



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

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June 6, 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: #14-087

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 April 11, 2014, the MSDE received a complaint from Ms. XXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, 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 complainant was provided with a proposed Individualized Education Program (IEP) at least five (5) days prior to an IEP team meeting held on April 10, 2014, in accordance with Md. Code Ann., Educ., §8-405 and COMAR 13A.05.01.07.

### **INVESTIGATIVE PROCEDURES:**

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On April 25, 2014, Ms. Moyo conducted a telephone interview with the complainant to clarify the allegation to be investigated.
3. On May 2, 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, former Associate Counsel, BCPS and notified Dr. Hoffmann of the allegation and requested that her office review the alleged violation. On the same date, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation.
4. On May 14, 2014, Ms. Moyo conducted a telephone interview with Ms. Ruley and obtained documentation from the Maryland Online IEP system.
5. 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 April 11, 2014;
  - b. IEP team meeting notice, dated March 12, 2014;
  - c. Excerpts from school system parent contact log, dated March 18 and 21, 2014;
  - d. IEP and IEP team meeting summary, dated April 10, 2014;
  - e. Letter of Findings for State complaint #14-072, issued on May 6, 2014; and
  - f. IEP and IEP team meeting summary, dated May 13, 2014.

### **BACKGROUND:**

The student is fourteen (14) years old and attends XXXXXXXX Middle School. He is identified as a student with an Other Health Impairment under the IDEA, related to a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD), and receives special education instruction (Docs. a - f).

### **FINDINGS OF FACTS:**

1. On April 10, 2014, the IEP team met and considered the complainant's concerns about the removal of testing accommodations from the student's IEP in July 2013 and a report of the student's progress toward achieving the annual IEP goals, dated January 17, 2014 (Docs. a, d, and e).

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2. There is documentation that the school staff provided the complainant with copies of the progress report that was considered at the April 10, 2014 IEP meeting at least five (5) business days before the meeting (Docs. a and d).
3. There is no documentation that a proposed IEP was developed for the team's consideration at the April 10, 2014 IEP team meeting (review of the educational record).

### **DISCUSSION/CONCLUSIONS:**

In order to ensure that parents are provided with the opportunity to prepare for the discussions that take place during an IEP team meeting, the public agency must ensure that they are provided with a copy of each assessment, report, data chart, and draft IEP, to the extent one has been developed, which is to be discussed at a scheduled IEP team meeting. These documents must be provided to the parents at least five (5) business days prior to the meeting, unless there are extenuating circumstances. While the public agency is encouraged to come to an IEP team meeting prepared to discuss evaluation findings and preliminary recommendations, it is not required to develop a proposed IEP for consideration by the IEP team (Md. Code Ann., Educ., §8-405 (2010), COMAR 13A.05.01.07D(3), the MSDE's *Technical Assistance Bulletin #20*, dated September 2012, and *Analysis of Comments and Changes to the IDEA*, Federal Register, Vol. 71, No. 156, p. 46678, August 14, 2006).

Based on the Finding of Fact #2, the MSDE finds that the complainant was provided with the documentation that was reviewed at the April 10, 2014 IEP team meeting, as required. Based on the Findings of Facts #1 and #3, the MSDE further finds a proposed IEP was not developed nor required to be developed. Therefore, the MSDE does not find that a violation occurred with regard to the allegation.

Please be advised that the BCPS and the complainant 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 complainant and the school system maintain

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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 the 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 : Tisha Edwards  
Charles Brooks  
Nancy Ruley  
XXXXXXXXXXXXX  
Dori Wilson  
Anita Mandis  
Koliwe Moyo