



Nancy S. Grasmick
State Superintendent of Schools

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November 23, 2010

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

RE: XXXXX
Reference: #11-025

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention Services (MSDE), 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 October 13, 2010, MSDE received a complaint from Ms. XXXXXXXXXXXXXXX, hereafter, "the complainant," on behalf of her son. 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.

MSDE investigated the allegation that BCPS did not follow proper procedures when developing the student's Individualized Education Program (IEP) for the 2010-2011 school year, in accordance with 34 CFR §§300.320 and .324. Specifically, the complainant alleged that the student's IEP does not contain a statement of measurable annual goals designed to meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum.

INVESTIGATIVE PROCEDURES:

1. Ms. Kathy Stump, Education Program Specialist, MSDE, was assigned to investigate the complaint.

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2. On October 14, 2010, MSDE sent a copy of the complaint, via facsimile, to Mrs. Kim Lewis, Executive Director, Special Education, BCPS; and Ms. Nancy Ruley, Associate Counsel, BCPS.
3. On October 20, 2010, Ms. Koliwe Moyo, Education Program Specialist, MSDE, spoke with the complainant by telephone and clarified the allegation to be investigated.
4. On October 27, 2010, MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, MSDE notified Mrs. Lewis of the allegation and requested that her office review the alleged violation.
5. On November 5, 2010, Ms. Stump, Ms. Moyo, and Ms. Anita Mandis, Section Chief, Complaint Investigation Section, Complaint Investigation and Due Process Branch, MSDE, conducted a site visit at the XXXXXXXXXXXX School (XXXXXX) to review the student's education record, and interviewed the following school staff:
 - a. Mr. XXXXXXXXXXX, Principal;
 - b. Mr. XXXXXXXX, Special Education Teacher;
 - c. Ms. XXXXXXXXXXXX, Assistant Principal;
 - d. Mr. XXXXXXXX, IEP Team Chairperson;
 - e. Ms. XXXXXXXX, Classroom Teacher; and
 - f. Ms. XXXXXXXXXXX, IEP Team Chairperson.

Ms. Ruley attended the site visit as a representative of BCPS and to provide information on BCPS policies and procedures, as needed.

6. MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings (LOF), which includes:
 - a. Correspondence and attachments from the complainant to MSDE, received October 13, 2010;
 - b. Psychological Assessment report, dated June 30, 2010;
 - c. IEP team meeting attendance sheet, dated August 16, 2010;
 - d. IEP team meeting summary, dated August 16, 2010;
 - e. BCPS *Notice and Consent for Assessment* form, dated August 16, 2010;
 - f. Psychological Assessment report, dated August 22, 2010;
 - g. Educational assessment report, dated August 23, 2010;
 - h. IEP team meeting attendance sheet, dated August 23, 2010;
 - i. IEP team meeting summary, dated August 23, 2010;
 - j. BCPS *Evaluation Report and Determination of Eligibility* form, dated August 23, 2010;

- k. IEP, dated August 31, 2010; and
- l. IEP progress report, dated November 5, 2010.

BACKGROUND:

The student is six (6) years old, is identified as a student with an other health impairment under IDEA, related to a diagnosis of Attention Deficit/Hyperactivity Disorder, and receives special education and related services. During the 2009-2010 school year, the student attended the XXX School, a separate special education day school that has a *Together at 5* program, which is a full-day specialized kindergarten program designed for students with disabilities in which both students with disabilities and nondisabled students participate. The student participated in this program for his kindergarten year.

Since the start of the 2010-2011 school year, the student has attended XXXXXXXXXXXXXXXX XXXXX, where he is in the first grade and where he receives instruction in a general education classroom, as required by his IEP. During the period of time addressed by this investigation, the complainant participated in the education decision-making process, and was provided with written notice of IEP team decisions and notice of the procedural safeguards (Docs. a, k, and review of student's education record).

FINDINGS OF FACT:

1. On August 16, 2010, the IEP team convened to review the results of a psychological assessment that had been independently obtained by the complainant. The assessment data indicates that the student has needs in reading phonics, written language, and math number relationships and computation (Docs. b-d).
2. The documentation of the August 16, 2010, meeting indicates that during its review of the psychological assessment, the team determined that only the complainant completed the rating scales and that the examiner did not obtain information from the student's teachers. As a result, the team determined that a psychological assessment for the purposes of obtaining the input of the student's teachers and an educational assessment were necessary to determine whether the student continued to be a student with a disability requiring special education services and, if so, to also determine the student's educational needs. The team agreed to expedite the psychological and educational assessments and agreed to reconvene to review the results on August 23, 2010 (Docs. d and e).
3. On August 23, 2010, the team reconvened. The documentation of the meeting indicates that the team reviewed the additional data and confirmed that the student has needs in reading phonics, written language, and math number relationships and computation (Docs. f-i).

4. In order to address the identified needs, the team developed the following annual goals and short-term objectives:
 - a. Reading Phonics Goal: “The student will apply knowledge of letter/sound relationships and word structure to decode unfamiliar words.” The short-term objectives state that the student will:
 - i. Identify in isolation all upper and lower case letters of the alphabet;
 - ii. Identify letters A-Z matched to their sounds;
 - iii. Generate the sounds associated with individual letters and letter patterns, such as s-, st-, -at, -ack, -ed; and
 - iv. Blend letter sounds in one-syllable words.
 - b. Written Language Goal: “The student will control language by applying the conventions of standard English in writing.” The short-term objectives state that the student will:
 - i. Spell his first and last name correctly;
 - ii. Form upper and lower case manuscript letters A-Z;
 - iii. Spell high frequency words from the kindergarten word list correctly; and
 - iv. Use encoding strategies to spell one syllable words.
 - c. Math Number Relationships and Computation Goal: “The student will describe, represent, or apply numbers or their relationships or will estimate or compute using mental strategies, paper/pencil, or technology.” The short-term objectives state that the student will:
 - i. Demonstrate cardinality by answer of how many; use concrete materials to compose and decompose quantities up to 10;
 - ii. Use ordinal numbers to indicate position such as first, second, third, fourth, and fifth;
 - iii. Model subtraction by separating sets of concrete objects and describing the results using words and pictures; and
 - iv. Solve a given story problem cooperatively that is based on the combining and separating of models (Doc. k).
5. IEP progress reports, dated November 5, 2010, indicate that the student is making sufficient progress toward achieving the annual IEP goals (Doc. l).

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DISCUSSION/CONCLUSIONS:

A student's IEP must contain a statement of measurable academic and functional annual goals, including benchmarks and short-term objectives, designed to meet the student's needs as identified in the evaluative data. The goals must be designed to enable the student to be involved in and make progress in the general education curriculum (34 CFR §§300.320, .324 and COMAR 13A.05.01.09A).

In this case, the complainant alleges that IEP team developed annual goals that do not enable the student to be involved in and make progress in the general education curriculum. The complainant alleges that because the short-term objectives included in each goal are not grade-level objectives, the goals themselves do not provide access to grade-level content. Specifically, the complainant states that she "wanted objectives scaffolded to move toward and through grade-level goals," but that the team did "not include any objectives on grade level" (Doc. a).

Based on Findings of Fact #4 and a review of the BCPS first (1st) grade curriculum, MSDE finds that the goals developed by the IEP team are designed to assist the student in progressing through the general education curriculum. Based on that same Finding, MSDE finds that each goal contains short-term objectives, which if accomplished, will demonstrate the student's level of mastery of the goals. Further, based on Findings of Fact #1-3, MSDE finds that the development of these short-term objectives was based upon the evaluative data used to identify the student's strengths and needs. Therefore, MSDE finds that the goals are designed to enable the student to be involved in and make progress in the general education curriculum, as required by IDEA.

Based on Findings of Fact #5, MSDE finds that there is documentation that the student is making sufficient progress toward achieving the annual goals. Therefore, MSDE finds that the student is participating in and making progress in the general education curriculum, as required by IDEA, and does not find that a violation occurred.

Please be advised that both parties 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 LOF. 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 LOF. If additional information is provided, it will be reviewed and 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.

Questions regarding the findings and conclusions 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 for the student, including issues

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subject to a State complaint investigation, consistent with IDEA. MSDE recommends that this LOF be included with any request for mediation or due process.

Sincerely,

Carol Ann Heath, Ed.D.
Assistant State Superintendent
Division of Special Education/
Early Intervention Services

CAH:ks

cc : Andrés Alonso
Nancy Ruley
Erin Leff
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Martha Arthur
Kathy Stump