



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

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January 24, 2019

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

RE: XXXXX  
Reference: #19-069

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 November 26, 2018, the MSDE received a complaint from Mr. XXXXXXXXXXXX, 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 following allegations:

1. The HCPS did not follow proper procedures in response to a request made on July 12, 2018, for access to the student’s educational record, in accordance with 34 CFR §300.613.
2. The HCPS has not ensured that the student has been provided access to a word processing device, as required by the Individualized Education Program (IEP), since the start of the 2018-2019 school year, in accordance with 34 CFR §§300.101 and .323.

## **BACKGROUND:**

The student is eleven (11) years old and is identified as a student with Multiple Disabilities under the IDEA related to a Specific Learning Disability and an Other Health Impairment due to “micro-deletion,” “micro-duplication,” and attention deficit hyperactivity disorder (ADHD). He has an IEP that requires the provision of special education and related services. The student is in the fifth (5th) grade and attends XXXXXXXXX School.

## **ALLEGATION #1                      ACCESS TO THE EDUCATIONAL RECORD**

### **FINDINGS OF FACTS:**

1. The student was eligible for and attended Extended School Year (ESY) services during Summer 2018.<sup>1</sup>
2. The ESY instruction began on July 3, 2018 and continued for six (6) weeks until August 9, 2018 .
3. On July 12, 2018, the second week of ESY services, the student’s mother sent an electronic mail (email) message to the school system staff requesting “copies of all documentation used to complete the data collection logs for [the student] at ESY.”
4. In its email response sent the following day, the school system staff agreed to provide the parent with “copies of documentation/work samples” on a weekly basis.
5. On July 16, 2018, the ESY teachers were instructed by the school system staff to send work samples to the student’s mother on Thursdays. As of that date, there was four (4) Thursdays left in the ESY period: July 19 and 26, 2018, and August 2 and 9, 2018.
6. On August 9, 2018, the student’s mother contacted the school staff by telephone due to concerns about the work samples that she received on that date. The documentation reflects that, on this date, the student’s mother requested the *data collection logs*, which is a different request than *copies of the documentation used to complete* the data collection logs which is what she requested on July 12, 2018.
7. On August 28, 2018, the complainant sent an email to the school system staff requesting the data collection logs for ESY.
8. On August 30, 2018, in an email sent to the school system staff, the complainant acknowledged having some work samples.

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<sup>1</sup> The student was present on twelve (12) of the sixteen (16) days that ESY services were offered.

9. On September 6, 2018, the school system staff sent an email informing the parents that the data collection logs had been obtained from the ESY instructors and were available for pick up at school or to be sent by mail. In his response on the same date, the complainant stated that the parents would make arrangement to pick up the documents and confirmed that the issue was “resolved.”

### **CONCLUSION:**

Based on the Findings of Facts #1 - #9, the MSDE finds that the HCPS followed proper procedures in response to requests made for access to the educational record, in accordance with 34 CFR §300.613. Therefore, this office does not find that a violation occurred.

### **ALLEGATION #2                      ACCESS TO A WORD PROCESSING DEVICE**

### **FINDINGS OF FACTS:**

10. The IEP documents that the student has “below average visual motor, precision and manipulation skills.” It also reflects that the decreased spacing, sizing, and alignment of the student’s writing, in addition to his decreased visual attention to writing tasks, impact the overall quality and legibility of his written work.
11. The IEP also reflects that the student has needs in the area of fine motor skills where his functioning is below age level expectations. In describing how the student’s disability impacts his involvement in the general education curriculum, the IEP states that his decreased fine motor skills and visual perception “inhibit his handwriting skills and most times make his writing illegible.”
12. The IEP documents that the student requires the following response accommodations for instruction and assessments:
  - Assistive technology;
  - ELA/L, science, government constructive response speech-to-text;
  - ELA/L, science, government constructive response external assistive technology device;
  - Monitor test response;
  - Word prediction external device; and
  - Answers recorded in test book.

As the basis for these accommodations, the IEP states that “the test administrator will need to transcribe [the student’s] answers from his external device.” It further states that the student “will utilize a Dell laptop with word prediction software. [The student] requires speech-to-text on ELA [extended language arts] constructive responses and use of his external assistive technology device. To support [the student’s] focusing, he will have his test responses monitored and he will be able to answer in the test book.”

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13. The IEP documents that the student requires access to a word processing device as follows:
  - Under supplementary supports, the IEP reflects that the student requires access to a word processor device with speech to text, word prediction and text-to-speech on a daily basis. As a clarification of this supplementary support, the IEP states that the student will have access to a word processor to complete classwork and homework.
  - Under “Assistive Technology,” the IEP states that “due to [the student’s] documented weakness with fine motor and written expression, he requires access to a word processing device that provides speech recognition, word prediction, spell check, document review and text to speech to complete written classwork and homework.”
14. The IEP also documents that the student requires “paper-based editions” as a presentation accommodation during instruction and assessments.
15. This decision was made by the IEP team in April 2018 following a discussion by the IEP team that, on a reading assessment that was given in both paper and pencil format and using a computer, the student had achieved a higher score, by almost 200 points, when he responded using paper and pencil.
16. The IEP team discussed that the student “is able to navigate his word processing device and feels comfortable with technology,” and that he uses the computer for math assessments and written assignments. However, the parents requested that the student take the print version of the PARCC assessment in order to compare his performance against the results he achieved on the previous PARCC assessment taken using a computer.
17. The IEP team agreed to the parents’ request and added paper-based assessments as an instructional and assessment presentation accommodation to the IEP, while clarifying that “due to attention and focus, [the student] requires assessments to be given in paper pencil format.”
18. On October 25, 2018, the student’s mother sent an email to the school staff stating that “there may be some confusion in regard to how [the student] is suppose[d] to take tests (paper versus computer).” She reported her understanding that, with the exception of standardized tests and the SRI, the student was supposed to be able to take tests “using the method he prefers at the moment.”

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19. In its response sent to the student's mother on the same date, the school staff explained that the student is being given paper and pencil tests because the IEP requires paper and pencil format as a presentation accommodation for assessments. The school staff noted that, due to the parents' request that the student take the print version of the PARCC assessment, the same accommodations used for the PARCC assessment must also be used for daily assessments. The school staff offered to discuss the continued need for this accommodation at the upcoming IEP team meeting.
20. On November 29, 2018, the IEP team convened. The IEP team discussed the student's use of a computer versus paper and pencil for completing assessments. The IEP team decided that the student no longer requires the accommodation of paper and pencil test because "he uses his device on a daily basis in instruction." The IEP was revised to discontinue paper-based editions as a presentation accommodation for assessments and instruction.
21. There is documentation that, since the November 2018 IEP team meeting, the student has been given electronic versions of quizzes and classwork, and that he has used a word processor with speech to text capability to complete his answers.

### **CONCLUSION:**

Based on the Findings of Facts #10 - #21, the MSDE finds that the HCPS has ensured that the student has been provided with access to a word processing device, consistent with the IEP, since the start of the 2018-2019 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred.

### **TIMELINE:**

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 maintains 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

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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: Sean Bulson  
Colleen Sasdelli  
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