



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

May 24, 2018

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Dr. Terri Savage
Acting Executive Director
Howard County Public School System
Special Education & Student Service
The Old Cedar Lane Building
5451 Beaverkill Road
Columbia, Maryland 21044

RE: XXXXX
Reference: #18-133

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 March 28, 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 Howard County Public School System (HCPS) 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 HCPS did not ensure that the decisions made regarding the student’s progress towards achievement of the reading and social and emotional goals, during the 1st and 2nd quarters of the 2017-2018 school year, have been consistent with the data, in accordance with 34 CFR §§300.101 and .324.
2. The HCPS has not ensured that, since September 2017 that the student’s Individualized Education Program (IEP) addresses his math, reading, and social and emotional needs, in accordance with 34 CFR §300.324.

3. The HCPS did not ensure that the student was provided with the amount of special education instruction and adult support during the 1st and 2nd quarters of the 2017-2018 school year, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.
4. The HCPS did not provide a written invitation to the March 29, 2018 IEP team meeting within the required timeline, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.

BACKGROUND:

The student is eight (8) years old and is identified as a student with a Developmental Delay under the IDEA that impacts his skills in language, math, reading, and ability to maintain attention. He attends XXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

ALLEGATIONS #1 AND #2: IEP THAT ADDRESSES THE STUDENT’S MATH, READING, AND SOCIAL AND EMOTIONAL NEEDS AND PROGRESS REPORTS BASED ON DATA

FINDINGS OF FACTS:

1. The IEP identified the student’s needs in reading comprehension, foundational skills, social communication, and interactions with others. The IEP also identified needs related to the ability to recognize numeric place values. The IEP included goals to improve these skills and specialized instruction and supports to assist the student in achieving the goals. There is documentation that the student was participating in a reading intervention to improve comprehension.
2. On November 2, 2017, the IEP team convened to address the complainant’s concerns about the student’s progress. The team updated the student’s present levels of performance and objectives in reading and math, and included additional supports, such as “home-school” communication logs by services providers and weekly homework assignments. The student’s self-management goal was revised to align with social interaction objectives. The school staff reported that they were currently using a new intervention with the student because he did not demonstrate the expected growth with the previous reading intervention. The team also agreed to trial the use of social stories to assist the student with social interaction with peers and adults.
3. There is documentation that the school staff conducted progress monitoring with the provision of the reading intervention and with social interactions skills during the 1st quarter of the school year. The speech/language logs also reflect that the speech/language therapist had been addressing the student’s social interaction goal during the 1st quarter of the school year. On November 10, 2017, the progress reported on the student’s annual goals states that he was making sufficient progress to achieve the goals.

4. On January 25, 2018, the IEP team convened to review the student's speech/language assessment provided by the complainant. The team also reviewed the student's progress in reading, math, and social/emotional behaviors. The team accepted the results of the speech/language assessment and revised the IEP to include an additional objective in reading comprehension to be addressed by the speech/language pathologist. The school staff reported that with adult support, the student was working on grade level skills in math. The team also revised goals and objectives in the area of social interaction skills addressed by the speech/language therapist, and developed a self-management goal to assist the student with following classroom directions.
5. On January 26, 2018, the progress reported on the student's annual reading, math, and social interaction goals indicates that he is making sufficient progress to achieve the goals. There is documentation that the school staff conducted progress monitoring with the provision of the reading intervention and with social interactions skills during the 2nd quarter of the school year. The speech/language logs also reflect that the therapist had been addressing the student's social interaction skills goals during the 2nd quarter of school.
6. On March 8, 2018, the IEP team convened for an annual review. The complainant indicated that she did not believe the student made sufficient progress on his goals during the first quarter of the school year and requested that the progress report be changed. In response, the school staff indicated that, although there was regression from the summer, the student was making sufficient progress on the goals, and was comprehending math concepts when provide with support. The school staff further indicated that the student started two (2) new reading intervention programs that use text repetition and visual supports, and that he was making progress in reading; however, based on his disability, his progress may be "slower." The team agreed to revise the goals but reconvene at a later date in order to continue the IEP annual review process.
7. On March 29, April 16, April 26, and May 3, 2018, the IEP team reconvened to continue the review and revision of the IEP. During this time, the school staff reported that the student had made significant growth socially in the classroom. The school staff also reported that with the two (2) reading interventions and small group setting, the student continues to make progress with his reading levels. The team included a positive rewards system to assist the student to independently master tasks and agreed to allow the student to use the restroom in the nurse's suite to decrease his social anxiety. In addition, the staff reported that the student was participating in a lunch bunch with other peers which allows him to work on his social interaction and pragmatic language skills, a goal was included to address communication with peers and adults, and psychological services were included in the IEP. There is documentation that the school staff conducted progress monitoring with the provision of the reading intervention and with social interactions skills.

CONCLUSIONS:

Student Progress

Based on the Findings of Facts #3, #5, and #7, the MSDE finds that the decisions made regarding the student's progress towards achievement of the reading and social and emotional goals during the 1st and 2nd quarters of the 2017-2018 school year, were based on the data, in accordance with 34 CFR §§300.101 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

IEP that Addresses the Student's Identified Needs

Based on the Findings of Facts #1 - #7, the MSDE finds that the IEP addresses the student's identified math, reading, and social and emotional needs, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #3: PROVISION OF SPECIAL EDUCATION INSTRUCTION AND ADULT SUPPORT

FINDINGS OF FACTS:

8. The IEP in effect at the beginning of the 2017-2018 school year requires that the student be provided with special education instruction in the general education classroom for eight (8) hours and forty-five (45) minutes each week. The IEP also required that the student be provided with special education instruction in a separate, special education classroom, for six (6) hours and fifteen (15) minutes each week.
9. The student's 2017-2018 schedule, classwork, parent communication logs, report cards, and progress reports reflect that he has been provided with the amount of special education instruction required by the IEP.
10. The IEP requires that the student be provided with close adult supervision, daily, during "some" activities outside of the classroom, including technology, media, the cafeteria, recess, and arriving and departing from school.
11. There is documentation that the student received adult support in various areas of the school throughout the day and that he was provided with adult support in the areas required in his IEP.

CONCLUSIONS:

Provision of Special Education Instruction

Based on the Findings of Facts #8 and #9, the MSDE finds that the student has been provided with the amount of special education instruction 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 this aspect of the allegation.

Provision of Adult Support

Based on the Findings of Facts #10 and #11, the MSDE finds that the student has been provided with additional adult support in the areas 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 this aspect of the allegation.

ALLEGATION #4: IEP TEAM MEETING NOTICE

FINDINGS OF FACTS:

12. On February 5, 2018, the school staff sent the complainant an electronic mail (email) message indicating that the IEP team would convene on March 8, 2018 at 1:00 p.m. in order to review private assessments, conduct an annual review, and to consider Extended School Year (ESY) services. The email states that, because of the number of agenda items, it was anticipated that the meeting would have to take place on two days, with the March 8, 2018 meeting being continued on March 29, 2018. The email indicates that the complainant was provided with several different times to choose from on March 29, 2018.
13. On February 28, 2018, a written invitation to the March 8, 2018 meeting was issued, which included all of the required content.
14. A written summary of the March 8, 2018 meeting was provided to the complainant that reiterated that the team would reconvene on March 29, 2018 to complete the meeting.
15. On March 21, 2018, a written invitation to the March 29, 2018 meeting was issued, which included all of the required content.
16. On March 29, 2018, the IEP team, including the complainant, reconvened to continue its review of the IEP.

CONCLUSION:

Based on the Findings of Facts #12 - #16, the MSDE finds that the complainant was not provided with notice of the IEP team meeting held on March 29, 2018, at least ten (10) days before the IEP team meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation has occurred with respect to the allegation.

Notwithstanding the violation, based on the Findings of Facts #12 - #16, the MSDE finds that the complainant was provided with written notice of the meeting within sufficient time for the complainant to participate in the IEP team meeting. Therefore, this office finds that the violation

did not impact the complainant's ability to participate in the meeting, and no corrective action is required.

TIMELINE:

Please be advised that both the complainant and the HCPS 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 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: Michael Martirano
Kathy Stump
XXXXXXXXXX
Dori Wilson
Anita Mandis
Albert Chichester
Nancy Birenbaum