



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

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November 14, 2014

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

RE: XXX
Reference: #15-016

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 September 15, 2014, the MSDE received a complaint from Ms. XXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, 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 above-referenced student.

The MSDE investigated the allegation that BCPS did not ensure that the complainant provided with a copy of the student’s Individualized Education Program (IEP) within five (5) business days of the IEP team meeting held on August 21, 2014, in accordance with Md. Code, Ann., Educ. §8-405 and COMAR 13A.05.01.07.

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INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On September 15, 2014, the MSDE sent a copy of the complaint, via facsimile, to Ms. Debra Y. Brooks, Director of Special Education, BCPS; Mr. Stephen Cowles, Associate General Counsel, Special Education Compliance, BCPS; and Ms. Denise Mabry, Coordinator of Compliance and Related Services, BCPS.
3. On September 18, 2014, Ms. Moyo conducted a telephone interview with the complainant to clarify the allegation to be investigated.
4. On September 23, 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 the BCPS of the allegation and requested that the BCPS review the alleged violations.
5. On September 23, 2014, Ms. Moyo conducted a telephone interview with Ms. Conya Bailey, Compliance Supervisor, BCPS and during that conversation Ms. Moyo requested documents from the student's educational record. On the same date, Ms. Bailey sent the requested documents to Ms. Moyo via electronic mail (email).
6. On September 28, 2014 and October 10, 2014, the complainant sent information to the MSDE, via email, for consideration during the investigation.
7. On November 10, 2014, the MSDE requested additional information and documents from the BCPS.
8. On November 10 and 12, 2014, the BCPS provided the MSDE with additional documents.
9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated October 10, 2013;
 - b. Letter of Findings issued by the MSDE in State complaint #14-086, dated July 16, 2014;
 - c. IEP team meeting summary, dated August 22, 2014;
 - d. IEP and written summary of the October 27, 2014 IEP team meeting; and
 - e. Notice of Documents, dated October 31, 2014.

BACKGROUND:

The student is thirteen (13) years old and she attends XXXXXXXXXXXX. She is identified as a student with an Other Health Impairment (OHI) under the IDEA related to Attention Deficit Hyperactivity Disorder (ADHD) and has an IEP that requires the provision of special education and related services (Doc. a and d).

FINDINGS OF FACTS:

1. On July 16, 2014, the MSDE issued a Letter of Findings as a result of an investigation of a previous State complaint regarding the student (State complaint #14-086). In that Letter of Findings, the MSDE reported that, while the IEP does not state that the student is to be provided with a reduced work load, some of her teachers reported that it was their understanding that it is a required accommodation. Therefore, the MSDE required the BCPS to provide documentation by the start of the 2014-2015 school year that the IEP team had revised the IEP to include a clear statement of the accommodations that are required, and that the complainant was provided with proper written notice of the team's decisions (Doc. b).
2. The student's educational record contains a written summary of an IEP team meeting that was held on August 21, 2014. The document states that the team "discussed reduced work load which is not currently on [the student's] IEP." The document reflects that the IEP team decided that additional data was needed in order to determine whether the student requires this accommodation, and that it would reconvene in October 2014 to make a determination based upon the data. The document also reflects that it was mailed to the complainant on August 22, 2014 (Doc. c).
3. On October 29, 2014, the IEP team reconvened to consider the additional data and conduct an annual review of the IEP. The IEP team documented its decision that the student does not require a reduced workload and the basis for that decision, and the IEP was revised based on information about the student's current levels of performance (Doc. d).
4. The written summary of the October 29, 2014 IEP team meeting states that a copy was mailed to the complainant on that date (Doc. d).
5. The student's educational record includes a Notice of Documents, dated October 31, 2014, which indicates that the revised IEP was provided to the complainant on that date (Doc. e).

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DISCUSSION/CONCLUSIONS:

The public agency must ensure that parents are provided a copy of the student's IEP within five (5) business days of the IEP team meeting at which the program was reviewed. If the IEP is not completed, the parents must be provided with the draft copy of the IEP (Md. Code Ann., Educ., §8-405 (2010) and COMAR 13A.05.01.07D(3)). When an IEP team meets and determines that additional data is needed to decide whether the student remains eligible for special education services or to identify and address all of the needs that arise out of the student's disability, the public agency must ensure that the parents are provided with written notice of those decisions prior to the implementation of those decisions (34 CFR §300.503).

Based on the Finding of Fact #2, the MSDE finds that there is documentation that the IEP team did not make any decisions about the educational program on August 21, 2014. Therefore, there was no draft IEP to share with the complainant following the IEP team meeting.

Based on the Findings of Facts #1 - #3, the MSDE finds that, while the BCPS did not determine whether the student requires a reduced work load until October 29, 2014, there is documentation that the school system sent the complaint written notice of the August 21, 2014 decision to collect additional data and to reconvene to make that determination.

Based on the Findings of Facts #3 and #4, the MSDE finds that there is documentation that on October 29, 2014, the date that the IEP team decided that a reduced workload is not required, written notice of this decision was sent to the complainant.

In addition, based on the Findings of Facts #3 and #5, the MSDE finds that there is documentation that the IEP that was revised on October 29, 2014 was provided to the complainant within five (5) business days of the date of that IEP team meeting. Therefore, the MSDE does not find that a violation occurred with respect 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.

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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 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
Denise Mabry
Stephen Cowles
Conya Bailey
XXXXXXXXXX
Dori Wilson
Anita Mandis
Koliwe Moyo

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bc: Donna Riley
Marjorie Shulbank
Kenneth Hudock
Kim Marchman
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