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November 22, 2016

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Ms. Christina M. Harris
Director of Special Education
Calvert County Public Schools
1305 Dares Beach Road
Prince Frederick, MD 20678

RE: XXXXX
Reference: #17-040

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.

ALLEGATION:

On October 24, 2016 the MSDE received a complaint from Mr. XXXXXXXXXXXXX hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Calvert County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the CCPS did not follow proper procedures when determining the Individual Education Program (IEP) participants for the August 25, 2016 IEP team meeting, in accordance with 34 CFR §300.321.

INVESTIGATIVE PROCEDURES:

1. On October 25, 2016, the MSDE provided a copy of the State complaint, by facsimile, to Ms. Christina Harris, Director of Special Education, CCPS.

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2. On November 1, 2016, the MSDE sent correspondence to the complainant that identified the allegation subject to this investigation. On the same date, the MSDE notified the CCPS of the allegation and requested that the CCPS review the alleged violation.
3. On November 9, 14 and 17, 2016, the MSDE requested documentation from the CCPS.
4. On November 13, 14 and 17, 2016, the CCPS provided documentation to the MSDE for consideration.
5. On November 14, 2016, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, and Ms. K. Sabrina Austin, Education Program Specialist, MSDE, discussed the allegation with Ms. Harris and Ms. Nancy Gregory, Supervisor of Special Education, CCPS, via a telephone interview. On the same date, Ms. Mandis and Ms. Austin conducted a telephone interview with Mr. XXXXXXXXXX, Vice Principal and Individual Education Program (IEP) Chairperson, XXXXXXXXXXXXXXXX, CCPS.
6. On November 15, 2016, Ms. Mandis discussed the allegation with the complainant via a telephone interview.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Notice of the IEP team meeting scheduled for August 25, 2016, identifying individuals invited by the complainant to attend the meeting;
 - b. Electronic mail (email) communications between the complainant and the school system staff, dated August 22, 23 and 24, 2016;
 - c. The school system staff's notes of telephone communications with the complainant, dated August 19 to 24, 2016;
 - d. Prior Written Notice form, dated August 25, 2016; and
 - e. Correspondence from the complainant alleging a violation of the IDEA, received by the MSDE on October 24, 2016.

BACKGROUND:

The student attends XXXXXXXXXXXXXXXXXXXX and is not identified as a student with a disability under the IDEA (Docs. d and e).

During the period of time addressed by this investigation, the complainant was provided with written notice of the procedural safeguards (Doc. e).

FINDINGS OF FACTS:

1. On August 18, 2016, the CCPS received the complainant's response to its invitation to the IEP team meeting scheduled for August 26, 2016. In his response, the complainant indicated that he intended to bring a "reporter" to the meeting. The complainant further indicated, on the returned form, that the individual to serve in this role was "TBD" [to be determined] (Doc. a).
2. On August 23, 2016, the CCPS Central Office personnel and the complainant spoke by telephone. There is documentation that, during that conversation, the CCPS Central Office personnel inquired about the "reporter" that the complainant indicated he had invited to attend the IEP meeting. The documentation reflects that the complainant described the reporter as a journalist who is a family friend with special knowledge of the student (Doc. c).
3. During the telephone conversation, the CCPS Central Office personnel made further inquiry about the role that the complainant intended the reporter to have in the meeting. The documentation reflects that the complainant explained that the reporter would be writing a story about special education in Calvert County, and that he would "not [be] contributing [to the meeting] but more as a listener." The CCPS Central Office personnel expressed concern about the confidential nature of IEP team meeting discussions about the student, and noted that based on the "information shared [it] would not be appropriate for a journalist to attend" the meeting (Doc. c).
4. On August 24, 2016, the CCPS Central Office personnel spoke with the principal at the student's school. The principal shared that, during a telephone call with the complainant on the same date, the complainant informed the school staff that he would not be bringing the reporter to the IEP team meeting (Docs. b and c, and interview with the school system staff).
5. Also on August 24, 2016, following the conversation between the complainant and the principal, the CCPS Central Office personnel sent an email to the complainant acknowledging his decision not to have the reporter attend the meeting. The CCPS Central Office personnel noted that the presence of a journalist at an IEP team meeting with the "specific intent" that the complainant shared during an earlier conversation with the CCPS Central Office personnel "would not be appropriate or permitted" (Docs. b and c, and interview with the school system staff).

DISCUSSION/CONCLUSIONS:

In this case, the complainant alleges that the CCPS refused to allow an individual, at his discretion, who has knowledge of the student to participate as a member of the IEP team at the August 25, 2016 IEP team meeting (Doc. e).

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The IEP team may include, at the discretion of the parent or public agency, other individuals who have knowledge or special expertise regarding the student. The determination of the knowledge or special expertise of these individuals must be made by the party who invited the individual to be a member of the IEP team (34 CFR §300.321 and Analysis of Comments and Changes, pp. 46670 and 46674).

The IDEA does not specifically address whether members of the news media who have parent consent may be observers at an IEP team meeting. However, the United States Department of Education, Office of Special Education Programs (OSEP), has provided guidance indicating that members of the new media, as observers, are not intended to be included as IEP team members who have knowledge or special expertise regarding the student (OSEP Letter, dated July 2, 2001).

Based on the Findings of Facts #1 and #2, the MSDE finds the individual who the complainant invited to the August 25, 2016 IEP team meeting was someone he believed to have knowledge about the student. However, based on the Findings of Facts #1 and #3 - #5, the MSDE finds that the documentation reflects that the individual was being invited as a member of the new media, which is not an appropriate role for an IEP team member. Therefore, the MSDE does not find that a violation occurred.

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 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.

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 parents and the CCPS 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

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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/ksa

c: Daniel D. Curry
Nancy Gregory
XXXXXXXX
Dori Wilson
K. Sabrina Austin
Anita Mandis
Nancy Birenbaum