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September 9, 2016

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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: #17-007

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 July 18, 2016, the MSDE received a complaint from Ms. XXXXXXXXXX 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 student.

The MSDE investigated the allegation that BCPS did not ensure that proper procedures were followed in response to the complainant’s request, on June 22, 2016, for Independent Educational Evaluations, in accordance with 34 CFR §300.502.

INVESTIGATIVE PROCEDURES:

1. On July 18, 2016, the MSDE provided a copy of the State complaint, by 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 August 3, 2016, the MSDE sent correspondence to the complainant that 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.

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3. On July 20, 2016, the BCPS provided documentation to the MSDE for consideration.
4. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Amended IEP, dated May 9, 2016;
 - b. Electronic mail (email) messages between the complainant and the school staff, dated June 22, 2016;
 - c. Correspondence from the school system staff to the complainant authorizing IEEs, dated July 20, 2016; and
 - d. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on July 18, 2016.

BACKGROUND:

The student is thirteen (13) years old, is identified as a student with an Other Health Impairment under the IDEA due to Attention Deficit Hyperactivity Disorder (ADHD). The student has an IEP that requires the provision of special education and related services, and attends XXXXXXXXXX (Doc. a).

During the period of time addressed by this investigation, the complainant participated in the education-making process and was provided with written notice of the procedural safeguards (Doc. a).

FINDINGS OF FACTS:

1. On June 22, 2016, the complainant sent an electronic mail to the school staff requesting an Independent Educational Evaluation (IEE) for an educational evaluation in reading, math and writing, as well as an IEE for a psychological evaluation (Doc. b).
2. Also on June 22, 2016, the school staff sent an email to the complainant that acknowledged her request for IEEs, but informed her that her request “needs to be considered at an IEP team meeting.” There is no documentation that an IEP team meeting was scheduled by the school staff (Doc. b).
3. On July 20, 2016, the BCPS sent correspondence to the complainant authorizing her requested IEEs (Doc. c).

DISCUSSION/CONCLUSIONS:

Parents have the right to request an IEE at public expense each time the public agency conducts an evaluation with which the parent disagrees. Upon receipt of a request from the parent, the public agency must either promptly ensure that the IEE is provided or file a due process complaint to request a hearing to demonstrate that its evaluation is appropriate (34 CFR §§300.502).

Based on the Findings of Facts #1 and #2, the MSDE finds that the school staff did not follow proper procedures in response to the complainant's request for IEEs. Therefore, the MSDE finds a violation. However, based on the Finding of Fact #3, the MSDE finds that the BCPS subsequently authorized the IEEs. Therefore, the MSDE does not require any student-specific corrective action.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the BCPS to provide documentation by November 1, 2016, of the steps it has taken to ensure that the XXXXXXXXXXXXXXXXXXXX staff comply with the IDEA requirements for responding to a parent's request for an IEE, in accordance with 34 CFR §§300.502.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

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 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 Appropriate Public Education for the student, including issues subject to this State complaint

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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:ksa

c: Tammy Turner
Tiffany Clemmons
Darnell Henderson
Diana Wyles
XXXXXXXX
Dori Wilson
Anita Mandis
K. Sabrina Austin
Bonnie Preis