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Interim State Superintendent of Schools

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February 10, 2012

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Dr. Kim Hoffmann
Interim Executive Director, Special Education
Baltimore City Public Schools
200 East North Avenue
Baltimore, Maryland 21202

RE: XXX
Reference: #12-042

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 December 19, 2011, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son. In that correspondence, the complainant alleged that the Baltimore City Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student. This office investigated the allegation that the BCPS did not follow proper procedures when conducting an evaluation on May 26, 2011, in accordance with 34 CFR §§ 300.301, .304-.306 and COMAR 13A.05.01.06.

INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On December 20 2011, the MSDE sent a copy of the complaint, via facsimile, to Dr. Kim Lewis, Chief Human Capitol Officer, Human Capitol, BCPS; Dr. Kim Hoffmann, Interim Executive Director, Special Education, BCPS; and Ms. Nancy Ruley, Associate Counsel, BCPS.

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3. On December 21, 2011 and January 3, 2012, Ms. Moyo unsuccessfully attempted to contact the complainant, by telephone, to clarify the allegation to be investigated.
4. On January 4, 2012, the MSDE sent correspondence and attachments to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified Dr. Hoffman of the allegation and requested that her office review the alleged violation.
5. On January 9, 2012, the BCPS provided the MSDE with a written response to the complaint and documentation from the student's education record.
6. On February 6, 2012, Ms. Moyo conducted a telephone interview with Ms. Ruley.
7. The MSDE reviewed documentation relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP team meeting sign-in sheet, dated June 17, 2011;
 - b. Consent for assessment, dated June 17, 2011;
 - c. IEP team meeting notice, dated November 15, 2011;
 - d. Evaluation report and determination of initial eligibility form, dated November 17, 2011;
 - e. IEP team meeting sign-in sheet, dated November 21, 2011;
 - f. Prior written notice form, dated November 22, 2011;
 - g. IEP team meeting sign-in sheet, dated December 8, 2011;
 - h. IEP, dated December 8, 2011;
 - i. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on December 19, 2011;
 - j. Written response to the complaint from the BCPS received by the MSDE on January 9, 2012; and
 - k. IEP team meeting notice, dated February 1, 2012.

BACKGROUND:

The student is fourteen (14) years old and attends XXXXXXXXXXXXXXXX (XXXXXXXXXX). On November 21, 2011 he was identified as a student with autism under the IDEA, and receives special education instruction and related services¹. During the period of time covered by this

¹ Prior to being identified as a student with a disability under IDEA, the student was provided with supports through the use of a, a 504 Accommodation Plan (504 Plan) under Section 504 of the Rehabilitation Act of 1973 (Docs. b, d, and h).

investigation, the complainant participated in the educational decision-making process and was provided with written notice of the procedural safeguards, as required (Docs. a-j).

SUMMARY OF FINDINGS/CONCLUSIONS:

In its written response, the BCPS acknowledges that proper procedures were not followed when conducting the evaluation of the student to determine if he is a student with a disability under the IDEA. Specifically, the BCPS personnel acknowledge that the evaluation that began on May 26, 2011 was not completed until November 21, 2011 and, as a result, neither the IDEA evaluation was completed nor the IEP developed within required timelines. The MSDE appreciates the acknowledgement of the BCPS and concurs with the school system's finding regarding the violation (Docs. d and j).

CORRECTIVE ACTIONS/TIMELINES:

The MSDE accepts the BCPS proposal to convene an IEP team meeting scheduled for February 10, 2012, to review the student's IEP and placement. At the meeting, the team will determine the amount and nature of *compensatory services*² that will be provided to redress the identified violation (Docs. j and k).

The MSDE further accepts the BCPS proposal to review student records and determine if there are any other students at XXXXXXXXX whose evaluation or reevaluation may not have been completed within the required timelines. Following this review, the BCPS will convene an IEP team meeting for each student identified, whose evaluation or reevaluation was not completed, as required. At these meetings, the IEP team will determine whether there was an adverse impact to the student and if so, the team will determine the remedy to address the violation.

The MSDE concurs with the corrective action proposed by the BCPS and the MSDE requires the BCPS to provide documentation of the completion of all of the identified corrective actions by April 15, 2012.

Documentation of completion of the required actions is to be submitted to this office to the attention of: Chief, Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

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

² For the purpose of this letter, these are services, as determined by the IEP team, needed to remediate the denial of appropriate services to the student (34 CFR §300.151).

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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 letter if they disagree with the findings of fact 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. Pending the decision on a request for reconsideration, the school system must implement any corrective actions consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The student's 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 for the student, including issues subject to a State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or due process.

Sincerely,

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

MEF/km

cc: Andrés Alonso
Nancy Ruley
Erin Leff
XXXXXXXXXX
Dori Wilson
Anita Mandis
Martha J. Arthur
Koliwe Moyo