



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

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April 13, 2018

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

RE: XXXXX  
Reference: #18-125

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 19, 2018, the MSDE received a complaint from Mr. XXXXXXXXXXX, hereafter, “the complainant,” on behalf of his 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 proper procedures were followed when conducting transition planning for the student on March 6, 2018, in accordance with 34 CFR §§300.320, .321, .322, .324, .610, and COMAR 13A.05.01.07.

## **BACKGROUND:**

The student is thirteen (13) years old and is identified as a student with Autism under the IDEA. He attends XXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

## **FINDINGS OF FACTS:**

1. On March 6, 2018, an IEP team meeting was held to complete the annual IEP review, conduct transition planning, and determine the student's need for Extended School Year (ESY) services.
2. Although the IEP does not require the provision of services from a school psychologist, the written invitation to the March 6, 2018 IEP team meeting states that the school psychologist was expected to attend the meeting. The school psychologist did not participate in the meeting and there is no information or documentation that input from the school psychologist was needed.
3. The student was invited to the meeting. The school staff report that they do not automatically remove students from class to bring them to an IEP team meeting to which the students have been invited, but defer to parent wishes as to whether the students should be brought to the meeting. There is no information or documentation that the complainant indicated to the school staff that he wished for the student to be removed from class and brought into the meeting.
4. At the March 6, 2018 IEP team meeting, the team reviewed a draft IEP, which includes a proposed transition plan that was developed by the BCPS transition facilitator based on information from an electronic transition assessment<sup>1</sup> and an interview with the student that was conducted by the case manager on October 10, 2017 in preparation for the annual review of the IEP.<sup>2</sup> The report of the interview states that the student expressed an interest in attending a four (4) year college and becoming a zoologist upon completion of high school.
5. At the March 6, 2018 IEP team meeting, the complainant expressed concern that the transition plan include more specificity about the opportunities for the student to explore magnet high schools. The complainant specifically requested that language be included

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<sup>1</sup> The student was administered the O\*Net Interest Profiler that allowed him to explore the world of work and identify careers that may satisfy what is important to him in a job ([onet@onetcenter.org](mailto:onet@onetcenter.org)). The student's results indicate that 70 careers were identified as a "best fit" and 18 careers were identified as a "great fit" for the student to explore in areas that will require a high degree of preparation. Many others were identified as "best fit" and "great fit" for the student in areas that will require from no preparation to extensive preparation.

<sup>2</sup> This was required because the student would reach the age of fourteen (14) during the time period covered by the IEP that would be developed at the next annual review.

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that the student will shadow a student at the BCPS magnet high schools. Although the case manager who conducted the student interview participated in the IEP meeting, the BCPS transition facilitator who developed the proposed transition plan was brought into meeting as well in order to address the complainant's concern about the need for more specificity in the plan. The BCPS transition facilitator explained that the proposed language in the plan for the student to explore magnet programs encompassed the opportunity for shadowing students in magnet schools. The complainant requested that the plan include more specific language about shadowing at magnet schools, which was agreed to by the IEP team.

6. The IEP team revised the transition plan to reflect activities to include exploring the magnet programs at high schools, attending open houses at magnet schools, attending a countywide magnet school fair, and meeting with the school counselor to discuss magnet opportunities in the area of environmental science and animals and to shadow in these programs. The proposed transition plan includes goals for the student to complete post-secondary course work in the field of environment, agricultural and natural resource systems and to become employed in the field after graduation from high school. It also contains transition activities, including identifying the skills required for employment within the field of zoology, and identifying and researching careers within the field of zoology. The plan reflects a proposed course of study of environmental, agricultural and natural resource systems, as well as linkages with the Division of Rehabilitative Services (DORS) when the student is in the eleventh (11<sup>th</sup>) or twelfth (12<sup>th</sup>) grade.
7. The complainant disagreed with the transition plan, expressing concern that the BCPS transition facilitator had developed the proposed plan based on information provided from the student interview without having personally conducted the student interview. The complainant also expressed concern both that the BCPS transition facilitator had not been invited to the meeting, and that the BCPS transition facilitator had been brought into the meeting without his "approval." The school staff decided to continue the meeting on another date in order to attempt to reach an agreement about the plan. This meeting is scheduled for April 17, 2018.

### **DISCUSSION/CONCLUSIONS:**

In this case, the complainant alleges several violations of the IDEA and COMAR with respect to the transition planning for the student. The complainant first alleges that, because the proposed plan was developed by a school system staff member who had not conducted the student interview, the student's interests and preferences were not appropriately obtained.

Based on the Findings of Facts #1 - #7, the MSDE finds that the student's interests and preferences were properly obtained and used as a basis for the development of the transition plan, in accordance with 34 CFR §300.320 and COMAR 13A.05.01.07. This office finds no legal authority for the assertion that the staff member who develops a proposed transition plan be the

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same staff member who conducts the student interview. Therefore, we do not find that a violation occurred with respect to this aspect of the allegation.

The complainant further alleges that having the BCPS transition facilitator develop the proposed transition plan violated his son's confidentiality because he had no legitimate educational interest in the development of the plan. Based on the Findings of Facts #4 - #7, the MSDE finds no evidence to support the assertion that the BCPS transition coordinator, who is a school system employee with responsibility for ensuring appropriate development of transition plans, had no legitimate educational interest in the development of the student's transition plan. Therefore, we do not find that a violation of 34 CFR §300.610 occurred with respect to this aspect of the allegation.

The complainant also alleges simultaneously that: (a) the BCPS transition facilitator should have been invited to the March 6, 2018 IEP team meeting and that the failure to do so denied him meaningful parent participation in the meeting; and (b) the BCPS transition facilitator should not have been brought into the meeting to address his concerns without his approval.

Based on the Findings of Facts #4 - #7, the MSDE finds that the BCPS transition facilitator is not a required member of the IEP team, was not anticipated to be an IEP team participant, and therefore, was not required to be listed on the meeting invitation, in accordance with 34 CFR §300.321.

Based on the Findings of Facts #4 and #5, the MSDE further finds that the case manager who conducted the student interview participated in the meeting in order to address any questions about the student's interests and preferences, in accordance with 34 CFR §300.321.

Based on the Findings of Facts #4 and #7, the MSDE finds that, when the team discovered that additional input from the BCPS transition facilitator was needed, he was brought into the meeting in order to address the complainant's concerns, in accordance with 34 CFR §300.324.

This office finds no legal authority for the assertion that the complainant's approval was required in order for a member of the school staff to be consulted by the IEP team in order to address concerns he raised at the meeting. Therefore, we do not find that a violation occurred with respect to this aspect of the allegation.

In addition, the complainant alleges that the school psychologist was required to attend the IEP team meeting because this individual was listed as an anticipated participant. Based on the Finding of Fact #3, the MSDE finds that the school psychologist is not a required member of the IEP team and input from the school psychologist was not required in order to review the IEP, in accordance with 34 CFR §§300.321 and .324. Therefore, we do not find that a violation occurred with respect to this aspect of the allegation.

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Finally, the complainant alleges that, although the student was listed as an invitee on the meeting invitation, he was not physically brought to the meeting by the school staff. Based on the Finding of Fact #4, the MSDE finds that the student was invited to the meeting, as required by 34 CFR §300.321 and there is no information or documentation that the complainant indicated to the school staff that he determined that it was appropriate to bring the student into the meeting.

In addition, based on the Finding of Fact #4, the MSDE finds that the BCPS took other steps to ensure that the student's preferences and interests were considered, as required by 34 CFR §300.321. Therefore, this office does not find a violation with respect to this aspect of the allegation.

Based on the Findings of Facts above, this office finds that the transition plan proposed by the IEP team on March 6, 2018, included appropriate postsecondary goals based on information from the student regarding his interests and preferences and appropriate transition services, including courses of study, needed to assist the student in achieving the goals, in accordance with 34 CFR §300.320. Based on the Finding of Fact #6, this office further finds that the BCPS ensured that the student's need for linkages between the school system and participating agencies was considered, in accordance with COMAR 13A.05.01.09.

Finally, based on the Finding of Fact #7, the MSDE finds that the IEP team is continuing to meet to attempt to address the complainant's concerns about the student's transition plan, in accordance with 34 CFR §300.324. Therefore, the MSDE finds that no violation occurred.

#### **ADDITIONAL DISCUSSION:**

In order for a student to receive a Free Appropriate Public Education (FAPE), the public agency must ensure that the student is provided with an IEP that addresses his needs (34 CFR §§300.101 and .324).

While the parents are equal participants in the IEP process and are to be informed of who is anticipated to be participating on the IEP team, a parent may not prohibit the school system from ensuring that the IEP team consults with appropriate school system staff when needed to address concerns raised by the parent at the IEP team meeting. Likewise, a parent does not have the authority to determine the school system staff who work on the development of a proposed transition plan.

The complainant is urged to work cooperatively with the school system to ensure the provision of appropriate services to the student so that there is no further delay in completion of the transition plan.

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**TIMELINE:**

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.

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 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  
Nancy Birenbaum