



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

October 26, 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: #19-036

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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.

ALLEGATION:

On September 11, 2018, the MSDE received a complaint from Ms. XXXXXXXX, hereafter, “the complainant,¹” on behalf of her nephew, 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 allegation that the BCPS did not complete an IDEA evaluation within the required timeline in May 2018, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06.

BACKGROUND:

The student is three (3) years old and is identified as a student with a Developmental Delay under the IDEA. He has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

¹ The complainant serves as the student’s parent under the IDEA.

FINDINGS OF FACTS:

1. On May 3, 2018, the complainant requested an IDEA evaluation of the student. In that request, she identified her concerns about the student's speech/language, reading, math, written language, and behavior.
2. On June 4, 2018, the IEP team convened in response to the complainant's request and recommended that assessments be conducted in the areas of expressive/receptive language, education, and social/emotional behavior. At the meeting, the complainant provided consent for assessments to be conducted.
3. There is documentation that the student's intended zoned pre-school, which initiated the IDEA evaluation in May 2018, was closed by the BCPS in the summer of 2018.
4. On September 27, 2018, the IEP team reconvened to review assessment results. Based on the data, the team determined that the student is a student with a disability under the IDEA, and decided to reconvene at a later date to develop the student's initial IEP.
5. On October 16, 2018, the IEP team reconvened to develop the student's initial IEP. The meeting summary reflects that the team also determined compensatory services for the delay in the identification of a student with a disability, and that the complainant was in agreement with the services being offered for the student.

CONCLUSION:

Based on the Findings of Facts #1 - #5, the MSDE finds that the BCPS did not complete an IDEA evaluation within the required timeline, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Finding of Fact #5, the MSDE finds that the IEP team determined compensatory services for the delay in identifying the student as a student with a disability under the IDEA, and that the complainant agreed to the offer of compensatory services. Therefore, no further student-specific corrective action is required.

CORRECTIVE ACTIONS/TIMELINES:

In this case, the complainant asserts that the delay in completing the evaluation was caused by the lack of timely transfer of the student's educational record when XXXXXXXXXXXXXXXX XXXXXXXX closed.

The MSDE requires that the BCPS to provide documentation by January 1, 2019, of the steps taken to identify whether there are any similarly-situated students who attended XXXXXXXX XXXXXXXXXXXXXXXX and that steps have been taken to remediate the violation for all students who are identified.

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

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.

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: Sonja B. Santelises
Debra Brooks
Allen Perrigan
XXXXXXXX
Dori Wilson
Anita Mandis
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Bonnie Preis