



June 30, 2016

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Ms. Rebecca Rider
Director of Special Education
Baltimore County Public Schools
The Jefferson Building
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: XXXXXX
Reference: #16-134

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 May 31, 2016, the MSDE received a complaint from Ms. XXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the 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 provide proper written notice of Individualized Education Program (IEP) team meetings held on April 21, 2016 and May 13, 2016, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.

INVESTIGATIVE PROCEDURES:

1. On May 26, 2016, Ms. Dori Wilson, Branch Chief, Family Support and Dispute Resolution Branch, MSDE, informed the complainant, in writing, of the need for her to provide additional information in order for a State complaint investigation to be initiated, in response to correspondence received from her on May 19, 2016. On the same date, the

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MSDE sent a copy of the complainant's correspondence, via facsimile, to Ms. Rebecca Rider, Director of Special Education, BCPS.

2. On May 31, 2016, Ms. Wilson and Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, spoke with the complainant's advocate by telephone, who provided additional information about the concerns raised by the complainant. Based on the additional information provided by the advocate, an allegation of a violation of the IDEA was identified for investigation.
3. On June 1, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation, notified the BCPS of the allegation, and requested that the BCPS review the alleged violation.
4. On June 14, 2016, Ms. Mandis requested documents from the BCPS. On the same date, the BCPS provided the MSDE with the requested documents.
5. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated February 19, 2016;
 - b. Written summary of the April 8, 2016 IEP team meeting;
 - c. Electronic mail messages (emails) between the complainant and her advocate and the school staff, dated April 11, 2016;
 - d. Notice of Documents;
 - e. Written summary of an April 21, 2016 IEP team meeting;
 - f. Envelope addressed to the complainant, postmarked May 2, 2016;
 - g. Emails between the complainant and the school system staff, dated May 4, 2016;
 - h. Emails between the complainant to the school system staff, dated May 5, 2016;
 - i. Email from the complainant to the school system staff, dated May 6, 2016;
 - j. Notice of the May 27, 2016 IEP team meeting, dated May 9, 2016; and
 - k. Summary of the May 27, 2016 IEP team meeting.

BACKGROUND:

The student is seventeen (17) years old, is identified as a student with an Intellectual Disability under the IDEA, and has an IEP that requires the provision of special education and related services. She attends XXXXXXXXXXXX (Doc. a).

FINDINGS OF FACTS:

1. On April 8, 2016, the IEP team met for the purpose of reviewing the IEP and the student's progress. However, documentation of the meeting reflects that the time was spent discussing the concerns of the complainant's advocate about the manner in which communication would occur between the school staff and the complainant and the

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- student's interactions with other students at the school. The complainant's advocate requested that the school system staff, who were invited at the complainant's request, be prohibited from participating in the meeting, and that they serve only as observers, which was denied. At the meeting, the complainant and her advocate provided the other members of the team with documents to consider, and the IEP team decided to reconvene to conduct the IEP review on another date after they had time to review the documents (Docs. b and c).
2. On April 11, 2016, the complainant's advocate sent the school staff electronic mail (email) correspondence requesting that the continuation of the April 8, 2016 IEP team meeting take place on one of ten proposed dates, including April 21, 2016. In that email, the advocate stated that the complainant "will waive her 10 day notice for any of these dates" (Doc. c).
 3. On April 11, 2016, the school staff sent the complainant an email informing her that the date of April 21, 2016 was chosen for the continuance of the April 8, 2016 meeting, along with copies of the documents to be discussed at the meeting (Docs. c and d).
 4. The IEP team, including the complainant, reconvened on April 21, 2016. At that time, the complainant's advocate expressed concern that the complainant had not been provided with an agenda of the items to be covered in the meeting. The school-based members of the team explained that the team planned to review documents as indicated in the Notice of Documents, which had been provided to the complainant in preparation for the meeting. The complainant's advocate attempted to have the IEP team revisit the issues that had been discussed on April 8, 2016, and was informed by the school staff that the team needed to proceed with the review of the IEP. The complainant's advocate was informed that the issues he was raising were not required to be addressed through the IEP team, and that a meeting could be scheduled with the school staff to address these matters. However, the team was unable to begin the IEP review because the complainant left the meeting on advice of her advocate (Doc. e).
 5. On May 2, 2016, the BCPS sent a written notice to the complainant that the IEP team meeting would be continued on May 13, 2016 (Doc. f).
 6. On May 4, 2016, the school staff contacted the complainant by email and informed her that the IEP team meeting would be continued on May 13, 2016. On the same date, the complainant contacted the school staff and complained that she had received notice of the meeting only 9 days before the meeting instead of the 10 days before the meeting, as required (Doc. g).
 7. On May 5, 2016, the complainant hand delivered a request for an "emergency IEP meeting" to the school staff in order to discuss a school lunch detention that the student received on May 2, 2016. On the same date, the complainant sent the school staff an email indicating that, while she was available to participate in an IEP team meeting on

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- May 13, 2016, she was only willing to participate if the meeting was limited to a discussion of her concerns about the school lunch detention, and that she was not in agreement to continue the review of the IEP on that date (Doc. h).
8. On May 5, 2016, the school staff responded to the complainant that a purpose of the May 13, 2016 IEP team meeting would be to review of the IEP (Doc. h).
 9. On May 6, 2016, the complainant replied to the school staff that “I will not allow the reviewing of an IEP to intrude upon my request for an emergency meeting,” and that she would “take this matter forward with a formal complaint to the state” (Doc. i).
 10. On May 9, 2016, a notice was sent to the complainant that the IEP team meeting would be held on May 27, 2016 (Doc. j).
 11. The complainant did not participate in the May 27, 2016 IEP team meeting (Doc. k).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that the IEP is reviewed periodically, but not less than annually, to determine whether the annual goals are being achieved, and to revise the IEP, as appropriate (34 CFR §300.324).

The public agency must take steps to ensure that parents are present at each IEP team meeting or are afforded the opportunity to participate, by notifying parents of the meeting early enough to ensure that they will have an opportunity to attend (34 CFR §300.322). To ensure parent participation, the school system must provide parents with written notice at least ten (10) days in advance of the meeting (COMAR 13A.05.01.07C).

While the parents are equal participants in the IEP process, the public agency convenes the IEP team meeting and has the ultimate responsibility for “crafting the IEP” to ensure that there is a provision of Free Appropriate Public Education (FAPE) (*Letter to Simon*, 211 IDELR 436, United States Department of Education, Office of Special Education Programs, February 6, 1987). Accordingly, the IEP team works in a collaborative manner, but cannot be bound solely by the parent’s wishes with regards to the matters that are addressed in an IEP team meeting.

Based on the Findings of Facts #1 - #10, the MSDE finds that the complainant was provided with the opportunity to participate in the IEP team meetings.

Based on the Findings of Facts #1 - #11, the MSDE further finds that the complainant and her advocate have attempted to limit the IEP team discussion that would support instruction and assessment decision-making for the student. Therefore, this office finds that the BCPS had an affirmative obligation to proceed with the meeting, and does not find that a violation occurred with respect to the allegation.

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The MSDE reminds the complainant that an IEP team meeting is to be student-centered, and the student's best interest is to be paramount at the meeting. Therefore, it is in the best interest of the student for the parents and school system to work cooperatively in the scheduling of the meeting and the development of the IEP.

TIMELINE:

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.

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 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 a due process complaint.

Sincerely,

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

MEF/am

c: S. Dallas Dance
Conya Bailey
XXXXXXXXXXXX
Anita Mandis
Dori Wilson