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State Superintendent of Schools

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June 26, 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: #15-070

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 30, 2015, the MSDE received a complaint from Ms. XXXXXXXX, 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 has not ensured that the student has been provided with the accommodations and supplementary aids and services required by the Individualized Education Program (IEP) since the start of the 2014-2015 school year, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. On May 1, 2015, the MSDE sent a copy of the complaint, via facsimile, to Dr. Kim Hoffman, Executive Director of Special Education, BCPS.

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2. On May 5, 2015, Ms. Sharon Floyd, Education Program Specialist, MSDE, discussed the allegation being investigated with the complainant.
3. On May 6, 2015, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation.
4. On May 12, 2015, Ms. Floyd spoke with Mr. Darnell L. Henderson, Esq., Associate Counsel, Office of Legal Counsel, BCPS about the allegation being investigated.
5. On May 12, 2015, Ms. Floyd spoke with Ms. Diana K. Wyles, Esq., Associate Counsel, Office of Legal Counsel, BCPS about the allegation being investigated.
6. On May 21, 2015, Ms. Floyd and Ms. Memuna Bangura, Monitoring and Accountability Specialist, MSDE, conducted a record review and site visit at XXXXXXXXXXXXXXXX XXXXXXXX to review documentation, and interviewed:
 - a. Ms. XXXXXXX, Special Education Teacher;
 - b. Ms. XXXXXXXXXXXXX, Assistant Principal;
 - c. Mr. XXXXXX, Principal;
 - d. Mr. XXXXXXXXXXXXX, Special Education Teacher;
 - e. Ms. XXXXXXXXXXXXX, Spanish Teacher;
 - f. Ms. XXXXXXXXXXXXX, Social Worker;
 - g. Mr. XXXXXXXXXXXXX, Music Teacher;
 - h. Ms. XXXXXXXXXXXXX, English Teacher;
 - i. Ms. XXXXXXXXXXXXX, Case Manager;
 - j. Ms. XXXXXXXXXXXXX, IEP Chairperson;
 - k. Mr. XXXXXXX, U.S. History Teacher; and
 - l. Ms. XXXXXXXXXXXXX, Math Teacher.

Ms. Wyles and Ms. Charlene Harris, Coordinator, Department of Special Education, BCPS, attended the site visit as representatives of the BCPS to provide information on the BCPS policies and procedures, as needed.

7. On May 29, 2015, and June 5, 8, and 9, 2015 the MSDE was provided with copies of documents from the student's educational record from the BCPS.
8. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Notice of the procedural safeguards, provided to the complainants on August 6, 2014;
 - b. Student work samples;

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- c. IEP, dated August 6, 2014; Notice of IEP team meeting, dated July 25, 2014;
- d. IEP, dated October 20, 2014; Notice of IEP team meeting, dated October 9, 2014; Prior written notice, dated October 24, 2014;
- e. IEP, dated January 6, 2015; Notice of IEP team meeting, dated December 22, 2014; Prior written notice, dated January 9, 2015;
- f. Notice and consent for assessment, dated October 20, 2014;
- g. Prior written notice, dated February 20, 2015;
- h. Consent for amendment and modification to current IEP without an IEP team meeting, dated February 20, 2015;
- i. PARCC accommodations, dated February 20, 2015;
- j. Teacher tracking log, dated September 4, 2014 through May 22, 2015;
- k. Correspondence containing an allegation of a violation of the IDEA, received by the MSDE on April 30, 2015;
- l. Music, English, and U.S. History lessons with modifications and homework protocol;
- m. Notice of IEP team meeting to the complainants, dated November 21, 2014;
- n. Student's 2014-2015 report card;
- o. Student's 2014-2015 class schedule; and
- p. The school system's log of contacts with the complainant.

BACKGROUND:

The student is fifteen (15) years old and attends XXXXXXXXXXXXXXXXXXXX. He is identified as a student with an Other Health Impairment related to a diagnosis of Attention Deficit/Hyperactivity Disorder (ADHD) under the IDEA, and has an IEP that requires the provision of special education services.

During the time period covered by this investigation, the complainant was provided with notice of the procedural safeguards (Docs. a, c, d and e).

FINDINGS OF FACTS:

IEP Requirements – Accommodations and Supplementary Aids and Services

1. The IEP in effect at the start of the 2014-2015 school year was developed on August 6, 2014. The instructional and testing accommodations required by the student's IEP include a human reader, monitoring of test responses, the provision of a calculation device, and visual and graphic organizers. The IEP also required that the student be provided with extended time, multiple or frequent breaks, reduced distractions to the student and reduced distractions to other students (Doc. c).

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2. The IEP states the following will occur:
 - a. Frequent and/or immediate feedback will be provided to the student about his behavior during the lesson;
 - b. The complainant will conference with the teacher, and receive written feedback provided through a weekly progress report;
 - c. The student will be given opportunities to repeat directions;
 - d. The student will have access to assignment checklists and graphic organizers;
 - e. The student will be provided opportunities to restate directions, teachers will paraphrase directions and/or provide a written copy of the directions;
 - f. The student will receive process charts and/or manipulatives;
 - g. The student will sit next to a peer tutor for group and individual tasks and be able to use the buddy system for academic support; and
 - h. There will be meetings between the general education teacher and special education teacher to be held monthly to discuss the student's needs and provide progress reports (Doc c).

3. On October 20, 2014, the IEP was revised to include a human reader for verbatim reading of all tests in their entirety and a human reader for selected sections of the test (Doc. d).

4. The October 20, 2014 IEP also states that the following will occur:
 - a. The student will be provided with responses to questions, and reflections about his class participation;
 - b. The student will be provided with daily assistance in the creation of positive peer interactions through a paired work arrangement with another student;
 - c. During advisory class, peers will help the teacher create lists of assignments due in classes, so the student will use this time to ask questions of his peers regarding assignments and due dates;
 - d. The student will be paired with a peer to help him begin his independent assignment by reading instructions and keeping him focused on his work;
 - e. Following a daily homework protocol, the student will have a binder of homework folders for each class (provided by the parent);
 - f. Folders will be labeled for each class, weekly a sheet will be stapled into the front of the folder, and teachers must write the day's homework assignment or mark none if no homework is assigned;
 - g. The student will place the homework into the folder, the student and parent will review the homework sheet for each class, and the parent will initial that she has received the homework sheet;
 - h. The student will place a check to indicate the homework is completed;
 - i. When the teacher asks, the student will provide the homework folder, retrieve his homework, and hand it in to the teacher;

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- j. At least once per week the student will meet with his advisor to organize these folders and his class materials;
 - k. The student will have altered and modified assignments in reading, writing, and math;
 - l. The student will have reduced required reading with information in bulleted format, bolded main ideas, chunked materials, and reduced amounts of writing in response to inferential questions;
 - m. There will be limits of choices for math problems, as well as the total number of math problems provided to the student;
 - n. Classroom instruction consultation will take place (monthly), between the special educator and general education teacher for at least thirty (30) minutes to discuss the student's progress, work, and grades and give suggestions to the teachers for providing accommodations, and supplementary, aids and services; and
 - o. In addition, this time will be used to work on goals and objectives, provide parental support, and for the general education teacher and special education teacher to discuss the student's needs and provide progress reports on a monthly basis (Doc. d).
5. On January 6, 2015, the IEP team met and revised the IEP to include that the student will be provided with notes and outlines for his classes (Doc. e).
6. The January 6, 2015 IEP also states the following will occur:
- a. The student will be provided with oral response cues which allow 10-20 seconds for the student to process the question, formulate the answer, and respond when given a model or example; and
 - b. The student's teachers will demonstrate concepts by using manipulatives (Doc. e).

IEP Implementation – Accommodations and Supplementary Aids and Services

7. The samples of the student's class work and modified content lessons for the 2014-2015 school year document that the student was not consistently provided with the required accommodations and supplementary aids and services in any class except for math (Docs. b, c, d, e, j and l).
8. There is no documentation that monthly progress reports were generated by the general education teacher and special education teacher, as required by the IEP (Docs. b, c, d, e, j, l and p).
9. There is documentation that the daily homework protocol was attempted by all teachers, that it was discussed weekly among teachers, discussed through electronic mail (email) communication with staff, and discussed with the parent. However, based

upon the documentation, only the U.S. History teacher was able to maintain the protocol consistently (Docs. b, d, e and p).

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).

Based on the Findings of Facts #1 - #9, the MSDE finds that the BCPS did not ensure that the required accommodations and supplementary aids and services have been provided consistently in all of the student's classes during the 2014-2015 school year. Therefore, this office finds that a violation has occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student Specific

The MSDE requires the BCPS to provide documentation by the start of the 2015-2016 school year of the steps taken to ensure that accommodations and supplementary aids and services are provided as required by the IEP. The BCPS must also provide documentation that the IEP team has determined the amount and nature of compensatory services or other remedy to redress the lack of consistent provision of supports required by the IEP, and developed a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties from Dr. Kathy Aux, Compliance Specialist, 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.

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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 parties 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 and 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: sf

c: Gregory E. Thornton
Charlene Harris
Diana Wyles
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Dori Wilson
Anita Mandis
Sharon Floyd