



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

August 3, 2018

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Dr. Debra Brooks
Director of Special Education
Baltimore City Public Schools
200 East North Avenue, Room 204-B
Baltimore, Maryland 21202

RE: XXXXXXXXXXXXXXXX
Reference: #18-180

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 June 8, 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 City 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 did not provide the parent with proper written notice of the Individualized Education Program (IEP) team’s decisions during the 2017-2018 school year, in accordance with 34 CFR §§300.322 and .503.
2. The BCPS did not follow proper procedures when responding to a request to amend the student’s educational record during the 2017-2018 school year, in accordance with 34 CFR §§300.618 - .621.

3. The BCPS did not ensure that the student was provided with extended time to complete his work, work areas with minimal distraction, and a calculator, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is 18 years old and is identified as a student with an Other Health Impairment under the IDEA, related to Attention Deficit Hyperactivity Disorder.

During the 2017-2018 school year, the student attended XXXXXXXXXXXXXXXXXXXX and had an IEP that required the provision of special education instruction and related services. On June 10, 2018, the student graduated from XXXXXXXXXXXXXXXXXXXX with a Maryland High School Diploma.

ALLEGATION #1: PROVISION OF DOCUMENTS AFTER AN IEP TEAM MEETING

FINDING OF FACT:

1. There is documentation of prior written notices for the IEP team meetings convened during the 2017-2018 school year, with the exception of the June 14, 2018 IEP team meeting.
2. There is no documentation that any of the prior written notices were provided to the complainant during the 2017-2018 school year.

CONCLUSION:

Based on the Findings of Facts #1 and #2, the MSDE finds that there is no documentation that prior written notices were provided to the complainant after the IEP team meetings, in accordance with 34 CFR §§300.322 and .503. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #2: RESPONDING TO A REQUEST TO AMEND THE EDUCATIONAL RECORD

FINDING OF FACT:

3. The complainant reported that, during the 2017-2018 school year, she made a verbal request to the school-based members of the IEP team, to have the student's educational record amended. The school-based members of the IEP team deny that a request was made by the complainant to amend the student's educational record, and there is no documentation that such a request was made.

CONCLUSION:

Based on the Finding of Fact #3, the MSDE finds that there is no documentation that a request was made by the complainant to amend the student's educational record, in accordance with 34 CFR §§300.618 - .621. Therefore, this office does not find that a violation occurred with respect to the allegation.

The complainant maintains the right to request that the student's educational record be amended, in accordance with 34 CFR §§300.618 and .619.

ALLEGATION #3: PROVISION OF SUPPORTS

FINDINGS OF FACTS:

4. The IEP included goals for the student to improve his reading, written language, and math skills and required that the student be provided with instructional and assessment supports, such as work areas with minimal distraction and the use of a calculator.
5. On November 14, 2017, the IEP team convened. The complainant requested that extended time to complete work be included on the student's IEP. The student indicated at the meeting that having extended time provided him the opportunity to review his work. The team reviewed the student's attendance, grades, and grade point average (GPA). Based on the data, the team determined that extended time would be included in the IEP as an instructional and assessment accommodation.
6. The student's progress reported on January 30, 2018, reflects that the student achieved the goals or was making progress towards achieving the goals.
7. On February 13, 2018, the IEP team convened to review assessments and the student's progress. The teachers reported that the student's "accommodations were being provided to support him in accessing grade level curriculum and produce grade level work and the student does request additional time when he feels he needs the support. The student also utilizes his extended time to make revisions and thoroughly reviews his classwork, which is reflective of his grades." The team determined that the student no longer required supports in reading and written language, but updated achieved goals in the area of math.
8. The student's progress reported on April 12, 2018, reflects that the student was making sufficient progress toward achievement of his math goals with the use of a calculator.
9. On June 14, 2018, the IEP team convened at the complainant's request and documented that there was disagreement between the complainant and the school-based members of the IEP team with respect to the provision of extended time as a support. The IEP reflects that the team again, reviewed the student's report card data, grade point average,

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assessments, and teacher reports and determined that the student was provided with his support during the 2017-2018 school year, and further, received a high school diploma on June 10, 2018.

10. There is no documentation that the student was provided with areas to work with minimal distraction for testing and to complete classwork when off task. However, the student was making sufficient progress toward achieving the IEP goals and subsequently graduated with a Maryland High School Diploma.

CONCLUSION:

Based on the Findings of Facts #4 - #10, the MSDE finds that there is documentation that the student was provided with some of the supports required by the IEP, but not all of the supports required by the IEP. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Finding of Fact #10, the MSDE finds that the student was making sufficient progress toward achievement of the annual goals and graduated with a High School Diploma. Therefore, this office finds that the violation did not negatively impact the student's ability to benefit from the education program, and no student-specific corrective action is required to remediate the violation.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the BCPS to provide documentation by September 5, 2018, that the complainant has been provided with the IEP prior written notices from the IEP team meetings held during the 2017-2018 school year.

The MSDE also requires the BCPS to provide documentation by October 1, 2018 of the steps taken to ensure that the XXXXXXXXXX High School staff follow proper procedures for the provision of IEP prior written notices to parents, and the provision of supports for students, as required by their IEP.

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: Sonja B. Santelises
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