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July 9, 2016

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Ms. Rebecca Rider
Director of Special Education
Baltimore County Public Schools
The Jefferson Bldg. 4th Floor
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: XXXXX
Reference: #16-126

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 the investigation.

ALLEGATIONS:

On May 10, 2016, 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 Baltimore County Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the following allegations:

1. The BCPS did not ensure that on April 7, 2016, the confidentiality of personally identifiable information about the student was maintained, in accordance with 34 CFR §§300.610 and .622 and the Family Educational Rights and Privacy Act (FERPA).
2. The BCPS did not ensure that written notice was provided to the complainant of who would be in attendance at the Individualized Education Program (IEP) meetings held between June 16, 2015 and March 17, 2016, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.

INVESTIGATIVE PROCEDURES:

1. On May 10, 2016, the MSDE received the State complaint and documentation to be considered.
2. On May 11, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Rebecca Rider, Director of Special Education, BCPS.
3. On May 20, 2016, Mr. Albert Chichester and Ms. Sabrina Austin, Complaint Investigators, MSDE, conducted a telephone interview with the complainant to discuss the allegations.
4. On May 25, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. The MSDE also notified Ms. Rider of the allegations to be investigated and requested that her office review the alleged violations.
5. On June 2, 2016 and July 5, 2016, the BCPS provided the MSDE with documentation to be considered.
6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
 - a. IEP meeting notice and signature page, dated June 16, 2015;
 - b. IEP meeting notice and signature page, dated July 17, 2015;
 - c. IEP meeting notice and signature page, dated September 29, 2015;
 - d. IEP meeting notice and signature page, dated November 3, 2015, held on November 5, 2015;
 - e. IEP meeting notice and signature page, dated November 25, 2015;
 - f. IEP meeting notice and signature page, dated December 18, 2015;
 - g. IEP meeting notice and signature page, dated March 16, 2016;
 - h. IEP meeting notice and signature page, dated March 17, 2016; and
 - i. Correspondence, dated May 7, 2016, and May 28, 2016, between the complainant and the Central Office staff; and
 - j. Correspondence from the complainants containing allegations of violations of the IDEA, received by the MSDE on May 10, 2016.

BACKGROUND:

The student is sixteen (16) years old and is identified as a student with Autism under the IDEA. He attends the XXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services (Docs. a - h, and j).

During the time period covered by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. a - h, and j).

ALLEGATION #1 DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

FINDINGS OF FACTS:

1. On April 7, 2016, the complainant participated in an IEP team meeting for an unrelated student as an invitee of that student's parents. Following the IEP team meeting, the complainant expressed concern to the BCPS Central Office staff that a school-based member of that IEP team had shared personally-identifiable information about his son at the meeting (Docs. i and j).
2. On April 28, 2016, the BCPS Central Office staff responded to the complainant that the only information that the school staff member provided was that she was unable to attend the continuation of the April 7, 2016 IEP team meeting on the date proposed because she would be attending another IEP team meet at that time. The BCPS Central Office staff indicated that no information was provided that would identify the student for whom the IEP team meeting was scheduled as the complainant's son (Docs. i and j).
3. There is no documentation that personally-identifiable information was shared by the school staff with members of the other student's IEP team (Doc. j).

DISCUSSION/CONCLUSIONS:

Parental consent must be obtained before personally-identifiable information is disclosed to parties, unless disclosure is specifically authorized without parental consent by the FERPA (34 CFR §99.31).

In this case, the complainant alleges that the school staff's sharing that she was scheduled to attend another IEP team meeting on a date proposed for the April 7, 2016 team to reconvene, resulted in the disclosure of personally-identifiable information about his son without his consent because the meeting was scheduled for his son.

Based on the Findings of Facts #1 - #3, the MSDE finds that no personally-identifiable information about the student was shared by the school staff with members of the other student's IEP team. Therefore, no violation is found with respect to the allegation.

ALLEGATION # 2 IEP MEETING NOTICE

FINDINGS OF FACTS:

4. Between June 16, 2015 and March 17, 2016, there were eight (8) IEP team meetings held for the student (Docs. a - h).
5. The written invitations to those meetings included the names and titles of the anticipated school-based members of the team, consistent with the BCPS practice (Docs. a - h).

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6. The documentation of the IEP team meetings indicates that some of the individuals who participated in the meetings were not included on the meeting invitations (Docs. a – h and j).
7. The complainant requests that staff training be conducted to ensure the future provision of IEP notices to parents, consistent with the BCPS practice (Doc. j).

DISCUSSION/CONCLUSIONS:

Each public agency must take steps to ensure that one or both of the parents of a student with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend, and scheduling the meeting at a mutually agreed on time and place.

The notice must indicate the purpose, time, and location of the meeting and who will be in attendance, and inform the parents of the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student (34 CFR §300.322)

The United States Department of Education, Office of Special Education Programs (OSEP) has explained that a public agency can satisfy the requirements of notifying parents of “who will be in attendance” by indicating in the notice of the IEP meeting only the positions, rather than the names, of the individuals from the public agency who will be in attendance (*Letter to Livingston*, 23 IDELR 564, July 24, 1995).

However, the BCPS provided both school staff *names and titles* on the IEP meeting notices. Therefore, the school system was required to ensure that those specific individuals served on the IEP teams in the respective roles indicated on the meeting notices.

Based on the Finding of Facts #4 - #7, the MSDE finds that the complainant was not provided with accurate information about the specific individuals who would be participating in the IEP meetings. Therefore, this office finds that a violation has occurred with respect to the allegation.

Notwithstanding the violation, based on the Finding of Fact #7, the MSDE finds that because the complainant is seeking staff training only as corrective action, no other student specific corrective action is required. In addition, staff training is being required as a result of an investigation of another State complaint (#16-125). Therefore, no additional school-based corrective action is required.

TIMELINE:

Please be advised that both the complainant and the BCPS 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 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.

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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 parties 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 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 Special Education/Early Intervention Services

MEF:ac

c: S. Dallas Dance
Conya Bailey
XXXXXXXXXXXX
Dori Wilson
Anita Mandis
Albert Chichester