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State Superintendent of Schools

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September 18, 2006

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10722 Lexington Street
Kensington, Maryland 20895

Ms. Vickie Strange-Moscoco, Director
Department of Special Education Operations
Montgomery County Public Schools
850 Hungerford Drive, Room 225
Rockville, Maryland 20850

RE: XXXXX
Reference: #07-002

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention 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 our investigation.

ALLEGATIONS:

On July 20, 2006, MSDE received correspondence from Ms. Holly L. Parker, Esq., hereafter the "complainant," filed on behalf of the above-referenced student and her parents, Mr. and Mrs. XXXXXXXXXXX. In that correspondence, the complainant alleged that Montgomery County Public School (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and the corresponding federal and State regulations with respect to the above-referenced student. The allegations investigated by this office were:

1. MCPS did not follow proper procedures when responding to the April 3, 2006 request for an Individualized Education Program (IEP) team meeting, in accordance with 34 CFR §300.343(a); and
2. MCPS did not provide the parents with timely written notice to the July 27, 2006 IEP team meeting, in accordance with COMAR 13A.05.01.07(C)(2).

INVESTIGATIVE PROCEDURES:

1. Ms. Kendra Riley, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On July 24, 2006, MSDE received additional documentation regarding the allegations, from the complainant.
3. On July 26, 2006, Ms. Riley contacted the complainant to clarify the allegations to be investigated. On the same day, a copy of the complaint was provided by facsimile to Ms. Gwendolyn J. Mason, Director of Special Education Services, MCPS; Ms. Vickie Strange-Moscoco, Director, Department of Special Education Operations, MCPS; and Ms. Allison Steinfelds, Supervisor, Equity Assurance and Compliance Office, MCPS. MSDE also sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. By copy of that correspondence, MSDE notified Ms. Mason of the allegations to be investigated and requested that her office review the alleged violations.
4. On August 16, 2006, MSDE received a response from MCPS to the allegations. On that same day, Ms. Riley conducted a phone interview with Ms. Amy Shvodian, Paralegal, MCPS.
5. On September 1, 2006, MSDE received additional documentation from MCPS.
6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings (LOF) include:
 - a. Correspondence from the complainant to MSDE, dated July 18, 2006;
 - b. IEP and IEP team minutes, dated August 16, 2005;
 - c. Correspondence from the complainant to Dr. Paula Howland, Supervisor, Placement and Assessment Services Unit, MCPS, dated April 3, 2006;
 - d. Invitation to IEP team meeting scheduled for July 27, 2006, dated July 20, 2006;
 - e. Correspondence from the complainant to Dr. Howland, MCPS, dated July 21, 2006;
 - f. Invitation to IEP team meeting scheduled for August 3, 2006, dated July 21, 2006;
 - g. Correspondence from the complainant to MSDE, dated August 8, 2006; and
 - h. Correspondence from MCPS to MSDE, dated August 15, 2006.

BACKGROUND:

The student is twelve (12) years old. She is identified as a student with the disability of mental retardation under IDEA. For the 2005-2006 school year, the student was parentally placed at the XXXX School, a nonpublic special education day school. During the period addressed by the investigation, the student's parents participated in the education decision-making process and notices of procedural safeguards were provided, as required by the regulations (Doc. b).

FINDINGS OF FACT:

1. On April 3, 2006, the complainant requested that MCPS staff convene an IEP team meeting because the student's parents were "requesting special education services for [the student] for the 2006-2007 school year" (Docs. c, g and interview with complainant).
2. MCPS staff acknowledge timely receipt of the request but did not respond until July 20, 2006. In its written response to MSDE, while they acknowledge, "a more timely response may have been given to the complainants April 3, 2006 letter," MCPS reported no violation with regard to the allegation. Additionally, in their written response, MCPS acknowledged that "the parents were not given ten (10) days notice for the proposed July 27, 2006 IEP meeting" (Doc. h).
3. On July 20, 2006, MCPS invited the parents to an IEP team meeting scheduled for July 27, 2006 (Docs. d and h).
4. On July 21, 2006, in response to the meeting invitation, the complainant sent, on behalf of the parents, correspondence to MCPS that explained her clients' unavailability and offered the alternative meeting dates of August 2 or 3, 2006 (Docs. e and h).
5. In response, on July 21, 2006, MCPS agreed to reschedule the meeting and the IEP team met on August 3, 2006 (Doc. f and h).

DISCUSSION/CONCLUSION:

Allegation #1: Request for IEP Team Meeting

Each public agency is responsible for conducting meetings for the purpose of reviewing and revising the IEP (34 CFR §300.343(a)). While the public agency is responsible for determining when it is necessary to conduct an IEP team meeting, the parents of a student with a disability have the right to request an IEP team meeting at any time. If a parent requests an IEP team meeting because the parent believes that a change is needed in the provision of a free appropriate public education (FAPE) to the student, the public agency must either schedule a meeting or provide the parents, in writing, with an explanation as to why the school system has determined that a meeting is not necessary (34 CFR §300.503 and 34 CFR §300, Appendix A, Question 20).

In this case, based upon Findings of Fact #1 – 3, MSDE finds that when the parents requested an IEP team meeting on April 3, 2006, MCPS was required to either schedule a meeting, within a reasonable time, or to provide written notice to the parent with an explanation of why the meeting would not be held. However, in this case, MCPS did neither. It was not until July 20, 2006, more than three (3) months after the parental request that MCPS responded with an invitation to an IEP team meeting, with no explanation for the delay.

Furthermore, MSDE is concerned with MCPS' written response to the allegations. MSDE finds that the response was inadequate in addressing the school system's failure to respond, in a timely

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manner, to the request for an IEP team meeting. MSDE requests that MCPS personnel be responsive to parental requests when possible.

Allegation #2: Written Invitation to IEP Team Meeting

The public agency must take steps to ensure that the parents of a student with a disability have the opportunity to be present at each IEP team meeting (20 U.S.C. §1414(d) and 34 CFR §300.345). The purpose of the notice requirement under the federal and State regulations is to ensure that parents are afforded the opportunity to participate in the educational decision-making process (34 CFR §300, Appendix A, Question 5).

In this case, based on Finding of Fact #3, MSDE finds and MCPS acknowledges that the parents were not given ten (10) days notice for the proposed meeting scheduled for July 27, 2006. However, based on Findings of Fact #4 and 5, MSDE finds that the school system agreed to reschedule the IEP team meeting, and because the parents participated in the August 3, 2006 IEP team meeting, MSDE determines that this procedural violation did not negatively impact the parents' ability to participate in the educational decision-making process.

CORRECTIVE ACTIONS/TIMELINES:

MSDE requires that MCPS take steps to determine if the violations identified in this LOF are unique to this case or if it represents a pattern of noncompliance by the Central Office IEP team. If it is determined that a pattern of noncompliance exists with regard to the requirements, MCPS must inform MSDE of the steps that will be taken to ensure that appropriate staff properly implement the requirements, including a description of how MCPS will evaluate the effectiveness of the steps taken.

The systemic corrective action must be completed within sixty (60) days of the date of this LOF. Within fifteen (15) days of completing each corrective action, MCPS shall submit documentation of completion of the required action. This documentation is to be submitted to this office to:
Attention: Chief, Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through Ms. Martha Roulette, Education Program Specialist, MSDE. Ms. Roulette may be contacted at (410) 767-0255.

Please be advised that the parties have the right to submit additional written documentation to this office within fifteen (15) days of the date of this LOF if they disagree with the conclusions. The additional written documentation must not have been provided or otherwise been available to this office during the complaint investigation and must be related to the issues identified and

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addressed in the LOF. Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, amend its findings and conclusions, set forth additional findings and conclusions, or enter new findings and conclusions.

Questions regarding the findings of fact, conclusions, or corrective actions contained in this LOF should be addressed to this office in writing. The student's parent and the school system maintain the right to initiate mediation or a due process hearing consistent with IDEA 2004. The MSDE recommends that this LOF be included with any request for mediation or due process.

Sincerely,

Carol Ann Baglin, Ed.D.
Assistant State Superintendent
Division of Special Education/
Early Intervention Services

CAB:kr

c: Parents c/o Holly L. Parker
Jerry Dean Weast
Gwendolyn J. Mason
Allison Steinfelds
Paula Howland
Edward L. Wulkan
Kendra Riley