



Lillian M. Lowery, Ed.D.  
State Superintendent of Schools

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March 21, 2014

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Dr. Kim Hoffmann  
Executive Director of Special Education  
Baltimore City Public Schools  
200 East North Avenue, Room 204-B  
Baltimore, Maryland 21202

RE: XXXXX  
Reference: #14-061

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 January 27, 2014<sup>1</sup>, the MSDE received a complaint from Ms. XXXXXXXXXXX, hereafter, “the complainant,” on behalf of the above-referenced student. 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.

The MSDE investigated the allegation that the BCPS did not ensure that the student received adult support on January 9, 2014, as required by the Individualized Education Program (IEP), in accordance with 34 CFR §§300.101 and .323.

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<sup>1</sup> On January 17, 2014, the MSDE received correspondence from the complainant to initiate a complaint investigation that did not include a proposed remedy. On January 27, 2014, the complainant provided the MSDE with this required information and the complaint investigation was initiated.

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### **INVESTIGATIVE PROCEDURES:**

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the complaint.
  2. On January 30, 2014, the MSDE sent a copy of the complaint, via facsimile, to Dr. Kim Hoffmann, Executive Director of Special Education, BCPS, and Ms. Nancy Ruley, Associate Counsel, BCPS.
  3. On February 25, 2014, Ms. Williams spoke with the complainant by telephone to discuss the allegation being investigated.
  4. On February 27, 2014, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation being investigated. On the same date, the MSDE notified the BCPS of the allegation being investigated and requested that the BCPS office review the alleged violation.
  5. On March 4, 2014, Ms. Williams and Ms. Koliwe Moyo, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed the following school staff:
    - a. Ms. XXXXXXXXXXXX, Special Education Teacher;
    - b. Ms. XXXXXXXXXXX, Principal; and
    - c. Ms. XXXXXXXXXXX, IEP Chairperson.
- Ms. Ruley attended the site visit as a representative of the BCPS and to provide information on the BCPS policies and procedures, as needed.
6. On March 6 and 17, 2014, the BCPS sent the MSDE information via electronic mail (email) correspondence to consider during the investigation.
  7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
    - a. Correspondence and attachments from the complainant to the MSDE, received on January 17 and 27, 2014;
    - b. IEP, dated August 23, 2013;
    - c. Emergency Substitute Plans and Procedures, undated;
    - d. Special Education Teacher attendance data, from August 2013 through June 2014;
    - e. Substitute Teacher Sign-in log, dated January 9, 2014;
    - f. Notice of the IEP team decisions, dated January 14, 2014; and
    - g. IEP, dated January 14, 2014.

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### **BACKGROUND:**

The student is eight (8) years old and he attends XXXXXXXXXXXXXXXXXXXX. He is identified as a student with Autism under the IDEA and he receives special education and related services. 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 procedural safeguards (Docs. b and g).

### **FINDINGS OF FACTS:**

1. The IEP in effect on January 9, 2014 required that the student be provided with assistance with focusing on his work, facilitation of peer relationships, and assistance with transitions (Doc. b).
2. The school staff report that it is their practice to supervise the student during his transition to transportation during dismissal of students at the end of the school day (Doc. c and interview with school staff).
3. On January 9, 2014, the student was not supervised by the school staff when he made the transition from the school building to the complainant's car during dismissal at the end of the school day. The school staff report that this resulted from confusion among the staff when a substitute teacher was assigned to the student's class. However, there is documentation that the substitute teacher was provided with instructions to ensure that the student was supervised when transitioning to transportation at dismissal (Docs. c, d, and e).
4. At an IEP team meeting held on January 14, 2014, the IEP team revised the IEP to clarify that the student must be supervised when transitioning to and from transportation in response to the complainant's concern about the lack of such supervision at dismissal on January 9, 2014 (Docs. f and g).

### **DISCUSSION/CONCLUSION:**

The public agency must ensure that special education services, accommodations, and supplementary aids and services, are provided in accordance with each student's IEP (34 CFR §300.101). In order to ensure that the student is provided with the special education services required by the IEP, each teacher and service provider must be informed of their specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP (34 CFR §300.323).

Based on the Findings of Facts #1, #2, and #3, the MSDE finds that the BCPS did not ensure that the student was supervised during his transition at dismissal on January 9, 2014. However, based on the Finding of Fact #4, the MSDE finds that the BCPS, has taken steps to ensure the violation does not recur. Therefore, no further corrective action is required.

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Please be advised that the complainant and the school system 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 Conclusion 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 Conclusion is necessary. Upon consideration of this additional documentation, this office may leave its Findings and Conclusion intact, set forth additional Findings and Conclusions, or enter new Findings and Conclusions.

Questions regarding the Findings and Conclusion 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 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:tw

cc : Tisha S. Edwards

Nancy Ruley

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Anita Mandis

Tyra Williams