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January 19, 2018

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Ms. Rebecca Rider  
Director, Office of Special Education  
Baltimore County Public Schools  
The Jefferson Building  
105 West Chesapeake Avenue  
Towson, Maryland 21204

RE: XXXXX  
Reference: #18-044

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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.

**ALLEGATION:**

On November 20, 2017, the MSDE received a complaint from Mr. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of the above-referenced student, his son. 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 the student.

The MSDE investigated the allegation that the BCPS has not ensured that the Individualized Education Program (IEP) has addressed the student’s academic, behavioral, and occupational therapy needs since November 2016, in accordance with 34 CFR §300.324.

**BACKGROUND:**

The student is twelve years old. He is identified as a student with Multiple Disabilities, including a Specific Learning Disability and Other Health Impairment related to Attention Deficit

Hyperactivity Disorder, under the IDEA, and has an IEP that requires the provision of special education and related services.

The student attended XXXXXXXXXXXXXXXXXXXXXXX until November 13, 2017, when the parties report that he began receiving home instruction.

During the time period covered by this investigation, the complainants was provided with notice of the procedural safeguards.

**FINDINGS OF FACTS:**

1. On November 3, 2016, the IEP team reviewed the IEP and the student's progress. The IEP in effect at that time reflected that the student, who was in the fifth grade, was performing at approximately a third grade level in reading, writing, and math. It included goals for the student to improve his performance in these areas as well as in the areas of work habits, organization, and on-task behavior. It required that the student be provided with special education instruction and related services including a quarterly occupational therapy consult to assist the student with achieving the goals by March 2017. The IEP also included a Behavior Intervention Plan (BIP) that required the provision of behavioral supports including choices of preferred activities, frequent breaks, and prompting from adults to address disruptive behaviors and off-task behaviors.
2. At the November 3, 2016 IEP team meeting, the team considered concerns from the complainant about how the student could be expected to access instruction that was being provided on the grade level curriculum when he was not performing at that level. The school-based members of the team explained that, while the instruction was being provided on grade level curriculum, it was being adapted to the student's instructional level.
3. At the November 3, 2016 IEP team meeting, the team also considered information from the student's teachers that the student was making sufficient progress to achieve the academic goals by March 2017, but that he was not making sufficient progress to achieve the goal to improve his organization skills and on-task behaviors. Based on this information, the team revised the BIP to remove references to disruptive behaviors not currently exhibited and more detail on the student's organizational and on-task behaviors.
4. On December 8, 2016, the IEP team met to review the student's progress. The team discussed the student's progress on behavioral goals and determined that, based on behavioral data, the student was back on track to achieve his goals by March 2017. The team noted that organization continues to be an area of need for the student. The team discussed a new system of folders to assist the student in easily identifying assignments that need to be completed or documents to be sent home to the complainant to keep them updated on the student's progress. In addition, the student would be allowed to use a clear plastic bin as opposed to a locker so that he could better visually track and organize his items. The IEP team also discussed the results of the occupational therapy consultation

required by the IEP and agreed that typing assignments as opposed to writing them was preferred by the student and allowed him to be more successful in completing assignments.

5. On March 16, 2017, the IEP team met as part of an annual IEP review. The IEP team determined that the student had achieved his reading phonics goal, but had not achieved his writing or behavior goals. The IEP team noted that the student's organization and motivation continued to be an area of need, and negatively impacted his ability to perform writing tasks. The team reported that the student had progressed in reading and math, but regressed in writing. The IEP team attributed this to the student's difficulty organizing his writing, and recommended that the student be provided with organizational aides while completing writing assignments. The teacher's reports indicated that the student was having increasing difficulty interacting with peers and adults in the classroom, and that his participation in instruction and group work was decreased. The team developed new goals for the student to be achieved by March 2018, including a writing goal was updated to focus on organization while writing by including a beginning, middle, and end to each written assignment. The IEP also contained a new behavioral goal related to organization, coping with peers and self-management.
6. The progress reports completed for the student in June and July 2017 state that the student was making sufficient progress to achieve goals in all areas of need by March 2018.
7. On September 28, 2017, the IEP team met to review the student's progress. The reports from the student's teachers indicated that his organizational skills had improved and that he was requiring fewer prompts to initiate and complete tasks. The student was being provided with additional one-to-one instruction in math, where he was working independently on a fourth grade instructional level. While noting that writing responses continued to be an area of need for the student, the IEP team discussed strategies to encourage the student to translate verbal responses to written responses. The complainant again requested that the occupational therapist consult with the student and the classroom teacher to determine if the student required additional occupational therapy support, and the IEP team agreed to the consultation.
8. There is documentation that the occupational therapist met with the student and consulted with the student's teachers and the complainant to develop sensory strategies that would encourage the student to better stay on task including "movement breaks and movement activities."
9. On November 6, 2017, the IEP team met to review the student's progress. The progress reports completed for the student on November 3, 2017 indicated that the student was not making sufficient progress on his behavioral goals, and that his difficulty in organization and self-management made his progress on his writing goal difficult to measure. The teacher's reports indicate that the student required extensive encouragement to initiate tasks in all subject areas, and continued to struggle to develop written answers to

assignments. These reports also indicate that the student was exhibiting increasingly negative interactions with peers and adults.

10. The IEP team recommended that the student be observed by an ABA<sup>1</sup> specialist and that the specialist provide additional support to the student's classroom teachers. The team also suggested that the student participate in even smaller group instruction in English/Language Arts, including one-on-one instruction in writing, frequent social/emotional check-ins with the student throughout the day, prioritization of assignments by school staff, psychological counseling to address absences, and increased consequences for not engaging in non-preferred tasks. The complainant disagreed with the suggestions of the IEP team. The complainant requested one-on-one instruction in all areas of instruction. The school-based members of the IEP team explained that this was not necessary in areas such as science and world cultures.
11. There is documentation that the student did not attend school from October 18, 2017 to November 10, 2017, and was officially withdrawn from the BCPS by the complainant on November 13, 2017.

### **DISCUSSION/CONCLUSIONS:**

In this case, the complainant asserts that the school staff have not responded to his request that the student be allowed to complete assignments with technology and that the IEP developed for the student does not meet his academic, behavioral and occupational therapy needs.

#### **Academic and Behavioral Needs**

Based on Findings of Facts #1-#8 and #9, the MSDE finds that the IEP team properly developed goals and objectives for the student and frequently met with the complainant to address his concerns and the student's lack of expected progress, as required by 34 CFR §300.324. Further, based on Findings of Facts #10-11, the MSDE finds that the student was withdrawn before more intensive interventions recommended by the IEP team could be implemented. Therefore, this office does not find that a violation occurred with this aspect of the allegation.

#### **Occupational Therapy Needs**

Based on Findings of Facts #3, #5, and #9, the MSDE finds that the IEP team properly determined the student's needs for occupational therapy support each time the complainant raised concerns and provided additional supports and consultations to the student even when explicit needs were not identified, as required by 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this allegation.

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<sup>1</sup> Applied Behavior Analysis (ABA) is a method of teaching in simplified and structured steps. Instead of teaching an entire skill at one time, the skill is broken down and "built-up" using discrete trials that teach each step one at a time ([www.educateautism.com](http://www.educateautism.com)).

**TIMELINE:**

Please be advised that the BCCPS and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact 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 student's parents 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 Special Education/  
Early Intervention Services

MEF/gl

c: Verletta White  
Conya Bailey  
XXXXXX  
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