



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

May 17, 2019

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Dr. Kristin Mentges
Supervisor of Special Education Services
Talbot County Public Schools
12 Magnolia Street
Eason, Maryland 21601

RE: XXXXX
Reference: #19-139

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 March 27, 2019, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Talbot County Public Schools (TCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the TCPS has not ensured that the student has been consistently provided with the special education instruction and supports required by the Individualized Educational Program (IEP) since the start of the 2018-2019 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is fifteen (15) years old, is identified as a student with a Specific Learning Disability (SLD) under the IDEA, and has an IEP that requires the provision of special education and related services. The student is in the tenth (10th) grade and attends the XXXXXXXXXXXXXXXX (XXXXXXXXXXXX).

FINDINGS OF FACTS:

1. The IEP requires that the student be provided with special education instruction to assist her with improving her reading skills. The IEP also requires that the student be provided with special education instruction to address a self-management goal to complete work by monitoring course progress and developing action plans using the “Power School” platform.¹
2. The IEP requires that the student be provided with support in all of her classes. These supports include breaking down work into interval steps to manage work completion, clarification of directions, modeling of examples of tasks to ensure understanding, and extended time to complete tasks not to exceed time and one-half. They also include the use of a weekly home-school communication system to ensure that the parent is aware of the student’s progress with formative and summative assignments in the core academic classes.
3. The student is placed in an English/language arts course where instruction is provided by both general and special education teachers. In addition, a resource period is included in the student’s schedule to provide her with reading and math interventions and time to work on class assignments. When the special education teacher is not working with the student on reading and math interventions, the student’s case manager works with her to plan for completion of assignments during this period, as reflected in a log maintained by the case manager.
4. There are IEP goal progress reports and other documentation that demonstrates that the school staff are providing special education instruction to the student to assist her with achieving the annual IEP goals. In addition, there are electronic mail (email) messages from the student’s case manager² that document communication about the student’s progress on a weekly basis, and regular emails between the English/language arts teacher and the complainant about her progress.
5. The TCPS provides students and parents with training on the use of the “Power School” platform.

¹ The Power School platform is a computerized system that allows teachers to manage the entire instructional process using unified software that combines Assessment, Gradebook, Learning, and Special programs products. The Frog Learning Management System assists teachers in modifying instruction for each student based on their individual needs. The parent portal provides access to each student’s “frog page,” which allows students and their parents to review assignments due in each course, the due date for each assignment, and for students with extended time to complete assignments, the extended due date.

² These weekly emails begin in October 2018 and were initially sent to the student’s private tutor. Beginning in December 2018, the emails have been directed to the complainant.

6. A review of the “frog page”¹ for the student’s English/language arts and earth science courses reflects that she is provided with accommodations and supplementary aids and services required by the IEP. It also reflects that the student is not beginning to work on assignments within the extended time that she is provided to complete them.
7. A review of the student’s desktop screen reflects that there are folders created for each core academic course that list the class assignments.
8. The documentation reflects that the student has not had difficulty completing the coursework in classes such as biology and math. The school staff report that the student is able to complete work in all of her classes when she is interested in the material and engaged, but that they have not been successful in engaging her in the work in English/language arts and earth science.
9. Both parties report, and there is documentation, that the student has been resistant to completing work in English/language arts and earth science at school, and prefers to complete work at home or with a private tutor obtained by her family to complete the work. While the student has been permitted to do so, this has not been successful in ensuring that assignments are completed and timely submitted. Assignments have accumulated to the point where it has been difficult for the student to catch up with completing them, which has impacted her grades in these courses.
10. While the school staff have met with the family to discuss how to address the student’s work avoidance, there is no documentation that the IEP team has considered positive behavioral interventions to address her interfering behavior.

DISCUSSION/CONCLUSIONS:

In this case, the complainant alleges that the reason why the student is struggling in her English/language arts and earth science courses is that she is not being provided with the reading support and assistance with completing assignments that are required by the IEP.

Based on the Findings of Facts #1 - #7, the MSDE finds that there is documentation of implementation of the IEP. Therefore, this office does not find that a violation occurred with respect to the provision of IEP services, in accordance with 34 CFR 300.101 and .323.

However, based on the Findings of Facts #6 and #8 - #10, the MSDE finds that the IEP team has not addressed the student’s behaviors that are interfering with her completion of work in English/language arts and earth science courses, in accordance with 34 CFR 300.324. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the TCPS to provide documentation to the MSDE, by July 1, 2019, that it has offered the student the opportunity to obtain credit recovery during the summer of 2019, at public agency expense, including transportation needed to access instruction, for any courses that she does not pass during the 2018 – 2019 school year.

The MSDE further requires the TCPS to provide documentation, by the start of the 2019 – 2020 school year, that it has offered the student’s family and the student the opportunity to participate in a training session on the “frog page” together.

The MSDE also requires the TCPS to provide documentation, by the start of the 2019 - 2020 school year, that the IEP team has obtained data regarding the cause of the student’s resistance to engage in work during school hours, and that the IEP team has convened and developed a plan to improve her engagement in instruction, consistent with the data, including considering the use of positive behavior interventions.

The MSDE also requires the TCPS to convene an IEP team meeting at the end of the first (1st), second (2nd) and third (3rd) quarters of the 2019-2020 school year. At each meeting, the IEP team must review the student’s progress towards achievement of the self-management annual IEP goal for completing work, and specifically, the degree of the student’s work completion in each core academic course, and review and revise as appropriate, the IEP based on that progress. The IEP team meetings must also include the participation of all teachers of the core academic courses in which the student has incomplete assignments.

School-Based

The MSDE requires the TCPS to provide documentation by the start of the 2019 - 2020 school year of the steps it has taken to ensure that the XXXXXXXXXX staff comply with the IDEA requirements for the IEP team to consider positive behavioral interventions to address behavior that interferes with a student’s learning. The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not reoccur.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention and Special Education Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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 (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 Early Intervention
and Special Education Services

MEF/ksa

c: Kelly L. Griffith
XXXXXXXX
Dori Wilson
Anita Mandis
K. Sabrina Austin
Nancy Birenbaum