



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

July 17, 2019

Ms. Ronnetta Stanley
Loud Voices Together
P.O. Box 1178
Temple Hills, Maryland 20757

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

RE: XXXXX
Reference: #19-172

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 May 29, 2019, the MSDE received a complaint from Ms. Ronnetta Stanley, hereafter, “the complainant,” on behalf of the above-referenced student and his mother, Ms. XXXXXXXXXXXXX. 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 has not ensured that the student was provided with special education instruction in the educational placement required by the Individualized Education Program (IEP), since December 17, 2018, in accordance with 34 CFR §300.101 and .324.
2. The BCPS has not ensured that the IEP addressed the student’s academic, social/emotional, occupational therapy, and vision needs, since December 17, 2018, in accordance with 34 CFR §300.324.

3. The BCPS did not provide an IEP within five (5) business days of the May 10, 2019 IEP team meeting, in accordance with COMAR 13A.05.01.07.
4. The BCPS did not follow proper procedures when determining the student's educational placement on May 10, 2019, in accordance with 34 CFR §§300.114 - .116 and .321.

BACKGROUND:

The student is twelve (12) years old and is identified as a student with a Vision Impairment under the IDEA. He attends XXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student's IEP, in effect on December 17, 2018, reflects that the student has identified needs in the areas of reading, math, written language, social/emotional behavior, self-management, and fine motor skills. The IEP includes a statement of present levels of performance that is consistent with the evaluation data. It includes goals for the student to improve his academic and social/emotional skills consistent with the data of his needs in these areas. The IEP requires the provision of special education instruction and related services to assist the student in achieving the goals. It also includes supplementary aids, services, and accommodations to assist the student with fine motor, vision, and social/emotional needs consistent with the data.
2. The IEP states that the Least Restrictive Environment (LRE) in which it can be implemented is a combination of general and separate special education classrooms. It specifically states that special education instruction for the math, reading, and written language goals is to be provided in both the general and separate special education classrooms.
3. On February 25, 2019, the IEP team considered an Individualized Education Evaluation (IEE) in the area of vision that was provided by the student's mother. In response, the team recommended an additional assessment in the area of vision in order to determine the student's developmental needs.
4. On May 10, 2019, the IEP team reviewed the student's BCPS vision assessment. Based on the results, the team included vision consultation between the teacher of the visually impaired and the student's teachers. The team also considered the parent's request for a change in educational placement to a nonpublic separate special education school. The IEP team rejected the request indicating that a more restrictive placement would be

“too restrictive” at this time, and indicated that data supports that the IEP was being successfully implemented in the public school setting. The IEP includes reports that the student has achieved or is making sufficient progress to achieve the goals by December 2019. The team revised the IEP to include additional supplementary aids, services, and accommodations to address the student’s identified areas of need in the general and special education classrooms.

5. At the same IEP team meeting, the student’s mother raised concern about additional occupational therapy (OT) services for the student. In response, the team indicated that the student has been assessed twice in that area, and after reviewing the assessment reports, it was determined that he does not require the provision of direct OT services. The team further determined that the student’s OT needs could continue to be addressed with accommodations, and supplementary aids and services, which includes consultation between teachers and an occupational therapist.
6. The audio recordings of the IEP team meetings held during the 2018 - 2019 school year reflect that the student received special education instruction in the general and special education classrooms, as required by the IEP, to support his identified needs.
7. While there is documentation that BCPS provided the parent with the IEP that was revised following the May 10, 2019 IEP team meeting, it did not provide the document within five (5) business days following the IEP team meeting.

CONCLUSIONS:

Allegation #1: Provision of Special Education Instruction in the Required Placements

Based on the Findings of Facts #1 - #6, the MSDE finds that the student was provided with special education instruction in the placement required by the IEP, in accordance with 34 CFR §300.320. Therefore, this office does not find that a violation occurred with respect to this allegation.

Allegation #2: Addressing the Student’s Needs

Based on the Findings of Facts #1 - #6, the MSDE finds that the IEP addressed the student’s academic, social/emotional, occupational therapy, and vision needs, since December 17, 2018, in accordance with in accordance with 34 CFR §§300.320 and .324. Therefore, this office does not that a violation occurred with respect to the allegation.

Allegation #3: Provision of an IEP Documents after an IEP Team Meeting

Based on the Finding of Fact #7, the MSDE finds that the BCPS did not provide the parent with the IEP within the timelines required by COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on that Finding of Fact #7, the MSDE finds that the parent has been provided with the IEP document, and therefore, no additional student-based corrective action is required.

Allegation #4: Educational Placement Determination

Based on the Findings of Facts #1 - #4, the MSDE finds that the BCPS followed proper procedures when determining the student's educational placement on May 10, 2019, in accordance with 34 CFR §§300.114 - .116 and .321, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINE:

The MSDE requires the BCPS to provide documentation by the start of the 2019 - 2020 school year of the steps taken to ensure that parents are provided with the IEP within the required timelines at XXXXXXXXXXXXXXXX. The steps should include a description of how the BCPS will monitor to ensure the effectiveness of the steps taken.

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.

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.

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The parent and the school system 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

c: XXXXXXXXXXXX
 Sonja B. Santelises
 Allen Perrigan
 XXXXXXXXXXXX
 Dori Wilson
 Anita Mandis
 Albert Chichester
 Nancy Birenbaum