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August 29, 2017

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Dr. Arden Sotomayor  
Director of Special Education  
Charles County Public Schools  
P.O. Box 2770  
La Plata, Maryland 20646

RE: XXXXX  
Reference: #17-152

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 May 26, 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 Charles County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The CCPS did not follow proper procedures when responding to a request for an Individualized Education Program (IEP) team meeting on March 4, 2017, in accordance with 34 CFR §§300.324 and .503.
2. The CCPS did not initiate Home and Hospital Teaching (HHT) services within the timelines required by COMAR 13A.03.05.03.
3. The CCPS did not ensure that the student received the special education services required by the IEP between February 14, 2017 and June 9, 2017, in accordance with 34 CFR §§300.101 and .323 and COMAR 13A.03.05.03D.

**BACKGROUND:**

The student is sixteen (16) years old and attends XXXXXXXXXXXXXXXXXXXX. He 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 instruction.

**ALLEGATIONS #1 - #2:                    **RESPONSE TO A MARCH 4, 2017 REQUEST FOR AN IEP TEAM MEETING AND INITIATION OF HOME AND HOSPITAL TEACHING (HHT) SERVICES****

**FINDINGS OF FACTS:**

1.     During the first week of March 2017, the complainant requested an IEP team meeting to address her concerns about modifying the student's work load since he recently suffered a concussion.
2.     On March 21, 2017 the school staff checked with the CCPS Central Office Staff and responded to the complainant's request for an IEP team meeting, denying the request, stating that this situation does not fall under the IEP process and is to be handled at the school-based level. However, the school staff did not take steps to address the complainant's concerns and did not provide her with prior written notice of the basis for the decision.
3.     On March 29, 2017, the student's physician provided verification of his need for HHT services due to a medical condition.
4.     On April 3, 2017, an IEP team meeting was held to determine the services to be provided in the home while on HHT services and, on April 5, 2017, HHT services were initiated for the student.

**CONCLUSIONS:**

**Allegation #1:**

Based on the Findings of Facts #1 and #2, the MSDE finds that the CCPS did not ensure that an IEP team was convened to address the complainant's concerns or provide prior written notice (PWN) of the decision to deny the request for an IEP team meeting. Therefore, the MSDE finds that a violation occurred with respect to this allegation in accordance with 34 CFR §§300.324 and .530.

Notwithstanding the violation, based on the Finding of Fact #4, the CCPS convened an IEP team on April 3, 2017, to address the complainant's concerns, therefore, the MSDE finds that no student-specific corrective action is needed to remediate the violation with respect to this allegation.

**Allegation #2:**

Based on the Finding of Fact #3, the MSDE finds that the CCPS did ensure that the HHT services were initiated within the timelines required by COMAR 13A.03.05.03. Therefore, this office does not find that a violation occurred.

**ALLEGATION #3: IEP IMPLEMENTATION FROM FEBRUARY 14, 2017 TO JUNE 9, 2017**

**FINDINGS OF FACTS:**

5. Prior to June 10, 2016, the IEP indicated that the student would be permitted to use a scribe when writing assignments were longer than two pages.
6. On June 10, 2016, the IEP was revised to reflect that the student would be permitted to use a computer when writing assignments were longer than two pages. The school staff indicated that the student no longer used a scribe, and as a result of this determination, the complainant was encouraged to communicate with the student's special education case manager if she believed the student needed a scribe in the future.
7. On April 3, 2017, the IEP was revised for the student to receive HHT services for English, science, social studies, health, supplemental reading and math classes. The IEP team determined that the student would continue to come to school for the Engineering class.
8. The IEP accommodations were revised to include use of graphic organizers, computer access, and extended time.
9. The supplementary aids, services, program modifications and supports include extending the time for assignments to allow two additional class days to return classwork or homework, modification of classwork and homework, repetition of directions, copy of teacher notes, use of technology, one binder notebook system, and use of an electronic device for tracking assignments.
10. The goals on the IEP include reading phonics, reading fluency, reading vocabulary, and written language content.
11. The IEP progress reports dated March 24 and April 24, 2017, state that the student is making sufficient progress to meet all of his IEP goals in reading phonics, reading fluency, reading vocabulary, and written language content.
12. There is documentation that the CCPS provided the student with the supports necessary to address the goals on the student's IEP.

**CONCLUSION:**

In this case the complainant alleges that the IEP requires the provision of a scribe and that the student's grades suffered because the student wasn't provided with the supports required by the IEP.

Based on the Findings of Facts #5 - #12, the MSDE finds that the CCPS ensured that the student was provided with the special education services required by the IEP from February 14, 2017 to June 9, 2017, as required by 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to this allegation.

**CORRECTIVE ACTION/TIMELINE:**

The MSDE requires the CCPS to provide documentation by December 1, 2017 of the steps taken within the school system to ensure that either an IEP team meeting is held or prior written notice is provided of the decision not to convene a team in response to parents' requests.

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

Please be advised that both the complainant 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 available 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, 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 (FAPE) for the student, including issues subject to this State complaint investigation, consistent

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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: Kimberly Hill  
Nancy Pirner  
XXXXXXXXXX  
Dori Wilson  
Anita Mandis  
Sharon Floyd  
Nancy Birenbaum