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State Superintendent of Schools

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Dr. Terrell Savage
Executive Director
Special Education & Student Services
Department of Special Services
Howard County Public Schools
The Old Cedar Lane Building
5451 Beaverkill Road
Columbia, Maryland 21044

RE: 
Reference: #20-064

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and Special Education Services (MSDE), 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 27, 2019, the MSDE received correspondence from Ms.  hereafter, “the complainant,” on behalf of her son. In the correspondence, the complainant alleged the following allegations:

1. The HCPS did not ensure that the decision made by the Individualized Education Program (IEP) team regarding occupational therapy consultation services was based on the student’s needs, in accordance with 34 CFR §300. 324.
2. The HCPS has not ensured that the student was consistently provided with the following supplementary aids, services, program modifications and supports required by the IEP, in accordance with 34 CFR §§300. 101 and .323.

- a. Modified content, modified grading system, and altered assignments when working on grade level content, in the general education setting that corresponds with his modified work standards; and
 - b. Training for staff at the beginning of the 2019-2020 school year by the occupational therapist and the assistive technology staff for participation and access to promote skills and independence.
3. The HCPS did not ensure that the student was consistently being provided with the specialized instruction primarily by a special education teacher as required by the IEP, in accordance with 34 CFR §§300.101, and .323.
 4. The HCPS did not ensure that the reports of the student's progress towards achievement of the annual IEP goals were consistent with the data, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is fifteen (15) years old and is identified as a student with an Intellectual Disability under the IDEA and has an IEP that requires the provision of special education and related services. The student attends [REDACTED]

FINDINGS OF FACTS:

IEP Requirements

1. The IEP in effect since November 27, 2018 reflects that the IEP team made the annual determination that the student would pursue a Maryland High School Certificate of Program Completion and participate in the Maryland Alternate Assessments. The IEP team documented that the student's academic instruction is based on the alternate achievement standards due to a significant cognitive disability and that he requires extensive, repeated instruction in adapted and modified curriculum and cannot participate in the general assessments with or without accommodations.
2. The IEP requires that the student be provided with the supplementary aids, services, program modifications, and supports for the student including the provision of the following:
 - a) Modified content,
 - b) Altered, adapted and modified assignments,
 - c) Modified grading system, and
 - d) Staff training at the beginning of the year with Assistive Technology (AT) and Occupational Therapy (OT), for instructional access.

3. The IEP also requires that in the general education setting, the student's work and grading system should be modified to correspond with "the student's modified work and standards." The special education staff report that the student's "A" grades reflect the student's participation and demonstration of the modified grade level content and concepts.

Occupational Therapy Services

4. The IEP requires that when the student is writing his name or short responses, lines are to be provided to promote alignment and legibility. The IEP requires the student have access to a Chromebook laptop with the computer application entitled *Read & Write* to be used as an alternative to handwriting. The IEP also requires support to integrate technology throughout the school day. The IEP further requires that the student be provided with a locker with a key for easy access.
5. At the April 9, 2019 IEP team meeting, the complainant requested OT consult services. The IEP team discussed that OT for this student is included as a direct service and identified that consultation is a part of this service.¹
6. The IEP requires that OT services include direct services for fifteen (15) minutes per quarter, in or out of the general education classroom to monitor and assist as needed with accommodations, strategies and alternatives related to access and participation in academics and functional fine motor tasks and activities. The IEP requires OT consultation with the case manager, student and the teachers.
7. The IEP also requires that the OT monitor and assist as needed with accommodations, strategies and alternatives to promote access and participation through adapted equipment and strategies, including a full teacher training in collaboration with a member of the Instructional Access Team (IAT)² to be held at the beginning of the 2018-2019 school year to explain the student's OT needs.

¹ The HCPS Department of Special Education and Student Services guidance when documenting OT services states that consultation services only is to be entered on the supplementary aids and services page instead of the services page. Periodic services are described as direct contact with the student and is reflected on the services page (December 2013).

² The Instructional Access Team is a multidisciplinary team that provides consultation services for students who need augmentative communication systems or adaptations involving technology (www.hcpss.org).

8. The log of OT services documents the OT visiting various settings within the student's schedule, checking in to see how the student is managing with provided strategies, the student's seating (the location of his seat and the physical way he sits in the chair), fine motor skills, access to technology, dependency upon prompts, modifications to curriculum and accommodations in academic and nonacademic settings. The OT log also indicates consultation occurred with all of the student's teachers, the student and the student's support staff on January 14, 2019, August 30, 2019, September 11, 2019, September 17, 2019 and September 25, 2019. These trainings were provided based on the student's OT needs, use of the computer, writing tools, and typing techniques, for example and how to support the student in accessing the equipment independently.

Special Education Instruction Including Supplementary Aids, Services, Program Modifications and Supports

9. The IEP requires that the student receive eight (8) hours and thirty (30) minutes of instruction outside of the general education classroom for reading, written language, and math provided by the special education teacher, general education teacher, and the instructional assistant. The IEP also requires that the student receive eight (8) hours and thirty (30) minutes of instruction inside of the general education classroom for English and one content course (science or social studies) provided by the special education teacher, general education teacher, and the instructional assistant.
10. The student's 9th grade schedule reflected that the student participated in general education classrooms for English 9 Honors and Earth Science. The special education staff report that the student had a special education support staff person (the same staff member currently working with the student) with him throughout the school day to facilitate his instruction with modified and adapted curriculum, coordinated by the special education case manager and the general education teachers. The student received math and language arts in separate special education classrooms with specialized instruction provided by special education teachers.
11. At the start of the 2019-2020 school year, the student participated in the general education classes for English 10 Honors and biology. The biology class is taught by two teachers, one dually certified to teach both general education and special education.
12. Within the English 10 Honors class, the student is taught with curriculum provided by the general education teacher, modified and adapted assignments by the special education case manager and facilitated in class by the student assistant.³ The speech/language

³ The Student Assistant, hired in December 2018, works under the supervision of the principal and the direction of the special education teachers to provide assistance to students with disabilities who require direct adult supervision to access appropriate educational programs (www.hcpss.org).

pathologist reinforces the student's communication skills weekly during the English 10 Honors class to support the student's speaking and listening skills and monitor his social interactions, level of social participation, and use of fluency strategies. There is a schedule of planning time for the general and special education teachers, as required by the IEP.

13. On October 23, 2019, the IAT conducted a training on the student's assistant technology needs and the HCPS acknowledge that the training was to be given by the OT and IAT and take place at the beginning of the 2019-2020 school year occurred and that two general education teachers did not participate in that training.

IEP Progress Reports

14. A review of the progress reports reflects that progress reports dated January 28, 2019, April 5, 2019, and June 21, 2019 were consistent with the data provided in the description of the student's progress toward achieving the goals by April 19, 2018 of the IEP. The progress reports were reviewed and revised by the IEP team at the annual review on April 19, 2018.
15. A review of the November 1, 2019 reading comprehension and written language progress reports reflects that progress was not documented and the HCPS acknowledges a violation with respect to this allegation.
16. On November 20, 2019 the IEP team met to conduct an interim review of the student's progress. At the IEP team held on November 20, 2019, the complainant's representative requested that the student's November 1, 2019 progress reports be reviewed and revised to properly report on the student's progress. In response to the request, the IEP team decided that the school staff will work with the Special Education Central Office Staff to review and revise the November 1, 2019 progress reports.
17. The written summary of the November 20, 2019 IEP team meeting reflects that the goals and objectives on the IEP were reviewed. The complainant expressed concern that the "graphic novel readability level was too high but stated the student did enjoy the images." The complainant also expressed concern about "the amount and sufficiency of the communication between special education teachers and general education teachers to prepare materials for the student to be able to access the curriculum and participate in class." The complainant informed the IEP team that the language of the curriculum needed to be modified and simplified, including the vocabulary to allow the student to access the concepts. The complainant also expressed concern about whether the modified work and the technology was being used to benefit the student's access to the curriculum and concepts.

18. In response to the complainant's concerns, the written summary of the November 20, 2019 IEP team reflect that the IEP team discussed the supports in place for the student including the contingency plan if support staff is absent. The written summary also reflects that the IEP team decided that they would identify specific dates and times when planning and modifying the student's work occurs. The special education teacher reported that in addition to planning together she often communicates with the general education teacher through email communication and by providing support staff with modified materials. The special education teacher agreed to upload worksheet based tasks that involve reading to allow the student maximum benefit from the Read & Write computer application. In addition, the special education teacher agreed to complete a daily task list for the student to be able to access his modified assignments. The school staff provided the task lists, schedules with planning times, emails, documentation of downloaded adapted materials and samples of modified curriculum.
19. The English 10 Honors teacher reported that the student consistently participates in class and has done well on modified vocabulary quizzes. The student is paired with two students in class for the next class project about a hero's journey. The general education teacher reported that he provides the curriculum and key concepts for the special education teachers, speech/language pathologist and support staff to modify and adapt so that the student can access the curriculum. He reported that the student makes good connections with the concepts and is excited about learning.

DISCUSSION/CONCLUSIONS:

Allegation #1: Provision of OT Services

In this case, the complainant alleges that the HCPS has a practice of denying OT services as consult services under the supplementary aids and services section on the IEP, thereby ignoring individual needs of students. The complainant also asserts that the current delivery model is not working because the student is not receiving the accommodations related to accessing and participating in general education classes.

Based on the Findings of Facts #1 - #13 and #17 - #19, the MSDE finds that the documentation does not support the allegation. Therefore, this office does not find that a violation occurred.

Allegation #2: Provision of Supplementary Aids and Services

Based on the Findings of Facts #3, #9 - #13, and #17 - #19, the documentation shows that the student is receiving the supplementary aids, services, program modifications and supports required by the IEP, in accordance with 34 CFR §§300.101 and.323. Therefore this office does not find that a violation occurred with respect to the allegation.

Based on the Finding of Fact #13, the HCPS did not provide the required training by OT and IAT at the beginning of the 2019-2020 school year. Therefore, the MSDE finds that a violation has occurred with respect to this aspect of the allegation.

Notwithstanding the violation, based on the Finding of Fact #8, multiple trainings have occurred throughout the year by the OT and the IAT, based on the student's needs. Therefore, no additional corrective action is required to remediate the violation.

Allegation #3: Provision of Special Education Instruction by the Special Education Teacher

In this case, the complainant alleges that the HCPS failed to consistently ensure the provision of specialized instruction primarily by the special education teacher.

Based on the Findings of Facts #1 - #4, #6 - #12, #14 and #16 - #19, the MSDE finds that the HCPS did ensure that the student was consistently provided with the specialized instruction required by the IEP, in accordance with 34 CFR §§300.101 and .320. Therefore, the MSDE finds no violation occurred with respect to this allegation.

Allegation #4: Progress Reports Consistent with the Data

Based on the Finding of Fact #15, the MSDE finds that the HCPS did not ensure that the reports of the student's progress towards achievement of the annual IEP goals were consistent with the data, for reading comprehension and written language, in accordance with 34 CFR §§300.101, .323 and .324. Therefore, the MSDE finds that a violation occurred with respect to this allegation.

Notwithstanding the violation, based on the Finding of Fact #16, the MSDE finds that on November 20, 2019, the HCPS IEP team made the decision to review and revise the November 1, 2019 progress reports. Therefore, no additional corrective action is required to remediate the violation.

TIMEFRAMES:

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.

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The parent 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:sf

c: Michael J. Martirano
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