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March 13, 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: #18-075

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 12, 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 ensured that the student has been provided with special education instruction, in a separate, special education classroom, as required by the Individualized Educational Program (IEP), in accordance with 34 CFR §§300.101 and .323.
2. The BCPS has not ensured that reports of the student’s progress towards achievement of the annual IEP goals were provided as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

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3. The BCPS has not ensured that the IEP accurately reflects the team's May 10, 2017¹ decisions with regard to supports and services, which has resulted in the supports and services not being provided, in accordance with 34 CFR §§300.320 and .323.
4. The BCPS did not follow proper procedures when responding to the complainant's request for an IEP team meeting, since September 2017, in accordance with 34 CFR §§300.324 and 503.

BACKGROUND:

The student is 16 years old and is identified as a student with a Specific Learning Disability under the IDEA. He attends XXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: PROVISION OF SPECIAL EDUCATION INSTRUCTION

FINDINGS OF FACTS:

1. The IEP requires that the student be provided with special education instruction in reading, English, and social studies. He is to receive this instruction in a separate, special education classroom, for thirty (30) hours each month, to be provided by a special education teacher.
2. The student's 2017-2018 class schedule, grades, progress reports, school staff master schedule with class assignments, and BCPS course number indicator, reflect that the student has been provided with special education instruction, in a separate, special education classroom, by a special education teacher.

CONCLUSION:

Based on the Findings of Facts #1 and #2, the MSDE finds that there is documentation that the student was provided with special education instruction, as 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.

ALLEGATION #2: PROVISION OF PROGRESS REPORTS

FINDINGS OF FACTS:

3. The student's IEP requires that the complainant be provided with progress reports at the end of each quarter throughout the school year.
4. There is documentation that, on November 17, 2017, the school staff mailed the complainant the student's progress report for the first quarter of the 2017-2018 school year.

¹ The complaint alleged that the violation was a result of the decisions made at an IEP team meeting, held on May 5, 2017. However, documentation indicates that the actual IEP team meeting was held on May 10, 2017.

5. There is documentation that, on March 7, 2018, the school staff provided the complainant with the student's progress report, by electronic mail (email), from the first and second quarters of the 2017-2018 school year.

CONCLUSION:

Based on the Findings of Facts #3 - #5, the MSDE finds that the complainant was provided with the student's quarterly progress reports for each quarter, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #3: DECISIONS MADE AT THE MAY 10, 2017 IEP TEAM MEETING

FINDINGS OF FACTS:

6. On May 10, 2017, the IEP team convened for an annual review of the student IEP. The meeting summary reflects that the team determined that the student would be provided with specialized instruction in English 9 and social studies during the 2017-2018 school year.
7. The student's IEP in effect at the beginning of the 2017-2018 school year reflects that the student was to be provided with English 9 and social studies, in a separate, special education classroom, with specialized instruction.

CONCLUSION:

Based on the Findings of Facts #6 and #7, the MSDE finds that the decisions made at the IEP team meeting, held on May 10, 2017, were reflected in the student's IEP that was in effect at the beginning of the 2017-2018 school year, in accordance with 34 CFR §§300.320 and .323. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #4: CONVENING AN IEP TEAM MEETING

FINDINGS OF FACTS:

8. On August 8, 2017, the complainant contacted the IEP chairperson by email in an attempt to schedule an IEP team meeting to address her concern regarding why the student had received poor grades on his Art assignments when he was not present in class, but rather attending therapy sessions.
9. On September 6, 2017, the school staff responded to the complainant by indicated that they were developing an IEP meeting schedule and that the student would be included on the "agenda." The school staff requested that the complainant provide them with her availability in order for her to attend.

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10. On September 26, 2017, the complainant responded to the school staff's request for her availability to attend the IEP team meeting, by indicated that she would be available to meet "on most days, usually after 10 am."
11. On February 1, 2018, the IEP team met to address the complainant's concern about Art class and to review the IEP. The meeting summary reflects that the team determined that the student had missed assignments in Art class due to his attendance at therapy, and that his grade was negatively affected by the missed assignments. The team indicated that the student should have been excused from the assignments or allowed to make-up the assignments. In response, the IEP chairperson indicated that she would address the student's grade for the Art class with the school administrator. The complainant indicated that she had no further concerns at that time.

CONCLUSION:

In this case, the complainant alleged that the school did not respond to her request for an IEP team meeting a reasonable amount of time.

Based on the Findings of Facts #8 - #11, the MSDE finds that the school staff did not ensure that an IEP team meeting was convened within a reasonable amount of time of the complainant's request, in accordance with 34 CFR §§300.324 and 503. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Finding of Fact #11, the MSDE finds that the team addressed the complainant's concern regarding the inaccuracy of the student's grade in his Art class, and there was no negative impact on the student's ability to benefit from the education program. Therefore, no further student-based corrective action is required.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the BCPS to provide documentation by May 31, 2018, of the steps taken to ensure that the XXXXXXXXXXXXXXXX staff follow proper procedures for responding to a request for an IEP team meeting.

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.

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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 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:ac

c: Verletta White
Conya Bailey
XXXXXXXXXXXX
Dori Wilson
Anita Mandis
Albert Chichester