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State Superintendent of Schools

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August 13, 2013

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Ms. Debra Brooks
Executive Director of Special Education
Baltimore County Public Schools
The Jefferson Building
105 West Chesapeake Avenue
6901 Charles Street
Towson, Maryland 21204

RE: XXXXX
Reference: #13-105

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 reports the final results of the investigation.

ALLEGATION:

On June 17, 2013,¹ the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of 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 student.

¹ On June 11, 2013, the complainants provided the MSDE with correspondence containing the allegation of a violation of the IDEA, which did not contain all of the necessary information to initiate a State complaint investigation. On June 17, 2013, the complainant provided the required information and a complaint investigation was initiated (34 CFR §300.153).

The MSDE investigated the allegation that the BCPS did not ensure the student was provided with the special education instruction and accommodations required by the Individualized Education Program (IEP), in accordance with 34 CFR §§300.101 and .322. Specifically, that the BCPS did not ensure that the student was provided with an “inclusion teacher” in the classroom and extra time to complete work, as required by the IEP from the start of 2012-2013 school year until November 2, 2012².

INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On June 11, 2013, the complainant sent correspondence to the MSDE alleging a violation of the IDEA.
3. On June 17, 2013, Ms. Anita Mandis, Section Chief, Family Support and Dispute Resolution Branch, MSDE conducted a telephone interview with the complainant to clarify the allegation to be investigated and discussed the need for the complainant to provide a proposed remedy in order for a State complaint investigation to be initiated. On the same date, the MSDE received a proposed remedy from the complainant.
4. On June 18, 2013, the MSDE sent a copy of the complaint, via facsimile, to Ms. Debra Brooks, Director of Special Education, BCPS; Mr. Stephen Cowles, Associate General Counsel, Special Education Compliance, BCPS; and Ms. Sharon Floyd, Supervisor of Compliance, BCPS.
5. On June 25, 2013, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the BCPS of the allegation and requested that the BCPS review the alleged violation.
6. On July 22, 2013, Ms. Moyo requested, via electronic mail (email), that the BCPS staff provide the MSDE with documents from the student’s educational record.
7. On August 1, 2013, Ms. Moyo contacted the BCPS staff by telephone and again, requested documents from the student educational record.
8. On August 2, 2013, Ms. Moyo reviewed the student’s educational record at the XXXXX XXXXX (XXXXXXXX) and interviewed Ms. XXXXXXXXXXXX, Principal, XXXXX.

² The allegation was identified for the time period of the start of the 2012-2013 school year until October 2012. During the course of the investigation, it was discovered that the IEP was in effect until November 12, 2012.

Ms. Floyd was present at the record review as a representative of the BCPS and to provide information on the BCPS policies and procedures, as needed.

9. On August 8, 2013, Ms. Moyo conducted a telephone interview with the complainant confirming the current mailing address.
10. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP team meeting notice, dated April 18, 2012;
 - b. IEP, dated May 2, 2012;
 - c. Acknowledgement of receipt of the IEP, dated August 22, 2012;
 - d. IEP team meeting notice, dated October 25, 2012;
 - e. IEP team meeting notes, dated November 2, 2012;
 - f. Student Support Team meeting notes, dated November 2, 2012;
 - g. 504 Accommodations Plan, dated November 2, 2012;
 - h. Reports of progress towards achieving the annual goals, dated November 7, 2012;
 - i. Correspondence and attachments from the complainant to the MSDE, received on June 11 and 17, 2013; and
 - j. Student attendance record for the 2012-2013 school year.

BACKGROUND:

The student is eighteen (18) years old and during the 2012-2103 school year, she attended XXXXXXXX. From the start of the school year until November 2, 2012, the student was identified as a student with a Specific Learning Disability under the IDEA.

On November 2, 2012, the IEP team determined that the student no longer meets the criteria for identification as a student with a disability under the IDEA. On the same date, the student was identified as a student with a disability under Section 504 of the Rehabilitation Act of 1973 based on a "Cognitive Disorder," and a 504 Accommodations Plan was developed.

On June 6, 2013, the student graduated, with a Maryland High School Diploma, from XXXXXX XXX.

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

FINDINGS OF FACTS:

1. The IEP in effect from the start of the 2012-2013 school year until November 2, 2012 required that the student be provided with special education instruction in reading and

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writing in the general education classroom for one (1) hour per day to assist her in achieving the annual IEP goals. It indicated that the primary provider would be the general education teacher, but that the special education teacher would also be able to provide the service. The IEP further required that the student be provided with accommodations and supports, including extended time to complete assignments and tests (Doc. b).

2. There is documentation that, on August 22, 2012, the student's teachers and related service providers received a copy of the IEP (Doc. c).
3. There is no documentation of the provision of extended time to complete assignments or tests (review of the educational record).
4. The reports of the student's progress towards achievement of the annual IEP goals, dated November 7, 2012, document that the goals were addressed through the provision of special education instruction and that the student had made progress and mastered the goals. There is also documentation that on June 6, 2013, the student was issued a Maryland High School Diploma (Docs. h and i).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that a student is provided with the special education and related services required by the IEP in order to ensure that the student receives a Free Appropriate Public Education (FAPE) (34 CFR §§300.101, .320, and .324). In order to ensure implementation of each student's IEP, the public agency must take steps to have each student's IEP accessible to the individuals responsible for its implementation (34 CFR §300.323).

In this case, the complainant alleges that the IEP required that the student be provided with special education instruction that would be co-taught by special and general education teachers in a general education classroom, and that school staff did not provide the student with special education instruction by both teachers in the same classroom. She also alleges that the student was not provided with extended time to complete assignments, as required by the IEP.

Based on the Findings of Facts #1 and #2, the MSDE finds that the IEP did not require that the classes be co-taught by special and general education teachers. Therefore, the MSDE does not find that a violation occurred with regard to this aspect of the allegation.

Based on the Finding of Fact #3, the MSDE finds there is no documentation of the provision of extended time to complete assignments and tests, as required by the IEP. Therefore, the MSDE finds that a violation occurred with regard to this aspect of the allegation.

Notwithstanding this violation, based on the Findings of Facts #2 and #4, the MSDE finds that teachers had access to the IEP and addressed the annual IEP goals. Further, based on the Finding

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of Fact #4, the MSDE finds that the student graduated from school with a Maryland High School Diploma. Therefore, this office finds that the violation did not negatively impact the student's ability to benefit from the educational program, and no corrective action is required.

Questions regarding the Findings of Facts, and Conclusions contained in this letter should be addressed to this office in writing. The complainant 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 FAPE 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/km

cc: S. Dallas Dance
XXXXXXXXXXXX
Sharon Floyd
Stephen Cowles
Pamela Weitz
XXXXXXXXXXXX
Dori Wilson
Anita Mandis
Koliwe Moyo