



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

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June 10, 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: #15-067

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.

ALLEGATIONS:

On April 27, 2015, the MSDE received a complaint from Ms. XXXXXXXXX, the student's mother, hereafter, "the complainant." 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 following allegations:

1. The BCPS did not ensure that the complainant was provided with written notice of the March 23, 2015 IEP team meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
2. The BCPS did not ensure that the complainant was provided with documents that were considered at the March 23, 2015 IEP team meeting, at least five (5) business days before the meeting, in accordance with COMAR 13A.05.01.07.

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3. The BCPS did not ensure that the IEP team meeting held on March 23, 2015 included the required participants; specifically, teachers of the student and service providers whose areas of related services were being discussed, in accordance with 34 CFR §300.322.

INVESTIGATIVE PROCEDURES:

1. On April 30, 2015, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, conducted a telephone interview with the complainant and clarified the allegations to be investigated. On the same date, the MSDE sent a copy of the complaint, via facsimile, to Dr. Kim Hoffman, Executive Director of Special Education, BCPS; and Mr. Darnell L. Henderson, Associate Counsel, Office of Legal Counsel, BCPS.
2. On May 1, 2015, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified Dr. Hoffman of the allegations and requested that her office review the alleged violations.
3. On May 12, 2015, Ms. Mandis requested documents from the BCPS.
4. On June 2, 2015, Ms. Mandis and Ms. Bonwyn Preis, Compliance Specialist, MSDE, conducted a site visit to XXXXXXXXXXXXXXXXXXXX School and reviewed the student's educational record. Ms. XXXXXXX, Principal, and Ms. Diana K. Wyles, Associate Counsel, BCPS, attended the site visit as representatives of the BCPS and to provide information on the school system's policies and procedures, as needed.
5. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Invitation to an IEP team meeting on May 19, 2015; and
 - b. IEP, dated May 19, 2015, and written summary of the IEP team meeting.

BACKGROUND:

The student is six (6) years old, and attends XXXXXXXXXXXXXXXXXXXX. He is identified as a student with a Developmental Delay under the IDEA, and has an IEP that requires the provision of special education instruction and related services (Doc. b).

FINDINGS OF FACTS:

1. The BCPS staff acknowledge that the complainant was not provided with a written invitation to the March 23, 2015 IEP team meeting, that she was not provided with documents that were considered prior to the meeting. The BCPS staff further acknowledge that the IEP team did not include proper participants (Interviews with the BCPS staff).
2. A review of the student's educational record reflects that the IEP team convened again on May 19, 2015 and June 2, 2015. The IEP team met to review the IEP, and documents that were considered by the team were made accessible to the complainant within five (5) business days of the meetings (Docs. a, b, and review of the student's educational record).

LEGAL REQUIREMENTS:

The public agency is required to take steps to ensure that the student's parents are afforded the opportunity to participate in each IEP team meeting. This includes providing written notice of the date, time, and location of the meeting, as well as the purpose of the meeting and who will participate in the meeting, at least ten (10) days prior to the meeting (34 CFR §300.322 and COMAR 13A.05.01.07).

This also includes ensuring that parents are provided with each assessment, report, data chart, draft IEP, or other document the IEP team plans to discuss at an IEP team meeting at least five (5) business days before the meeting (COMAR 13A.05.01.07).

The IEP team must include not less than one (1) regular education teacher of the student and not less than one (1) special education teacher or provider of the student. The IEP team may also include other individuals who have knowledge or special expertise regarding the student, including related service personnel, as appropriate (34 CFR §300.321).

A required member of the IEP team may be excused from attending an IEP team meeting when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if the parent, in writing, and the public agency consent to the excusal. In this case, the excused member must submit, in writing to the parent and the rest of the IEP team, input into the development of the IEP prior to the meeting (34 CFR §300.321).

Based on the Finding of Fact #1, the MSDE finds that violations occurred with respect to the allegations. Notwithstanding the violations, based on the Finding of Fact #2, the MSDE finds that an IEP team with the proper participants, including the complainant, has met subsequently and that documents considered by the team were provided to the complainant in advance of the meetings. Therefore, no student-specific corrective action is required to remediate the violation.

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CORRECTIVE ACTION/TIMELINES:

The MSDE requires the BCPS to provide documentation by the start of the 2015-2016 school year of the steps it has taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern of noncompliance at the XXXXXXXX Elementary School. 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 Dr. Kathy Aux, Compliance Specialist, 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 student's parents 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

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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
Darnell L. Henderson
XXXXXXXXXXXX
Dori Wilson
Anita Mandis
Bonnie Preis
Kathy Aux