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May 16, 2014

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

RE: XXXXX
Reference: #14-073

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 March 17, 2014, the MSDE received a complaint from Mr. XXXXXXXXX and Mrs. XXXXXXXXX, hereafter, “the complainants,” on behalf of the above-referenced student. In that correspondence, the complainants 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 reevaluation of the student was completed within the required timelines, in accordance with 34 CFR §300.303 and COMAR 13A.05.01.06.

INVESTIGATIVE PROCEDURES:

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On March 18, 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.

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3. On March 18, 2014, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, Family Support Dispute Resolution Branch, MSDE, spoke with the student's mother by telephone and clarified the allegation to be investigated.
4. On April 3, 2014, the MSDE sent correspondence to the complainants 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 office review the alleged violation.
5. On April 15, 2014, the BCPS provided the MSDE with a written response to the complaint.
6. On April 23, 2014, the MSDE contacted the student's mother regarding the written response provided by the BCPS.
7. On April 23, 2014 and May 7, 2014, the MSDE contacted the BCPS via telephone and electronic mail (email) correspondence to request additional information regarding the written response.
8. On May 8, 2014, the BCPS sent additional information via email for the MSDE to consider during the investigation.
9. The MSDE reviewed the documentation relevant to the findings and conclusions referenced in this Letter of Findings, which includes the documents listed below.
 - a. Correspondence from the complainants to the MSDE, received on March 17, 2014;
 - b. BCPS IEP, dated December 5, 2013;
 - c. BCPS IEP, dated March 18, 2014;
 - d. Written response to the MSDE from the BCPS, received on April 15, 2014; and
 - e. Email correspondence from the BCPS to the MSDE, received on May 8, 2014.

BACKGROUND:

The student is five (5) years old and is identified as a student with Autism under the IDEA. He attends the XXXXXXXXXXXXXXXXXXXX (XXXXXXXXXXXX), where he receives special education and related services. During the period of time addressed by this investigation, the complainants participated in the education decision-making process and were provided with written notice of the procedural safeguards (Docs. b and c).

FINDINGS OF FACTS:

1. On December 5, 2013, the IEP team began a reevaluation of the student and recommended that a speech/language and occupational therapy assessment be conducted (Docs. b, c and d).

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2. On February 18, 2014, the IEP team reconvened to consider the assessment results. At the IEP team meeting, the school staff provided the complainants with a copy of the speech/language assessment report. However, the occupational therapy assessment had not been completed, so they were unable to provide that report. The complainants requested that the IEP team meeting be rescheduled so that they would have an opportunity to review the results of the assessments prior to the meeting and the IEP team meeting was rescheduled for March 4, 2014 (Docs. a, d and e).
3. On March 4, 2014 the IEP team meeting had to be rescheduled due to a delayed school opening. The school system staff reports that a copy of the results of the occupational therapy assessment was provided to the complainants on March 4, 2014 (Docs. c, d, and e).
4. The school staff attempted to reschedule the March 4, 2014 IEP team meeting for later that same day, in order to complete the reevaluation within the required timelines. However, the complainants report that they requested time to review the occupational therapy assessment report, since it had been just provided to them that day, and the meeting was rescheduled for March 18, 2014 (Docs. c and d).
5. On March 18, 2014, the IEP team considered the results of both the speech/language assessment and the occupational therapy assessment and completed the reevaluation process (Docs. c and d).
6. The BCPS reports that it is the responsibility of the IEP chairperson to complete tasks required to conduct reevaluations, such as providing documents to parents five (5) days prior to the IEP team meeting in which they will be considered. The BCPS also reports that in January 2014, the student's IEP chairperson began an extended leave of absence. A substitute began serving as the IEP chairperson at that time, and there was a "miscommunication" about the substitute IEP chairperson's responsibility for these tasks (Doc. d).
7. Both the complainants and the BCPS report that the IEP team decided that the delay in completion of the reevaluation did not have a negative impact on the student's ability to benefit from the education program (Docs. c and d and interview with the student's mother).

DISCUSSION/CONCLUSIONS:

When conducting a reevaluation, the IEP team must review existing assessment data and determine whether additional data is needed. If the IEP team decides that additional data is required, the public agency must ensure that assessments are conducted, the results are considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety (90) days of the date the team determines that assessments are required (COMAR 13A.05.01.06).

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At least five (5) business days before a scheduled IEP team meeting, the school staff must provide the parents with an accessible copy of each assessment, report, data chart, draft IEP, or other document that the team plans to discuss at the meeting. This requirement is to ensure that the parents have an opportunity to review the documents and to facilitate their informed participation in the development, review, and revision of the student's IEP (Md. Code Ann., Educ., § 8-405(c) and COMAR 13A.05.01.07D, and the *MSDE's Technical Assistance Bulletin 20*, dated September 2012).

Based on the Findings of Facts #1-#7, the MSDE finds that the reevaluation was not conducted within the required timelines due to the substitute IEP team chairperson not ensuring that the tasks were completed in a timely manner; as a result, there was a need to reschedule the IEP team meetings so that the complainants had the opportunity to review the assessment results prior to the IEP team meetings. Therefore, the MDSE finds that a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #8, the MSDE finds that the delay in completion of the reevaluation did not have a negative impact on the student's ability to benefit from his education program. Therefore, no student-specific corrective action is required to remediate the violation.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the BCPS to provide documentation by June 15, 2014, that the XXXXX XXXXXX staff who are responsible for completing tasks needed to conduct reevaluations have been informed of their responsibilities.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution 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.

Please be advised that the complainants 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 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.

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Questions regarding the Findings, Conclusions and Corrective Action contained in this letter should be addressed to this office in writing. The complainants 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
Kim Hoffmann
Nancy Ruley
XXXXXXXXXXXX
Marcella E. Franczkowski
Anita Mandis
Tyra Williams