



200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

March 1, 2018

XXX
XXX
XXX

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: #18-071

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.

ALLEGATIONS:

On January 3, 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 following allegations:

1. The BCPS has not developed an Individualized Education Program (IEP) that addresses the student’s identified academic, social, emotional, and behavioral needs since May 2017, in accordance with 34 CFR §300.324.
2. The BCPS has not ensured that the student has been provided with the accommodations, supports, and services required by the IEP since May 2017, in accordance with 34 CFR §§300.101 and .323.

XXX

Ms. Rebecca Rider

March 1, 2018

Page 2

BACKGROUND:

The student is nine (9) years old and is identified as a student with a Specific Learning Disability under the IDEA. He attends XXXXXXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: IEP THAT ADDRESSES NEEDS

FINDINGS OF FACTS:

1. On May 1, 2017, the IEP team convened to review data to determine if the student qualified as a student with a disability under the IDEA. The team reviewed an independent psychological and educational assessment, dated March 2, 2017, that was obtained by the complainant. Based on the assessment results, the team “accepted the report” and determined that the student met the criteria for a student with a disability under the IDEA.
2. The results of the independent assessment identified math, reading comprehension, and writing, as areas affected by the student’s disability. The report also recommended social skills training, such as participation in small group activities to develop effective social skills, skills for maintaining conversations, and understanding verbal and nonverbal communication and behavior.
3. The results of the independent assessment indicated that the student’s disability resulted in instances of anxiety, inattention, and emotional outbursts. The report recommended that supports be provided such as advanced notice of schedule changes, positive reinforcement, manipulatives, breaks during the school day, and encouragement in asking for assistance when needed. It also includes a proofreading checklist, work correction opportunities, and opportunities to work in areas with minimal distractions.
4. On May 30, 2017, the IEP team met to develop the student’s IEP. The team documented present levels of performance in math and developed annual math goals for the student. The team also included supports recommended in the independent assessment to assist the student with anxiety, attention sustainability, and emotional outburst. However, the team decided without explanation, not to address the identified needs in reading comprehension, writing, and social skills training.
5. On December 8, 2017, the IEP team met at the request of the complainant to discuss the student’s progress and social behavior concerns. In response to the complainant’s concerns about the student’s behavior, the team decided to implement a student “check-in” sheet and teacher/parent communication logs to assist the student and complainant with managing behavior issues that may arise at school. The team did not address reading comprehension, writing, or social skills training, and determined that the IEP did not need to be revised. The IEP continues to not address these identified areas of need as documented in the independent assessment, and “accepted” by the IEP team.

CONCLUSION:

Based on the Findings of Facts #1, #3, and #4, the MSDE finds that the IEP addresses the student's emotional and behavioral needs, in accordance with 34 CFR 300.324. Therefore, this office does not find that a violation occurred with this aspect of the allegation.

Based on the Findings of Facts #1, #2, #4 and #5, the MSDE finds that, while the IEP team "accepted" the independent assessment during the eligibility determination meeting, the team did not identify all areas of academic and social needs when developing the IEP, in accordance with 34 CFR §300.324. Therefore this office finds that a violation occurred with respect to this aspect of the allegation.

ALLEGATION #2: PROVISION OF SUPPORTS

FINDINGS OF FACTS:

5. The student's IEP reflects that he is to be provided with the supports required by the IEP "periodically," on an "as needed" basis.
6. The student's "accommodation" checklist, teacher/parent communication logs, and "check-in" sheets, reflect that the student has been provided with the supports in the manner required by the IEP.

CONCLUSION:

Based on the Findings of Facts #5 and #6, the MSDE finds that there is documentation that the student was provided with the supports required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Based

The MSDE requires the BCPS to provide documentation, by April 1, 2018, that the IEP team has taken the following action:

- a. Determine the student's present levels of functioning and performance in reading comprehension, writing, and social skills;
- b. Determine the levels of functioning and performance that were expected to have been demonstrated by that time;
- c. Determine whether the student requires goals to address needs in the areas of reading comprehension, writing, and social skills, and revise the IEP as appropriate, based on the data;

XXX

Ms. Rebecca Rider

March 1, 2018

Page 4

- d. Determine the compensatory services or other remedy to remediate the violation identified in this investigation; and
- e. Develop a plan for the implementation of the services within one (1) year of the date of this Letter of Findings.

The BCPS must ensure that the IEP team considers the difference between the student's present and expected levels of performance when determining the services needed to remediate the violation.

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 the complainant's refusal of such compensatory services or other remedy.

The BCPS must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Specific

The MSDE requires the BCPS to provide documentation by May 31, 2018, of the steps taken to ensure that the violation does not recur at XXXXXXXXXXXXXXXXXXXXXXXX.

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.

XXX

Ms. Rebecca Rider

March 1, 2018

Page 5

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 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:ac

c: Verletta White
Conya Bailey
XXXXXXXX
Dori Wilson
Anita Mandis
Albert Chichester
Nancy Birenbaum