



Karen B. Salmon, Ph.D.
State Superintendent of Schools

May 3, 2018

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

RE: XXXXX
Reference: #18-120

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.

ALLEGATIONS:

On March 7, 2018, the MSDE received a complaint from Mr. XXXXX, hereafter, “the complainant,” on behalf of the above-referenced student, his son. 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 following allegations:

1. The BCPS has not ensured that the student's Individualized Educational Program (IEP) addresses the student's counseling needs since December 2017, in accordance with 34 CFR §§300.320 and .324; and
2. The BCPS did not ensure that the student was provided with additional adult support, as required by the IEP, since the beginning of the 2017-2018 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is twelve (12) years old and attends XXXXXXXXXXXXX. He is identified as a student with an Emotional Disability under the IDEA, and has a IEP that requires the provision of special education and related services.

FINDINGS OF FACTS:

1. The student's IEP, developed on February 2, 2017, requires that, in addition to special education instruction, the student be provided with "Adult Support", on a daily basis, "due to noncompliance and disruptive behavior" and thirty (30) minute counseling sessions twice monthly.
2. There is no documentation that the student has been consistently provided with additional adult support in each of his classes since the start of the 2017-2018 school year.
3. On November 17, 2017, the IEP team met to begin the reevaluation process for the student. The IEP team recommended that psychological and educational assessments be conducted, as well as a classroom observation. To date, there is no documentation that the IEP team has completed this reevaluation.
4. On December 7, 2017, the complainant sent electronic mail to the school staff expressing his concern that the student required additional counseling support.
5. While the IEP team met on December 18, 2017, there is no documentation that they considered the complainant's request for additional counseling services. To date, there is no documentation that the IEP team has considered this request.

DISCUSSION/CONCLUSIONS:

Allegation 1: Counseling Needs

In this case, the complainant alleges that the school staff have not responded to his concerns regarding the student's counseling needs. Based on Finding of Facts #1 and #3- #5, the MSDE finds that the BCPS did not ensure that the IEP team has considered the complainant's concerns

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regarding the need for increased counseling and has not completed a reevaluation for the student within the required timelines, in accordance with 34 CFR §§300.320, .324 and COMAR 13A.05.01.06A. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2: Provision of Adult Support

In this case, the complainant alleges that the student was not provided with adult support consistently in all of his classes, particularly in his art class. Based on Finding of Fact #2, the MSDE finds that there is not documentation that the student was consistently provided with adult support, as required by his IEP, in accordance with 34 CFR §§300.101 and .323. 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 June 1, 2018, that the student is consistently being provided with adult support, on a daily basis, in accordance with his IEP.

The BCPS is also required to provide documentation by July 1, 2018, that the IEP team has completed its reevaluation of the student, considered the student's need for additional counseling services, and determined the compensatory services necessary to remediate the violations identified through this investigation.

The BCPS must provide documentation, within one (1) year of the date of this Letter of Findings, that the student has been provided with the compensatory services or other remedy determined by the IEP team as a result of this investigation, or documentation of parent refusal of such compensatory services or other remedy.

School-Based

The MSDE requires that the BCPS provide documentation by the start of the 2018-2019 school year of the steps taken to ensure the future compliance with requirements for IEP development and implementation, and reevaluation procedures at XXXXXXXXXXXX. The documentation must describe the actions taken to ensure that the staff properly implement the requirements of the IDEA, and provide a description of how the BCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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.

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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 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 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 and conclusions contained in this letter should be addressed to this office in writing. The student's 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 (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/gl

c: Verletta White
Conya Bailey
XXXXXXXX
Dori Wilson
Anita Mandis
Nancy Birenbaum
Gerald Loiacono