



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

April 16, 2019

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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: #19-114

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 February 2019, the MSDE received a complaint from Ms. XXXXXX, hereafter, “the complainant,” on behalf of her daughter, 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 student.

The MSDE investigated the following allegations:

- 1 The BCPS has not ensured that the Individualized Education Program (IEP) has included goals that are aligned with the State academic achievement standards for the student’s current grade level and that addresses the student’s identified social/emotional, speech/language, and reading needs, since November 2018, in accordance with 34 CFR §300.320.

2. The BCPS has not ensured that the IEP accurately reflects the team's August 23, 2018 and January 10, 2019<sup>1</sup> decisions with regard to additional adult support and assistive technology, which has resulted in the supports not being consistently provided during the 2018 - 2019 school year, in accordance with 34 CFR §§300.101 and .323.
3. The BCPS has not ensured that physical education supports and a home/school communication system have been provided consistently as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

**BACKGROUND:**

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

**ALLEGATION #1: GOALS THAT ARE ALIGNED WITH THE STATE ACADEMIC ACHIEVEMENT STANDARDS AND THAT ADDRESS THE STUDENT'S IDENTIFIED SOCIAL/EMOTIONAL, SPEECH/LANGUAGE, AND READING NEEDS**

**FINDINGS OF FACTS:**

1. On August 23, 2018, the IEP team convened to review the student's IEP prior to her transition from elementary school to middle school, and determined that updated assessments were required in order to identify the student's present levels of performance. The goals remained aligned with fifth grade State academic achievement standards while assessments were being conducted.
2. The IEP identifies needs in the areas of communication, reading, written language, math, and behavior, and has annual goals to support the student's needs in each of these areas. The IEP also requires that the student be provided with a reading intervention five (5) hours each week, by a reading specialist. However, there is also documentation that the student did not begin receiving the reading intervention until October 10, 2018.
3. At the same IEP team meeting, the school-based members of the team proposed social work services to support the student's anxiety needs, but it was rejected by the complainant because she was concerned that the student would miss instructional time.

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<sup>1</sup> This meeting date was initially identified as occurring on December 10, 2018. During the course of the investigation, it was determined that the IEP team meeting was in fact, rescheduled by the complainant and held on January 10, 2019.

4. The November 8 and 9, 2018 progress reported on the annual goals reflect the following:
  - Reading: The student achieved the fluency and comprehensive goals with the provision of required supports. However, the student was not making sufficient progress towards achieving the phonics goal by December 2018.
  - Writing: The student was not making sufficient progress towards achieving the goal by December 2018.
  - Math: The student achieved the math goal with the provision of required supports by December 2018.
  - Speech/Language: The student was making sufficient progress towards achieving the goal by December 2018.
5. The student's IEP reflects that behavioral needs were addressed through the provision of supports, such as positive reinforcements, organizational assistance with binder, and fidgets or exercise ball.
6. On November 16, 2018, the IEP team convened to review the student's progress and assessment results:
  - The speech/language assessment reflects that, while the student demonstrates variations in regulating attention and focus and levels of anxiety, she does not demonstrate an educational disability in the area of language pragmatics and her language articulation, vocal quality, and fluency skills appear to be age appropriate. The report includes recommendations for additional support in the classroom, such as preferential seating, closed classroom doors, dampen noise resources, written or visual information to accompany auditory information, graphic organizers, clear directions, time to respond, and signals for understanding.
  - The psychological assessment reflects that the student is functioning within the "low average" range of overall cognitive ability. It further reflects that the student's auditory memory is a significant weakness affecting her school performance and acquisition of academic skills. The report includes recommendations for extended time and written responses, repetition of directions, breakdown of tasks, and verbal presentation of material with visual explanations and examples.
  - The educational assessment reflects that the student's broad academic achievement scores in reading, math, and written language, was in the "upper end of the very low" range for age level expectations. The report includes recommendations of

organization methods, reading strategies, visual pictures and flow charts, instruction in prefixes, suffixes, root words, and context clues, spelling aids, and work chunking.

- The classroom observation reflects that the student has “some problems” with attention and work habit distractions, although she seems to be able to listen simultaneously.
7. The IEP meeting summary, dated November 16, 2018, reflects that the IEP team began to revise the IEP to include updated assessment results and recommendations, present levels of performance, goals and objectives, and supports and services. The meeting summary also reflects that, based on the speech/language assessment, the team determined that the student no longer required speech/language as a related service. Due to time constraints, the team decided to reconvene at a later date to complete the IEP document, but continued to implement the IEP dated August 23, 2018.
  8. On January 10, 2019, the IEP team reconvened. The team revised goals and objectives, and also determined that the student would continue to work towards achievement of the phonics and writing goals, and that her teachers would provide the reading tutor with content words to support her with decoding and word retrieval. The goals developed at the meeting were aligned with State academic achievement standards for 6th grade level.

## **CONCLUSIONS:**

### **Goals that are Aligned with the State Academic Achievement Standards**

Based on the Findings of Facts #1 - #8, the MSDE finds that the IEP team convened to review the student’s IEP and determined that updated assessments were required. On November 16, 2018, the IEP team reconvened to review assessment results, but did not complete the revision of the IEP to reflect current data until January 10, 2019, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation during this time of period.

### **An IEP that Addressed the Student’s Social/Emotional, Speech/Language, and Reading Needs**

Based on the Findings of Facts #1 - #8, the MSDE finds that, although the IEP addressed the student’s social/emotional, speech/language, and reading needs in November 2018, the revised IEP was not completed until January 10, 2019, in accordance with 34 CFR §300.320.

Further, based on the Finding of Fact #2, the MSDE finds that the IEP was not implemented with regard to the reading intervention, as required by the IEP, in accordance with 34 CFR §§ 300.101 and .323 Therefore, this office finds that violations occurred with respect to this aspect of the allegation.

**ALLEGATION #2: DECISIONS FROM THE AUGUST 23, 2018 AND JANUARY 10, 2019 IEP TEAM MEETING REGARDING ADDITIONAL ADULT SUPPORT AND ASSISTIVE TECHNOLOGY**

**FINDINGS OF FACTS:**

**Provision of Adult Support**

9. At the August 23, 2018 IEP team meeting, the complainant raised concern about the student's anxiety in social situations. The meeting summary reflects that the school-based members of the IEP team recommended additional adult assistance to support the student throughout the school day with directions and redirection, human reader, and scribe during classroom instructional time. Further, the IEP team agreed to continue these supports with the IEP was revised on January 10, 2019.
10. While there is some documentation that, from September 2018 to December 2018, the student was provided with additional adult support required by the IEP, the school staff reported that adult support was not consistently provided until December 2018.
11. The IEP meeting summary, dated January 10, 2019, reflects that the IEP team explained to the complainant how the additional adult support was being utilized with the student, and the team agreed that she continued to require the provision of this support.

**Provision of Assistive Technology**

12. The meeting summaries dated August 23, 2018 and January 10, 2019, do not reflect that the complainant or the school-based members of the IEP team raised concern that the student required assistive technology.

**CONCLUSIONS:**

**Additional Adult Support**

Based on the Findings of Facts #9 - #11, the MSDE finds that, although the IEP team determined that the student continued to require additional adult support on August 23, 2018, BCPS did not ensure that the student was consistently provided with additional adult support, as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

**Assistive Technology**

Based on the Finding of Fact #12, the MSDE finds that there is no documentation that the IEP team determined that assistive technology was required for the student, 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 #3: THE PROVISION OF PHYSICAL EDUCATION SUPPORTS AND HOME COMMUNICATION SYSTEM FOR THE COMPLAINANT**

**FINDINGS OF FACTS:**

**Physical Education Supports**

14. At the August 23, 2018 IEP team meeting, the complainant raised concern about the student's frustration with remembering rules in physical education (PE) class. In response, the school-based members of the IEP team recommended additional adult support, and also included supports, such as visual steps for skill activities, reminder to utilize charts for skills, and a smaller class size to reduce anxiety.
15. There is documentation that the student has been provided with supports in her PE class, as required by the IEP.

**Home Communication System for the Complainant**

16. The IEP in effect at the start of the 2018 - 2019 school year required the reading specialist to communicate with the complainant by electronic mail (email), weekly, to provide information related to the student's learning. However, there is no documentation that the reading specialist consistently communicated with the complaint in the manner required by the IEP.
17. On January 10, 2019, the IEP team determined that the reading specialist would continue to communicate with the complainant by email, weekly to provide information related to the student's learning. The team further determined that all of the student's teachers would communicate with the complainant, bi-weekly, to provide information related to the student's learning. However, there is no documentation that all of the student's teachers consistently communicated with the complainant in the manner required by the IEP.

**CONCLUSIONS:**

**Provision of Physical Education Supports**

Based on the Findings of Facts #14 and #15, the MSDE finds that the student was provided with the PE supports 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 the allegation.

### **Home Communication System**

Based on the Findings of Facts #16 and #17, the MSDE finds that, although there is documentation that the student's teachers communicated with the complainant, it was not in the manner consistent with the IEP, since the start of the 2018 - 2019 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

### **CORRECTIVE ACTIONS/TIMELINES:**

#### **Student-Specific**

The MSDE requires the BCPS to provide documentation by the end of the 2018 - 2019 school year that the IEP team has determined the compensatory services to remediate the violations identified through this investigation and developed a plan for the implementation of the services within one year of the date of this Letter of Findings.

The BCPS must provide documentation, within one (1) year of the date of this Letter of Findings, that the student has been provided with the compensatory services or other remedy determined by the IEP team as a result of this investigation, or documentation of parent refusal of such compensatory services or other remedy.

#### **School-Based**

The MSDE requires the BCPS to provide documentation by the start of the 2019 - 2020 school year of the steps taken to ensure that the violations do not recur at XXXXXXXXXXXXXXXX.

### **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.

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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Ms. Rebecca Rider

April 16, 2019

Page 8

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

c: Verletta White  
Daniel Martz  
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