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April 4, 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: #18-092

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 February 20, 2018, the MSDE received a complaint from Ms. XXXXXXXXXX, 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 did not ensure that the student was provided with the special education services and supports required by the Individualized Education Program (IEP), from September 2017 to November 2017, in accordance with 34 CFR §§300.301 and .323.

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BACKGROUND:

The student is 15 years old and is identified as a student with a Speech/Language Impairment under the IDEA. The student was enrolled in Baltimore City Public Schools during the 2016-2017 school year before enrolling in the BCPS. He is registered at XXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services. However, he has not attended school since November 2017 and is currently receiving Home and Hospital Teaching (HHT) services.

FINDINGS OF FACTS:

1. On August 7, 2017, the complainant enrolled the student in the BCPS after moving from Baltimore City. The registration form reflects that the student has an IEP which requires specialized instruction to access the general education curriculum.
2. At the beginning of the 2017-2018 school year, the BCPS staff did not have access to the student's educational record and there is no documentation that the BCPS made attempts to obtain the educational record from the Baltimore City Public Schools.
3. The school staff report that the complainant contacted them in early October 2017 and informed them that the student had an IEP from Baltimore City Public Schools. The BCPS staff requested the IEP from the sending school and was provided a copy of the student's IEP by electronic mail.
4. The student's IEP required that he be provided with specialized instruction in phonics, reading comprehension, and written language, in a separate, special education classroom, for two (2) hours each week by a special education teacher. The IEP also required that the student be provided with speech/language therapy services outside the general education classroom, for thirty (30) minutes each week.
5. On October 12, 2017, the student's schedule was revised to reflect the services documented on his Baltimore City Public Schools IEP and the student was placed in a separate special education classroom for the provision of special education instruction.
6. On October 31, 2017, the IEP team convened to review the student's progress. The meeting summary reflects that the student was displaying anxiety in his new school environment. The team decided that the student would be provided with instruction in separate, special education classrooms, with "reduced student to teacher ratios," for all core content subjects. The IEP was revised to reflect the change in the delivery of special education instruction, but the team did not request the student's entire record from the sending school until March 23, 2018.
7. On November 2, 2017, the complainant contacted the school staff to inform them that the student had been hospitalized as a result of his anxiety. The student's attendance record reflects that he has not returned to school since November 9, 2017, and is continuing to receiving HHT services.

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8. The speech/language service logs reflect that the student has not been provided with speech/language therapy services since the start of the 2017-2018 school year.

CONCLUSIONS:

Based on the Findings of Facts #1 - #8, the MSDE finds that the student was not provided with the special education instruction and speech/language therapy services required by the IEP from September 2017 to November 2017, in accordance with 34 CFR §§300.301 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

Further, based on the Findings of Facts #2 and #6, the MSDE finds that the BCPS has not obtained the student's educational record to ensure that the IEP is appropriate, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the BCPS to provide documentation by June 1, 2018, that it has obtained the student's educational record and that the IEP team has reviewed and revised the IEP to ensure that it addresses his needs, and determined the compensatory services to be provided upon the student's return to school.

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.

School-Based

The MSDE requires the BCPS to provide documentation by June 15, 2018, of the steps it has taken to ensure that the XXXXXXXXXXXXX staff properly implement the requirements for the transfer of educational records between schools. The documentation must include a description of how the BCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violation does 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

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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 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
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