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February 15, 2018

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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: XXXXX
Reference: #18-061

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 December 18, 2017, 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 student.

The MSDE investigated the allegation that the BCPS has not developed an Individualized Education Program (IEP) that addresses the student’s identified reading needs since December 18, 2016, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is eight (8) 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.

The student attended XXXXXXXXXXXXXXXXXXXX at the start of the 2016-2017 school year. Since April 2017, following a change in placement, the student has attended XXXXXXXXX XXXXXXXXXX, where he participates in the Functional Academic Learning Support special education program.

FINDINGS OF FACTS:

1. The IEP in effect since December 2016 was developed on February 22, 2016. The IEP identified needs for the student in the area of basic reading skills as a result of his difficulty with comprehension and a lack of sustaining attention consistent with teacher reports of his classroom performance. His present levels of performance indicate that the student was reading on a pre-primer level. The IEP included an annual goal for the student to isolate the initial, middle and final sounds when given ten (10) one (1) syllable words with the provision of letter cards, stimulus words, and picture cues. In order to achieve the goal, the student was required to isolate the sounds with 100% accuracy when given four (4) out of five (5) trials.
2. In addition to language arts, there is documentation that the student participated in Foundations,¹ a reading research-based intervention program, daily, a group of three (3) students for five (5) months. The student was also observed in his reading class by BCPS Central Office Special Education staff who also met with his teachers to provide additional suggestions to support the student. The IEP requires that the student receive special education services two (2) hours per day for reading, writing, and math skills. Because the student had not demonstrated the academic progress that was expected, the IEP team decided to conduct a reevaluation.
3. On January 18, 2017, the IEP team convened for the student's reevaluation. The school psychologist reported that the student's "cognitive and adaptive skills were clustered within the extremely low range of functioning." Her recommendations include a "highly structured, visual curriculum with adapted lessons that incorporate mostly visual learning with an academic curriculum that is embedded in concrete real life experiences."

¹ Foundations is a multisensory, structured, intensive language program, based on the Wilson Reading System, and essential to reading at the kindergarten level with the provision of learning letter-keyword sound, alphabetic order, and letter-formation skills (<https://www.wilsonlanguage.com/programs/foundations/>).

- It further contains recommendations for the student's work periods to be kept brief with frequent breaks, alternated levels of difficulty of assignments and implementation of a work-reward or work-play routine to increase his attention span and on-task behavior.
4. The special education teacher reported that "the student performs well below his same age peers, more consistent with a much younger student." The report of educational assessment contains recommendations for the student to be provided with curriculum modifications with explicit instruction in basic reading, including a multi-modality approach incorporating auditory, visual, and kinesthetic approaches to learning.
 5. The documentation indicates that during the classroom observation, which was conducted by a special education teacher, the student was observed mumbling and moving constantly, receiving support with all teacher directions, needing consistent verbal and visual cues, with reminders to sit still, listen, and remain in his assigned area and to remain on task. The observation report also indicates that the student was not able to accurately complete any of the tasks even with the provision of one-to-one support from an assistant teacher. The IEP team also considered the complainant's concerns about whether the student was making sufficient progress with his reading skills.
 6. The reports of the student's reading performance by his teacher reflect that the student struggled to learn initial letter sounds and basic sight words. The progress reports indicate that while the student was making progress on his IEP goals, his rate of progress was slow and his retention of the skills was inconsistent.
 7. On February 15, 2017, March 3, 2017 and April 18, 2017, the IEP team conducted an annual review of the IEP. The IEP requires that the student be provided with special education instruction to assist him in achieving the goal to improve his reading sight words and basic reading skills. The IEP includes supplementary aids, services, and supports including the opportunity for the student to repeat and paraphrase information, breaking down assignments into smaller units, modified assignments, use of pictures to support reading, use of strategies to initiate and sustain attention, provision of frequent and immediate feedback, and adult support.
 8. The student is to be provided with the accommodations of a human reader, a scribe, extended time, multiple and frequent breaks, and reduced distractions. The IEP team determined that the student needed twenty-five (25) hours per week of special education instruction, specifically with a curriculum containing functional, communication and academic skills within a Primary Functional Academic Learning Support (FALS²) special education program.

² The FALS Program is designed for students with IEPs in need of functional academic learning support who demonstrate significant delays in measured intelligence, adaptive functioning, communication, and academic functioning. These students are provided with extensive modification of objectives and learning materials, and more time to learn (<https://www.bcps.org/>).

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9. The IEP team convened on June 5, 2017 to review the student's IEP and progress since transitioning to the new school in February 2017. The special education teacher reported that the student has been quick to adapt to the class schedule and routines. She stated that the student is reading on a pre-primer level and has made progress in being able to read five (5) sight words and identifying beginning letter sounds. She also reported that he is benefitting from the integrated visually-based reading system used throughout the day "by gaining an awareness of the fifty (50) most frequently used words in communication."
10. The teacher reported that the most challenging issue for the student is maintaining his attention to tasks. The complainant stated that the student needed more encouragement and strategies to assist him with his fluid reasoning difficulties and asked that text-to-speech technology be considered for the student. The IEP team agreed that this assistive technology will be used with support from the special education teacher.

CONCLUSIONS:

Based on the Findings of Facts #2 - #4, and #7 - #10, the MSDE finds that the IEP team has adopted strategies that have been recommended to assist the student with improving his reading skills. Further, based on the Findings of Facts #1, #5 and #6, the MSDE finds that, while the student has not made the expected progress in reading, the IEP team continues to consider information from the complainant and the student's teachers, and to obtain additional data to identify the root cause of the lack of sufficient progress so that it can be addressed, as required by 34 CFR §300.324. Therefore, this office does not find that a violation has occurred with respect to the allegation.

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 be accompanied by a substantial reason why it was not provided during the investigation.

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,

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placement, or provision of a Free and 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/sf

c:

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