



200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

May 27, 2016

XXX
XXX
XXX

Ms. Tiffany Clemmons
Executive Director of Specialized Services
Baltimore City Public Schools
200 East North Avenue, Room 204 B
Baltimore, Maryland 21202

RE: XXXXX
Reference: 16-077

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 March 1, 2016,¹ the MSDE received a complaint from Ms. XXXXXXXXX, 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 special education services² required by the Individualized Education Program (IEP) since September 1, 2015, in accordance with 34 CFR §§300.101, and .323.

¹ On the same date, the complainant filed a due process complaint with the Office of Administrative Hearings, which was withdrawn on April 26, 2016. As required, the MSDE held the State complaint investigation in abeyance during that time.

² When the investigation was initiated, the complainant clarified that her concern was focused upon the provision of supplementary aids and services.

XXX

Ms. Tiffany Clemmons

May 27, 2016

Page 2

INVESTIGATIVE PROCEDURES:

1. On March 1, 2016, MSDE sent a copy of the complaint, via facsimile, to Ms. Tiffany Clemmons, Executive Director of Specialized Services, BCPS; and Mr. Darnell L. Henderson, Associate Counsel, Office of Legal Counsel, BCPS.
2. On March 7, 2016, the MSDE sent correspondence to the complainant explaining that the MSDE was holding the investigation in abeyance pending the results of the due process complaint filed by the complainant.
3. On April 26, 2016, following notification that she had withdrawn the due process complaint, the MSDE sent correspondence to the complaint and acknowledged receipt of the withdrawal and identified the allegations subject to this investigation. On the same date, the MSDE notified the BCPS of the allegation and requested that the school system review the alleged violation.
4. On April 27, 2016, Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a telephone interview with the complainant.
5. On April 27, 2016, Mr. Loiacono contacted Mr. Darnell Henderson, Associate Counsel, Office of Legal Counsel, BCPS, by electronic mail to arrange a document review.
6. On May 6, 2016, Mr. Loiacono conducted a review of the student's educational record at the BCPS Central Office.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated January 28, 2015;
 - b. IEP, dated February 29, 2016;
 - c. Behavioral Observation, dated January 11, 2016; and
 - d. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on January 13, 2016.

BACKGROUND:

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

XXX

Ms. Tiffany Clemmons

May 27, 2016

Page 3

There is documentation that the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards during the time period addressed by this investigation (Doc. a).

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2015-2016 school year required that the student be allowed frequent breaks, the repetition of directions, monitoring of independent work, and implementation of a behavior contract (Doc. a).
2. The student's IEP, revised on February 29, 2016, continued to require these supports, and added the "chunking" of text into smaller sections, the use of organizational aids and modified assignments (Doc. b).
3. While a classroom observation report conducted on April 6, 2016 indicates that the student was provided with visual cues and extended time to complete assignments, there is no other documentation that demonstrates that the student has been provided with the supplementary aids and services required by his IEP during the 2015-2016 school year (Doc. c).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that each student is provided with the special education instruction and supplementary aids and services required by the student's IEP (34 CFR §300.101).

Based on the Findings of Facts #1-3, the MSDE finds that there is not documentation that the services and supports required by the student's IEP were provided to the student since September 1, 2015. Therefore, this office finds that a violation occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the BCPS to provide documentation by the end of the 2015-2016 school year that the supplementary aids and services required by the student's IEP have been consistently provided to the student since the date of this Letter of Findings.

The MSDE further requires the BCPS to provide documentation by the end of the 2015-2016 school year that the IEP team has determined the compensatory services to remediate the violations identified through this investigation.

XXX

Ms. Tiffany Clemmons

May 27, 2016

Page 4

School-Based

The MSDE requires that by the start of the 2016-2017 school year that that steps have been taken to determine whether the violations identified through this investigation are unique to this case or whether they constitute a pattern of violations at the XXXXXXXXXXXXXXXXXXXX. 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 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. Nancy Birenbaum, 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 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 and Appropriate Public Education

XXX

Ms. Tiffany Clemmons

May 27, 2016

Page 5

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:gl

c: Tammy Turner
Darnell Henderson
XXXXXXXX
Dori Wilson
Anita Mandis
Gerald Loiacono
Nancy Birenbaum