs. m, and n and interview with school staff).
  5. There is evidence that the student is being provided with the accommodations in his math classes since the start of the 2016-2017 school year (Docs. m and n).
  6. There is evidence that the student is being provided with the accommodations required in history classes since January 4, 2017 (Doc. n).
  7. There is evidence that the student is being provided with the accommodations in English classes since December 13, 2016 (Doc. n).
  8. There is evidence that the student is being provided with supplementary aids and services in math on an inconsistent basis since the start of the 2016-2017 school year (Docs. m and n).
  9. There is no evidence that the student is being provided with supplementary aids and services consistently in math, English and history classes, as required on the IEP since December 6, 2015 (Docs. l, m and n).
  10. On progress grade reports for history, English, and math classes, the student's averages include "D" grades for history and English and an "E" in math for the first quarter, a "D" for history, an "E" for English and an "E" in math for second quarter of the 2016-2017 school year (Doc. l).
  11. There is no evidence that the student was provided with the math calculation devices when he forgot to bring his to math class prior to January 4, 2017 (Interview with staff and doc. l).
  12. The progress reports dated February 9, 2016, April 7, 2016, June 10, 2016 and November 1, 2016 for math and reading, indicate that the student is making sufficient progress to meet his goals for analyzing number relations to improve his calculation skills, for using math concepts to solve word problems and for using literal information to draw inferences in reading (Docs. a-g).

**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 complainant alleges that the student is not being provided with modified tests, graphic organizers, and extra time to complete assignments and assessments as required by the IEP (Doc. o).

Based on the Findings of Facts #1-#12, the MSDE finds that there is documentation to support that the goals are being implemented but there is not documentation that the modifications are being implemented consistently since December 6, 2015. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

**CORRECTIVE ACTIONS/TIMELINES:**

**Student-Specific**

The MSDE requires the HCPS to provide documentation by April 1, 2017, that:

- a. The IEP team has met and reviewed the student's accommodations, and supplementary aids and supports and documented how the supports will be implemented in the student's classes;
- b. The special education staff has met with the student's general education teachers to review their role in implementation of the IEP requirements; and
- c. The IEP team has developed a plan for the student to receive grade recovery opportunities in core academic classes in which the student received a "D" or "E" on report cards since December 6, 2015.

The MSDE requires the HCPS to provide documentation by the end of the 2016 – 2017 school year of the steps taken to ensure that that the XXXXXXXXXXXXXXXXXXXX staff have complied with the corrective actions for the student.

The HCPS must also ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

**School-Based**

The MSDE also require the HCPS to provide documentation of the steps it has taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern on noncompliance at XXXXXXXXXXXXXXXXXXXX. Specifically, a review of student records, data, or other relevant information must be conducted in order to determine if the regulatory requirements are being implemented and documentation of the results of this review must be provided to the MSDE. If compliance with the requirements is reported, the MSDE staff will verify compliance with the determinations found in the initial report.

If the requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, the MSDE will re-very the data to ensure continued compliance with the regulatory requirements.

The documentation of all corrective actions taken is to be submitted to this office to the attention of the Chief of the Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

**TECHNICAL ASSISTANCE:**

Technical assistance is available to the complainants and the HCPS by Dr. Nancy Birenbaum, Compliance Specialist, MSDE, Dr. Birenbaum may be contacted at (410) 767-0255.

Please be advised that both the complainants and the HCPS 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. 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 Letter of Findings.

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 for

XXX  
Dr. Susan Austin  
February 2, 2017  
Page 7

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/sf

c: Barbara P. Canavan  
Pam O'Reilly  
XXXXXXXXXXXX  
Dori Wilson  
Anita Mandis  
Nancy Birenbaum  
Sharon Floyd