



May 14, 2013

XXX  
XXX  
XXX

Ms. Debra Brooks  
Executive Director of Special Education  
Baltimore County Public Schools  
The Jefferson Building  
105 West Chesapeake Avenue  
6901 Charles Street  
Towson, Maryland 21204

RE: XXXXX  
Reference: #13-071

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 21, 2013, 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 County 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 did not ensure that the complainant received a copy of the documents discussed at the October 17, 2012 Individualized Education Program (IEP) team meeting at least five (5) business days prior to that meeting, in accordance with Md. Code Ann., Educ., §8-405 (2010) and COMAR 13A.05.01.07D(3).

**INVESTIGATIVE PROCEDURES:**

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On March 22, 2013, the MSDE sent a copy of the complaint, via facsimile, to Ms. Kalisha Miller, former Director of Special Education, BCPS; Mr. Stephen Cowles,

XXX

Ms. Debra Brooks

May 14, 2013

Page 2

Associate General Counsel, Special Education Compliance, BCPS; and  
Ms. Sharon Floyd, Supervisor of Compliance, BCPS.

3. On April 11, 2013, Ms. Hartman conducted a telephone interview with the complainant to clarify the allegation to be investigated.
4. On April 16, 2013, 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 the BCPS of the allegation and requested that the BCPS review the alleged violation.
5. On April 24, 26, and 29, 2013, and May 6, 2013, the MSDE requested documents from the BCPS, via email.
6. On May 6, 7, and 9, 2013, Ms. Hartman conducted telephone interviews with the complainant to obtain additional information regarding the allegation being investigated.
7. On May 7, 2013, the complainant provided the MSDE with additional documentation concerning the allegation being investigated.
8. On May 9, 2013, the BCPS provided the MSDE with documents related to the allegation being investigated.
9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. Correspondence and attachments from the complainant to the MSDE, received on March 21, 2013;
  - b. Draft IEP discussed at the October 17, 2012 IEP team meeting, dated October 15, 2012, and Notice of IEP Team Meeting, dated October 17, 2012;
  - c. IEP, dated February 27, 2013;
  - d. The BCPS's policy entitled *Rule 5230* related to student records, dated 2010; and
  - e. The BCPS training materials used to train the BCPS staff in August and September, 2012.

### **BACKGROUND:**

The student is eleven (11) years old and is identified as a student with Autism under the IDEA. He attends XXXXXXXXXXXXXXXXXXXX, where he receives special education instruction (Docs. a-c, interviews with the BCPS staff, interviews with the complainant, and review of the MSDE Special Services Information System [SSIS] database).

### **FINDINGS OF FACTS:**

1. The BCPS has a policy, consistent with State law and regulation, that requires the provision of documents to parents at least five (5) business days prior to an IEP team

XXX

Ms. Debra Brooks

May 14, 2013

Page 3

meeting at which the documents will be reviewed. There is documentation that the BCPS provided information and training to staff on the requirements of this policy in August, 2012 and September, 2012 (Docs. d and e).

2. IEP team meetings were convened on October 17, 2012, February 20, 2013, and February 27, 2013. At the meeting that began on February 20, 2013 and ended on February 27, 2013, the complainant expressed concerns that she had not been provided with the documents discussed at the October 17, 2012 meeting at least five (5) business days prior to the meeting, as required. In response to this concern, school staff indicated that, because the complainant had been provided with the documents five (5) calendar days before the meeting, they had complied with the requirements (Docs. b and c).
3. Following its review of the State complaint, the BCPS staff acknowledges that the complainant was not provided with documents at least five (5) business days before the October 17, 2012 IEP team meeting, as required. On May 8, 2013, the complainant and the BCPS staff met and determined a remedy for the violation (Interviews with the complainant and the BCPS staff).

#### **DISCUSSION/CONCLUSIONS:**

At least five (5) business days prior to a scheduled IEP team meeting, appropriate school personnel must provide the parents with a copy of each assessment, report, data chart, draft IEP, or other document that the team plans to discuss at the meeting, unless there are extenuating circumstances which prevent them from doing so (Md. Code Ann., Educ., §8-405 (2010) and COMAR 13A.05.01.07D(3)).

Based on the Finding of Fact #1, the MSDE finds that the BCPS has a policy that requires that parents be provided with copies of documents to be discussed at an IEP team meeting at least five (5) business days prior to the meeting, consistent with State law and regulation. Based on the same Finding of Fact, the MSDE finds that the BCPS has trained its school staff regarding compliance with the law and its policy.

Based on the Findings of Facts #2 and #3, the MSDE finds that the BCPS has acknowledged that the complainant was not provided with documents five (5) business days prior to the October 17, 2013 IEP meeting. The MSDE concurs with the results of the BCPS's investigation of the allegation, and appreciates its acknowledgement of the violation.

However, based on the Finding of Fact #3, the MSDE finds that the parties have determined a remedy for the violation. Therefore, no additional student-specific corrective action is required.

#### **CORRECTIVE ACTION/TIMELINE:**

The MSDE requires the BCPS to provide documentation by the start of the 2013-2014 school year of the steps taken to ensure that XXXXXXXXXXXXXXXXXXXX staff provide parents with copies of documents to be discussed at IEP team meetings at least five (5) business days prior to the meetings.

XXX

Ms. Debra Brooks

May 14, 2013

Page 4

Documentation of the corrective action taken is to be submitted to this office to the attention of the Chief of the Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

**TECHNICAL ASSISTANCE:**

Technical assistance is available to the complainant and the BCPS by Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

Please be advised that both the complainant and the BCPS 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 the corrective action consistent with the timeline requirement as reported in this Letter of Findings.

Questions regarding the findings, conclusions and corrective action 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 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 a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.  
Assistant State Superintendent  
Division of Special Education/  
Early Intervention Services

MEF/ch

cc: S. Dallas Dance  
Stephen Cowles  
Sharon Floyd  
Pamela Weitz  
XXXXXX

Dori Wilson  
Anita Mandis  
Martha J. Arthur  
Christine Hartman