



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

April 24, 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: #18-098

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 February 23, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of the above-referenced student, her 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 should have suspected, since February 2017,¹ that the student is a student with a disability, and conducted an evaluation under the IDEA, in accordance with 34 CFR §300.111 and COMAR 13A.05.01.06.

¹ While the complainant has alleged that the violation has occurred prior to this date, she was informed in writing that only allegations of violations that occurred within one year of the filing of a State complaint can be addressed through State complaint investigation procedure (34 CFR §§300.153).

BACKGROUND:

The student is ten (10) years old and attends XXXXXXXXXXXXXXXXXXXX. He is not currently identified as a student with a disability under the IDEA.

FINDINGS OF FACTS:

1. The student previously had an IEP, as a result of a Developmental Delay, that required the provision of special education instruction. However, in April 2013 it was determined that the student no longer met the criteria for identification as a student with a disability.
2. Since the beginning of the 2016-2017 school year, the student has received reading interventions in the general educational program to address his difficulty with reading.
3. While the student has shown some improvement in his reading skills, with the provision of supports and interventions in the general education classroom, the gap between his performance and grade level expectation is continuing to grow.
4. In January 2018, one and a half years after the initiation of these interventions, the student was referred to the Student Support Team (SST),² by the student's classroom teacher. The referral indicates that the student was performing below grade level in reading and that he continued to struggle to complete assignments.
5. On February 20, 2018, the SST referred the student for an IDEA evaluation, the results of which are pending.
6. While the BCPS staff report that there are procedures in place to ensure that the school staff identify, locate, and evaluate students suspected of having a disability and requiring special education services, there is no documentation that school staff have access to them.

DISCUSSION/CONCLUSIONS:

In this case, the complainant asserts that the BCPS should have suspected that the student is a student with a disability who may require special education services, prior to the referral made by the SST in February 2018.

² The SST is a collaborative, school-based, problem solving team that is organized to address academic, medical, behavioral and other problems that may interfere with a student's ability to obtain an appropriate education. The SST determines the focused, immediate, and effective intervention to be provided in the general education program and monitors student progress with the provision of the intervention. The SST refers students for an IDEA evaluation if appropriate interventions provided in the general education program are unsuccessful (www.bcps.org).

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Based on Finding of Facts #1-#6, the MSDE finds that, in this case, the provision of supports and interventions in the general education class may have been appropriate. However, given student's lack of progress over an extended period of time, the MSDE finds that there was a delay in initiating an IDEA evaluation, in accordance with 34 CFR §300.111 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the BCPS to provide documentation, by June 1, 2018, that the IEP team has completed the evaluation and developed an IEP for the student if he is identified as a student with a disability.

If the student is identified as a student with a disability, the MSDE further requires the BCPS to ensure that the IEP team determines the compensatory services, or other remedy for the delay in identifying the student under the IDEA.

School -Based

The MSDE requires that the BCPS provide documentation by July 1, 2018, of the steps taken to ensure that the staff at XXXXXXXXXXXXXXXX are informed of the procedures for identifying, locating, and evaluating students with disabilities requiring special education services.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

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.

Please be advised that the parties 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.

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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 student's 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

c: Verletta White
Conya Bailey
XXXXXXXXXX
Dori Wilson
Anita Mandis
Nancy Birenbaum
Gerald Loiacono