



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

April 24, 2018

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Ms. Rebecca Rider
Director of Special Education
Baltimore County Public Schools
The Jefferson Bldg. 4th Floor
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: XXXXX
Reference: #18-130

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 March 26, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, 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 above-referenced student.

The MSDE investigated the allegation that the BCPS has not ensured that the Individualized Education Program (IEP) has been implemented in all of the student’s classes during the 2017-2018 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is sixteen (16) years old and is identified as a student with an Other Health Impairment related to Attention Deficit Hyperactivity Disorder (ADHD) under the IDEA related to deficits in attention. He attends XXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The IEP in effect since the start of the 2017-2018 school year includes goals for the student to improve self-management and coping skills, math skills, and written language skills. It requires that the student be provided with special education instruction in the general education classroom from a general education teacher, with support, as needed, from an instructional assistant. The special education instruction is required to be provided in all core courses as well as electives. The IEP also requires the provision of supports in the classroom to assist the student with sustaining attention and with understanding new concepts and assignments.
2. The student receives instruction in science in a School Programs for Acceleration and Recovery of Credit (SPARC) class. He is taking Earth Systems/Space Science for original credit. An observation of the student's SPARC classroom reflects that students collaborate with a teacher to create learning experiences including independent on-line work, peer-to-peer group work, and teacher-directed instructions. The students access digital content with internet access. Notes and vocabulary sheets are provided to students which can be printed. The teacher works with each student both one-on-one and in small groups to discuss key concepts. Students are also provided with videos to assist in understanding of laboratory concepts.
3. There is documentation that, at the start of the school year, the student's assigned teachers, including his SPARC science teacher, were provided with the student's IEP and Behavior Intervention Plan (BIP). However, after the first quarter of the year, the student's math and Spanish teachers were replaced with long-term substitutes, who were not informed of the requirements of the student's IEP. There is documentation that the paraeducator assigned to the math class continued to provide the student with IEP accommodations, and reports of the student's progress towards achieving the annual goals made on April 10, 2018 reflect that he is making sufficient progress to achieve all of the IEP goals by February 2019.
4. The student has a history of interfering behaviors including being late to first period classes in math and engineering, skipping classes, not completing assignments, and playing on his cell phone during instruction. On October 17, 2017, the IEP team considered information from the math teacher that, while the student was earning an "A," he was missing assignments and was distracted by the use of his telephone in the classroom. The complainant indicated that she was considering suspending the student's telephone

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services. The team recommended that psychological and educational assessments be conducted, as well as a classroom observation.

5. On January 12, 2018, and February 7 and 26, 2018, the IEP team considered the assessment data and reviewed the IEP, which includes a BIP that addresses the student's need to improve focus in class and turning in assignments. The documentation of the meetings reflects that the complainant expressed concern about the student's standing in his SPARC science class. The teacher reported that the student continued to be distracted by his telephone and that he was missing several assignments. The teacher explained the grading process and offered to have the student receive additional support through an after-school coaching class and to map out the assignments and schedule for their completion with the complainant. The team also discussed the student's ongoing problem with being late to class every morning and documented that it was implementing consequences for the student's behaviors, such as detention. However, there is no documentation that the IEP team considered positive behavior interventions to address the student's chronic tardiness and skipping class, or considered additional supports to address the student's continued inappropriate use of his cell phone in class.

DISCUSSION/CONCLUSIONS:

In this case, the complainant alleges that the student's work is not modified and that he has no structure and little guidance in his science class because it involves independent study. The complainant also expresses concern about implementation of the IEP in the classes in which long-term substitute teachers are assigned.

Based on the Findings of Facts #1 and #3, the MSDE finds that the BCPS has not ensured the consistent provision of special education instruction by a general education teacher in science and Spanish classes as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

Based on the Findings of Facts #1 - #3, the MSDE finds that the IEP has been implemented in the student's science class, in accordance with 34 CFR §§300.101 and .323.

However, based on the Finding of Fact #4 and #5, the MSDE finds that the student is demonstrating interfering behaviors and that the BCPS has not ensured that the IEP team has reviewed and revised, as appropriate, the IEP to address the behaviors, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires that the BCPS provide documentation by May 30, 2018 of the steps taken to ensure that all of the student's teachers are informed of their responsibility for implementation of the IEP and the steps being taken to ensure that the IEP services and supports are being provided.

The MSDE requires that the BCPS provide documentation by the end of the 2017-2018 school year that the IEP team has review and revised, as appropriate, the IEP to address the student's interfering behaviors. The MSDE also requires the BCPS to provide documentation that the IEP team has determined the compensatory services or other remedy for the delay in ensuring that the IEP addresses the student's interfering behaviors and the inconsistent implementation of the IEP during the 2017-2018 school year.

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 that the XXXXXXXXXXXXXXXXXXXX staff implement the requirements for ensuring that each new teacher and provider assigned after the start of the school year is informed of their responsibility for implementation of the IEP and that the IEP team considers positive behavior interventions to address interfering behavior. The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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 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 any corrective actions within the timelines reported in this Letter of Findings.

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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 (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:aam

c: Verletta White
Conya Bailey
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Dori Wilson
Anita Mandis
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