



September 4, 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: #15-002

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 July 10, 2014, the MSDE received a complaint from Ms. XXXXXXXXXX, 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 student was provided with the special education instruction and supplementary aids and services required by the Individualized Education Program (IEP) from March 25, 2014 until the end of the 2013-2014 school year.

**INVESTIGATIVE PROCEDURES:**

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On July 11, 2014, the MSDE sent a copy of the complaint, via facsimile, to Dr. Kim Hoffmann, Executive Director of Special Education, BCPS; and Mr. Darnell Henderson, Associate Counsel, BCPS.

3. On July 12 and 17, 2014, Ms. Williams conducted telephone interviews with the complainant about the allegations being investigated.
4. On July 24, 2014, 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 Dr. Hoffmann of the allegation and requested that her office review the alleged violation.
5. On August 11, 2014, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, and Ms. Sharon Floyd, State Complaint Investigation Consultant, MSDE, conducted a site visit at the XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX (XXX), and reviewed documents with the school system staff listed below:
  - a. Mr. XXXXXXXXXXXX, Assistant Principal, XXX;
  - b. Ms. Ruth LaFontaine, Educational Specialist, BCPS;
  - c. Ms. XXXXXXXXXX, IEP Team Manager, XXX; and
  - d. Ms. XXXXXXXXXX, Principal, XXX.

Mr. Henderson and Ms. Diana Wyles, Associate Counsel, BCPS, attended the site visit as representatives of the BCPS and to provide information on the BCPs policies and procedures, as needed.

6. On August 12, 2014, Ms. Mandis requested additional documentation from the BCPS.
7. On August 19, 2014, Ms. Mandis conducted a telephone interview with the complainant regarding the allegation being investigated.
8. On August 22, 2014, the BCPS provided additional documentation for consideration.
9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. "Receipt of IEP and Initiation of Service" document, signed by the student's teachers and service providers during the 2013-2014 school year;
  - b. IEP, dated March 25, 2014;
  - c. Reports of the student's classroom performance and of the accommodations and supplementary aids and services that were provided, which were developed by the student's math, English, and environmental science teachers for the March 25, 2014 IEP team meeting;
  - d. Samples of the math teacher's lesson plans and checklist of accommodations and supplementary aids and services for the student;
  - e. "Daily Substitute Sign In Logs" for the 2013-2014 school year;
  - f. "Contact Notes" maintained by the special education teacher for the 2013-2014 school year;

- g. The school psychologist's service logs for the 2013-2014 school year;
- h. Reports of the student's progress toward achieving the annual IEP goals, dated June 16, 2014; and
- i. Correspondence containing an allegation of a violation of the IDEA, received by the MSDE on July 10, 2014.

### **BACKGROUND:**

The student is seventeen (17) years old and is identified as a student with Autism under the IDEA. He has an IEP that requires the provision of special education instruction and related services. The student attends the high school program at the XXXXXXXXXXXXXXXXXXXX XXXXXXXX (XXX) (Doc. b).

During the time period covered by this investigation, the complainant participated in the education decision-making process (Doc. b).

### **FINDINGS OF FACTS:**

#### **IEP Requirements – Special Education Instruction**

- 1. The IEP that was developed on March 25, 2014 includes goals for improving the student's math calculation and problem solving and increasing his positive interactions with peers. The IEP requires the provision of special education instruction to assist the student with achieving the goals (Doc. b).
- 2. The IEP states that the special education instruction is to be provided in the general education classroom by a general education teacher. However, it also states that the IEP team decided that the student would "report to his math class for the initial lesson and then he can report to [the] special educator for additional support" (Doc. b).
- 3. The school staff report that the IEP provides the student with the opportunity to obtain assistance from a special education teacher outside of the classroom, when needed. The only other reference in the IEP is the statement that supports are to be provided "through classroom instruction" by a "general educator/special educator as needed." However, the school staff report that the special education teacher's role in the provision of classroom instruction is to provide consultation to the general education teachers on the use of supports in the classroom by the general education teachers (Doc. b and Interviews with the school staff).

#### **IEP Requirements – Accommodations and Supplementary Aids and Services**

- 4. The IEP requires the provision of accommodations and supplementary aids and services in all academic classes. These include extra response and processing time, frequent breaks, calculation devices and visual and graphic organizers, an environment with reduced distractions, checks for understanding, breaking down of texts and assignments

into smaller units, and Temporary Adult Support (TAS) throughout the school day to “help [the student] when needed and redirect behavior.” These supports also include “classroom instruction consultation” between the special education and general education teachers on a monthly basis regarding the provision of accommodations and modifications (Doc. b).

### **IEP Requirements – Related Services**

5. The IEP requires that the student be provided with “direct psychological services” as a related service outside of the classroom twice a month in order to address needs related to social interaction skills (Doc. b).
6. The annual goal for the student to improve interpersonal relationships contains short-term objectives for the student to achieve with the provision of “adult support and direct instruction” in “counseling sessions.” The school staff report that the goal is to be addressed through the provision of the direct psychological services and not through the provision of special education instruction and support from the TAS (Doc. b and Interviews with the school staff).

### **IEP Implementation**

7. A document entitled, “Contact Notes,” which was maintained by the special education teacher, indicates that the special education teacher consulted with the student’s teachers in April 2014, May 2014, and June 2014, as required by the IEP (Doc. f).
8. The service logs that were maintained by the school psychologist document that the student was provided with individual and group counseling on a monthly basis to assist him with social interaction skills, as required by the IEP (Doc. g).
9. There were several different substitute teachers assigned to cover the student’s classes due to the absences of his assigned teachers. However, there is documentation that the teachers and service providers, including the TAS, were informed of the requirements of the IEP, and there is documentation of monitoring of the student’s classroom performance by the TAS (Docs. a and c - e).
10. The reports of the student’s progress toward achieving the annual IEP goals, dated June 16, 2014, reflect that the annual IEP goals were addressed through the provision of special education instruction and related services and that the student made sufficient progress toward the achievement of the goals (Doc. h).

### **DISCUSSION/CONCLUSIONS:**

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 do so, the public agency must make sure that the IEP includes a

clear statement of the special education and related services that are required and that each teacher and provider is informed of the IEP requirements and their responsibility for implementing the IEP (34 CFR §§300.320 and .323).

In this case, the complainant reports that the student did not feel properly supported by his teachers and service providers and that the complainant does not believe that the services and supports were provided consistent with the decisions made by the IEP team on March 25, 2014 (Doc. i and Interviews with the complainant).

Based on the Findings of Facts #1, #4, and #5 - #10, the MSDE finds that there is documentation that the student was provided with special education and related services to address the annual IEP goals. However, based on the Findings of Facts #1 - #3 and #6, the MSDE finds that the IEP is not written clearly with respect to the manner in which some of those services are to be provided. Therefore, this office finds that the BCPS did not ensure that the IEP was implemented as determined by the IEP team, and that a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #10, the MSDE finds that there is documentation that the student was able to make sufficient progress toward the annual goals with the special education and related services that were provided.

### **CORRECTIVE ACTIONS/TIMELINES:**

#### **Student-Specific**

The MSDE requires the BCPS to provide documentation by October 1, 2014 that the IEP team has reviewed and revised the IEP to ensure that it contains a clear statement of the special education and related services that are required.

#### **School-Based**

The MSDE requires the BCPS to provide documentation by February 1, 2015 of the steps taken to determine whether the violations are unique to this case or constitute a pattern of noncompliance in the high school program at the XXX. Specifically, a review of student records, data, or other relevant information must be conducted in order to determine if the regulatory requirements are being implemented and documentation of the results of this review must be provided to the MSDE. If compliance with the requirements is reported, the MSDE staff will verify compliance with the determinations found in the initial report.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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 by contacting Ms. Bonnie Preis of the Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

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 within the timelines 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 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 (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 due process.

Sincerely,

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

MEF: am

c : Gregory E. Thornton  
Charles Brooks  
Darnell Henderson  
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Dori Wilson  
Anita Mandis  
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