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May 22, 2017

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Ms. Bobbie Pedrick
Executive Director of Special Education
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland

RE: XXXXX
Reference: #17-126

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 April 3, 2017, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Anne Arundel County Public Schools (AACPS) 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 AACPS did not ensure that the student has been provided with the services required by the Individualized Education Program (IEP) since March 30, 2017, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. On April 5, 2017, the MSDE sent a copy of the complaint, via facsimile, to Ms. Bobbi Pedrick, Executive Director of Special Education, AACPS and Ms. Alison Barmat, Instructional Supervisor, Support Programs & Services and Due Process and Mediation, Department of Special Education, AACPS.

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2. On April 7, 2017, Ms. Linda Koban, Compliance Specialist, MSDE, conducted a telephone interview with the complainant about the allegation to be investigated.
3. On April 12, 2017 the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation which is the subject of this investigation. On the same date, the MSDE notified the AACPS of the allegation and requested that the school system staff review the alleged violation.
4. On May 10, 2017 Ms. Koban and Ms. Anita Mandis, Chief, Complaint Investigation Section, MSDE conducted a review of the student's record at XXXXXXXXXXXX, and interviewed, the following school system staff:
 - a. Mr. XXXXXXX, Principal;
 - b. Ms. XXXXXXXXXXXX, Department Chairperson;
 - c. XXXXXXX, Special Education Teacher,
 - d. Ms. XXXXXXXXXXXX, Assistant Principal; and
 - e. Ms. Therese, Bednarik, AACPS Special Education Program Specialist.

Ms. Barmat attended the visit as a representative of the AACPS to provide information about the school system's policies and procedures, as needed.

5. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated March 24, 2017;
 - b. Correspondence from the complainant containing allegations of violations of the IDEA received by the MSDE on April 3, 2017;
 - c. Electronic mail (email) correspondence from school staff to complainant on March 30, 2017;
 - d. Correspondence between AACPS staff and the complainant between April 7, 2017 and April 19, 2017; and
 - e. Correspondence from school staff to the complainant, May 3, 2017.

BACKGROUND:

The student is 20 years old and attends XXXXXXXXXXXX. He is identified as a student with an Intellectual Disability under the IDEA and has an IEP that requires special education and related services (Doc. a).

FINDINGS OF FACTS:

1. The student's IEP states that "the school psychologist/school social worker will consult with parents and teachers to support [the student's] social-emotional development and to develop strategies to support his school success. The student will also have access to support from the school psychologist for individual counseling sessions as needed" (Doc. a).

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2. On March 30, 2017 the complainant received an electronic mail (email) message from school staff stating the following:

I would like to fill you in on an incident that occurred in class today. [The student] is fine and has done nothing wrong. Another student touched [the student] in an inappropriate manner in class today. The situation was handled immediately. Administration met with the other student and appropriate measures will be taken in accordance with the Code of Conduct. Additionally, I will be calling the student's parents. However, I felt it imperative to touch base with you considering the nature of the incident (Doc. c).

3. In response, the complainant advised the school staff that she would keep her son at home the next day and to follow up with her on Monday, April 3, 2017 as the complainant needed the weekend to process the matter. However, she returned to the school the next day (without the student) and met with the school staff member who had contacted her via email the previous day. According to the staff member, the complainant was agitated and was intent on learning the name of the student who touched her son, which the school staff could not provide. When the complainant pointed out that her son had an IEP that included a consultation by the school psychologist and asked whether this had occurred on the date of the incident, the school staff responded that the situation did not appear to warrant a referral to the school psychologist because the student did not seem upset. The complainant questioned the background and authority of the school staff to make that determination. Both the complainant and the school staff reported that this conversation deteriorated in civility and ended abruptly (Doc. b and interviews with the school staff and the complainant).
4. The complainant did not return the student to school (Docs. b and e).
5. On April 7, 2017, the Friday before spring break, another school system staff member emailed the complainant indicating that she would speak to the special education coordinator about the situation and get back in touch with her in order to address the complainant's concerns about returning the student to school (Doc. d).
6. On April 19, 2017, the Monday after the spring vacation, a meeting was held between the complainant and the school system staff, including the school psychologist and the principal. At that meeting, the school staff discussed that the school psychologist would make scheduled visits to the classroom to check on the student, and that additional adult support would be provided in the classes when the student was in a class with the student involved in the incident. The complainant and the school staff also discussed that the student would be provided with tutoring services to make up for the loss of instruction while he did not attend school, and the complainant agreed to return the student to school (Doc. e and interviews with the complainant and the school staff).

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DISCUSSION/CONCLUSIONS:

The public agency must ensure that each student with a disability is provided with a Free Appropriate Public Education (FAPE) through an IEP that addresses all of the student's special education and related service needs (34 CFR §§300.101 and .323).

Based on the above Findings of Facts, the MSDE finds that there was a delay in the provision of consultation with the school psychologist, which resulted in the student missing instruction, and thus a violation occurred.

Notwithstanding the violation, based on the Finding of Fact # 7, the MSDE finds that services are being provided to make up for lost instruction. Therefore, no corrective action is required.

TIMELINE:

Please be advised that the AACPS 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 and conclusions 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 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 due process.

Sincerely,

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

c: George Arlotto Dori Wilson
Alison Barmat Anita Mandis
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