MEMORANDUM

TO: Local Directors of Special Education

FROM: Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Special Education/Early Intervention Services

DATE: July 18, 2016

SUBJECT: Federal Guidance on Definition of “Visual Impairment”

In conducting dispute resolution and providing family support services, it has been brought to the attention of the Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS) that some local school systems may be defining or interpreting “visual impairment” in ways that exclude certain students from eligibility for special education and related services under the Individuals with Disabilities Education Act (IDEA). Specifically, it has been alleged that students with “convergence insufficiency” – a common binocular vision disorder – have been excluded because they are not experiencing blindness or low vision.

Visual impairment, for purposes of eligibility under the IDEA, means “an impairment in vision that, even with correction, adversely affects a child’s educational performance,” and includes both partial sight and blindness. 34 CFR § 300.8(c)(13). The State definition mirrors the federal definition. See COMAR 13A.05.01.03B(84). States and, by extension, local school systems may not use criteria or other, narrower definitions of “visual impairment” that result in the exclusion of students who otherwise meet the definition in the IDEA. Rather, any impairment in vision, regardless of severity, is covered, provided that such impairment, even with correction, adversely affects a child’s educational performance. See Letter to Kotler, 65 IDELR 21 (Nov. 12, 2014) (emphasis in original).

Therefore, there is no provision in the IDEA or State law that would categorically exclude students with “convergence insufficiency” from being eligible for special education and related services. As appropriate, an assessment of vision should be conducted to determine whether there is an adverse effect on the student’s ability to learn to read, write, do mathematical calculations, and use computers and other assistive technology, as well as the student’s ability to be involved in and make progress in the general curriculum. Once the individualized education program (IEP) team has identified the student as having a “visual impairment,” the IEP team must still determine whether the student requires specialized instruction and related services, therefore qualifying as a “child with a disability” under the IDEA. It is a fact-specific decision as to whether a particular accommodation or therapy is necessary to benefit from special education.

In accordance with the MSDE’s general supervision responsibilities, we are attaching a copy of the federal guidance letter referenced above. Please distribute to IEP teams and all other appropriate personnel, as well as provide training as appropriate. If you have additional questions on this topic, please feel free to contact Alma McPherson, Branch Chief of Policy and Accountability, at 410-767-0240 or via e-mail at alma.mcpherson@maryland.gov.

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cc: Alma McPherson