



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

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January 7, 2015

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

RE: XXXXX
Reference: #15-030

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 November 16, 2014, the MSDE received a complaint from Ms. XXXXXXXXXXXX, 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 student.

The MSDE investigated the allegation that the BCPS has not ensured that the Individualized Education Program (IEP) addresses the student’s needs that result from the disability to enable him to be involved in and make progress in the general education curriculum, as required, from November 16, 2013,¹ to June 16, 2014, in accordance with 34 CFR §300.320 and COMAR 13A.05.09.

¹ The complainant alleged that the time frame for the allegation began on September 25, 2013. However, she was notified in writing, that the MSDE has authority to investigate allegations of violations that occurred not more than one (1) year from the date the complaint is received, in accordance with 34 CFR §300.153.

INVESTIGATIVE PROCEDURES:

1. Ms. Sharon Floyd, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On November 21, 2014, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, conducted a telephone interview with the complainant to clarify the allegation to be investigated.
3. On November 24, 2014, the MSDE sent a copy of the complaint, via facsimile, to Dr. Kim Hoffman, Executive Director of Special Education, BCPS; and Mr. Darnell Henderson, Associate General Counsel, BCPS.
4. On December 2, 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. Hoffman of the allegation and requested that her office review the alleged violation.
5. On December 5, 2014, the MSDE requested that the BCPS provide documentation from the student's educational record.
6. On December 5, 2014, Ms. Floyd and Ms. Nicole Green, Dispute Resolution Specialist, MSDE, conducted a site visit at the XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXX to review the student's educational record, and interviewed the following school staff:
 - a. Mr. XXXXXXXXX, School Psychologist;
 - b. Ms. XXXXXXXXX, IEP Chairperson;
 - c. Ms. XXXXXX, Middle School Special Educator; and
 - d. Ms. XXXXXXXXX, Assistant Principal, BCPS.

Ms. Pamela Montgomery, Educational Specialist, BCPS, and Ms. Andrea Teagle, Educational Specialist II, BCPS, attended the site visit as representatives of the BCPS and to provide information on the BCPS policies and procedures, as needed.
7. On December 10, 2014, the BCPS provided the MSDE with information to be considered, via electronic-mail. On that same date, Ms. Floyd conducted a telephone interview with Mr. Henderson to clarify the documentation that had been provided.
8. On December 18, 2014, the BCPS provided the MSDE with additional information to be considered.

9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
- a. Receipts of the procedural safeguards, provided to the complainants on November 5, 2013, February 28, 2014, and November 11, 2014;
 - b. IEP, dated November 11, 2014;
 - c. IEP, dated February 28, 2014;
 - d. IEP progress reports, dated February 28, 2014;
 - e. General Educator Progress Reports, dated November 11, 2014;
 - f. Prior Written Notice documents, dated November 5, 2013, February 28, 2014, and November 11, 2014;
 - g. The student's report card, dated October 29, 2014;
 - h. The student's class schedule, dated November 11, 2014;
 - i. Transition Planning Checklist, dated November 11, 2014;
 - j. Consent for an assistive technology assessment, dated November 11, 2014;
 - k. Indirect Special Education Services Contact Notes, dated September 24, 2014;
 - l. Case manager's log, dated August 26, 2014, through November 9, 2014;
 - m. Electronic mail correspondence from Mr. Henderson to Ms. Floyd, dated December 17, 2014;
 - n. Parent Contact Log, dated August 24, 2014;
 - o. Encounter Log Report, by related service providers, dated August 25, 2014; and
 - p. Correspondence containing an allegation of a violation of the IDEA, received by the MSDE dated November 16, 2014.

BACKGROUND:

The student is thirteen (13) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires that he be provided with special education and related services. During the 2013-2014 school year, the student attended XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXX (XXXXXXXX). The student has attended the XXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXX (XXXXXXXX), since the start of the 2014-2015 school year.

During the period of time addressed by this investigation, the complainant participated in the education decision-making process and was provided with the procedural safeguards (Doc. a).

FINDINGS OF FACTS:

1. The IEP in effect from November 16, 2013 to November 11, 2014, was developed at XXXXXXXX. It contained goals for the student to demonstrate academic skills at grade levels which, according to the evaluation data, he was already performing (Doc. c).

2. When the student began attending the XXXXX, the IEP team at that school conducted a reevaluation and revised the IEP on November 11, 2014, to include annual goals that are designed for the student to make progress in the general education curriculum (Doc b).

DISCUSSION/CONCLUSIONS:

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that includes a statement of the student's present levels of academic achievement and functional performance. The IEP must also include measurable annual goals for the student to be involved in and make progress in the general curriculum and special education and related services to assist the student with achieving them (34 CFR §300.320 and COMAR 13A.05.01.09).

Based on the Findings of Facts #1 and #2, the MSDE finds that from November 16, 2013 until November 11, 2014, the IEP did not include annual goals for the student to be involved in and make progress in the general education curriculum. Therefore, the MSDE finds that a violation occurred during this period.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the BCPS to provide documentation by March 15, 2015 that the IEP team has convened and determined the nature and amount of compensatory services or other remedy necessary to redress the violation identified in this Letter of Findings.

The BCPS must provide the complainant with proper written notice of the determinations made at the IEP team meeting, including a written explanation of the basis for the determinations, as required by 34 CFR §300.503. If the complainant disagrees with the IEP team's determinations, she maintains the right to request mediation or file a due process complaint, in accordance with the IDEA.

School-Based

The MSDE requires the BCPS to provide documentation by the end of the 2014-2015 school year of the steps it has taken to determine if the violation related to IEP development identified in the Letter of Findings is unique to this case or if it represents a pattern of noncompliance at XXXXXXXXXXXX.

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Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine if the regulatory requirements are being implemented and must provide documentation of the results of this review to the MSDE. If the school system reports compliance with the requirements, the MSDE staff will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented, the school system must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction upon receipt of this report. The MSDE will re-verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the United States Department of Education, Office of Special Education Programs within ninety (90) days of the initial date that the school system determines non-compliance.

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. Bonnie Preis of the Family Support and Dispute Resolution Branch, MSDE. Mrs. Preis may be contacted at (410) 767-0255.

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 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 the right to request mediation or to file a due process complaint, if they disagree with the

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identification, evaluation, placement, or provision of a FAPE 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:sf

cc : Gregory Thornton
Kim Hoffman
Darnell Henderson
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Dori Wilson
Anita Mandis
Sharon Floyd
Bonnie Preis