



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

September 28, 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: XXXXX
Reference: #19-020

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education 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 August 13, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, 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 follow proper procedures when making an Extended School Year (ESY) services determination on May 10, 2018, in accordance with 34 CFR §300.106, COMAR 13A.05.01.07B(2) and COMAR 13A.05.01.08B(2); and
2. The BCPS did not ensure that reports of the student’s 2017 - 2018 fourth quarter progress towards achievement of the annual Individualized Education Program (IEP) goals were provided as required by the IEP, in accordance with 34 CFR §300.101 and .323.

BACKGROUND:

The student is eight (8) years old and on May 10, 2018, was identified as a student with an Emotional Disability under the IDEA. She attends XXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: ESY SERVICES DETERMINATION PROCEDURES

FINDING OF FACT:

1. On May 10, 2018, the IEP team convened to develop an initial IEP for the student. When developing the IEP, the team considered whether the student requires ESY services. The team documented that it considered all the required factors and documented its determination regarding each factor. The team found that the IEP did not include annual goals related to critical life skills, and that there was not a likelihood of regression of critical life skills caused by a normal school break and failure to recover those skills in a reasonable amount of time. The team also found that there was no progress yet towards mastery of the goals that had been developed, that there were no emerging skills, breakthrough opportunities, interfering behaviors, or special circumstances that existed. In addition, the team found that the nature and severity of the student's disability did not indicate a need for ESY services. Based on the information, the IEP team determined that the student would not be prevented from receiving benefits from the education program during the regular school year if ESY services are not provided.

CONCLUSION:

Based on the Finding of Fact #1, the MSDE finds that the BCPS followed proper procedures when making an ESY determination on May 10, 2018, in accordance with 34 CFR §300.106, COMAR 13A.05.01.07B(2) and COMAR 13A.05.01.08B(2). Therefore, this office does not find that a violation occurred with respect to the allegation.

**ALLEGATION #2: PROVISION OF THE FOURTH QUARTER
PROGRESS REPORT FOR THE 2017-2018 SCHOOL YEAR**

FINDINGS OF FACTS:

2. There is documentation that on June 19, 2018, the student's "fourth quarter IEP report card" was sent to the complainant.
3. On July 7, 2018 during the summer break, the complainant contacted the school staff by electronic mail (email) informing them that she had not received the student's fourth quarter IEP progress report from the 2017-2018 school year. There is documentation that the school staff provided the complainant with another copy of the student's 2017-2018 school year IEP progress report when school re-opened in September 2018.

CONCLUSION:

Based on the Findings of Facts #2 and #3, the MSDE finds that there is documentation that the progress report was sent to the complainant, and that once the school staff were informed that she had not received it, that it was provided again, in accordance with 34 CFR §300.101 and .323. Therefore, this office does not find that a violation occurred with respect to the allegation.

TIMELINE:

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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 Early Intervention/Special Education Services

MEF:ac

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