



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

April 2, 2019

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Dr. Terrell Savage
Executive Director
Special Education & Student Services
Department of Special Services
Howard County Public Schools
The Old Cedar Lane Building
5451 Beaverkill Road
Columbia, MD 21044

RE: XXXXX
Reference: #19-103

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 1, 2019, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the HCPS has not ensured that the Individualized Education Program (IEP) addresses the student’s social, emotional and behavioral needs, since June 19, 2018, in accordance with 34 CFR §§300.320 and .324.

BACKGROUND:

The student is fourteen (14) years old, is identified as a student with an Emotional Disability (ED) under the IDEA, and has an IEP that requires the provision of special education and related services. The student is in the eighth (8th) grade and attends the XXXXXXXXXXXXXXXXXXXX (XXXXXXXXXXXX).

FINDINGS OF FACTS:

1. At the end of the 2017 - 2018 school year, the Central Education Program Team (CEPT)¹ determined that the student's placement at the XXXXXXXXXXXX did not meet her needs and that her placement for the 2018 - 2019 school year would be the XXXXXXXXXXXX at the XXXXXXXXXXXXXX (XXXXXXXXXX), a public, separate special education school, that provides intense therapeutic and behavioral supports and services.
2. On July 27, 2018, the CEPT team convened again to address the complainant's concerns about the appropriateness of, and her disagreement with, the student's placement in the Bridges Program for the 2018 - 2019 school year. The complainant expressed her belief that the student did not require the level of supports provided in the Bridges Program that she observed on her visit to the school. The complainant shared that the student had not been demonstrating the same interfering behavior during the summer while working with a tutor that resulted in the decision to remove her from the Ellicott Mills MS for the 2018 - 2019 school year.
3. At the July 2018 CEPT meeting, the team agreed to allow the student to return to the XXXXXXXXXXXX and to attempt to provide her with additional supports and services available through its Emotional Disability Regional Program.² The CEPT team agreed to collect data on the student's behavior and to reconvene at a later date in order to determine whether the IEP can successfully be implemented at the XXXXXXXXXXXX.
4. At the end of the first (1st) quarter of the 2018 - 2019 school year, the school staff documented that the student was leaving the classroom without permission, refusing to work, and was off task, and that these behaviors have caused her to miss an "average" of ten (10) hours of classroom instruction per week since the start of the 2018-2019 school year.
5. On October 8, 2018, the IEP team recommended that psychological and educational assessments be conducted in order to obtain additional information about the student's academic and social, emotional and behavioral functioning. The complainant consented to the assessments on the same date.
6. On December 12, 2018, the IEP team convened. The IEP team documented that the student continues to leave class without permission, does not participate when she is in class, and that her behaviors are impacting her academic performance. There is also documentation that, while the school staff repeatedly attempted interventions and strategies to address the student's interfering behaviors, the behaviors continued to escalate.
7. At the December 2018 meeting, the IEP team reviewed the results of assessments that

¹ The CEPT is an IEP team with representation from the HCPS Central Office staff.

² The documentation reflects that the student would participate in a separate special education classroom for three (3) classes, in a general education classroom for three (3) classes, and a tutorial class.

- were recommended by the team in October 2018. Based on the data, the IEP team determined that the student continues to qualify as a student with an ED. The team also determined that the student qualifies as a student with an Other Health Impairment (OHI) due to Attention Deficit Disorder (ADD), but that the primary disability impacting the student is the ED.
8. On January 3, 2019, the IEP team convened. The team made revisions to the IEP based on the recent assessment results, including increasing the amount of psychological services and requiring that specialized instruction be provided to the student for “the entire instructional day” in a separate special education classroom due to her “lack of success and current academic and behavioral needs.” The IEP team documented that the student “requires a more intensive therapeutic program” and that the XXXXXXXXXXXX cannot meet her needs. The student was again referred to the CEPT for placement in a more restrictive environment.
 9. On January 15, 2019, the CEPT team convened again and determined that the student’s placement is a nonpublic separate special education school that can provide the academic, behavior and therapeutic supports that are needed. The CEPT team decided to make referrals to three (3) nonpublic schools, and documented that if the student “is [only] accepted at one school, then it will be her placement location.”
 10. On January 16, 2019, the school system sent referrals seeking admission for the student to the XXXXXXXXXXXX (XXXX) School, the XXXXXXXXXXXXXXXXXXXX & XXXXXXXX - Baltimore (XXXX), and the XXXXXXXXXXXXXXXXXXXX (XXXXXXXXXX).
 11. On January 28, 2019, the XXXX School informed the school system of its conditional acceptance if another placement is not identified.”³
 12. On February 4, 2019, the XXXX declined to offer admission to the student.
 13. On February 12, 2019, the CEPT team considered the complainant’s concerns about the appropriateness of the XXXXXXXXX for the student. The CEPT team agreed to make a fourth (4th) referral to the XXXXXXXXX, which was sent on February 15, 2019.
 14. On February 27, 2019, XXXXXXXXXXXXX declined to offer admission to the student.
 15. There is documentation that the school staff have made repeated requests for the complainant to complete the required interview and student tour at the XXXXXXXXXXXX. However, there is no documentation that the complainant has done so in order for the XXXXXXXXXXXX to decide whether to offer the student an acceptance.
 16. To date, the student continues to demonstrate behavior at the XXXXXXXXXXXX that does not allow her to access instruction and, while the school staff continue to provide the student with all supports available at the XXXXXXXXXXXX, the school staff also continue to document that the student’s needs cannot be met at the XXXXXXXXXXXX.

³ The acceptance was made conditional due to concerns raised by the complainant about the XXX School administrative staff.

CONCLUSION:

Based on the Findings of Facts #1 - #14, the MSDE finds that the HCPS has identified an appropriate placement for the student, in accordance with 34 CFR §§300.101, .320 and .324. Therefore, this office finds that the student has been offered a Free Appropriate Public Education (FAPE) and does not find a violation.

In addition, based on the Findings of Facts #13 - #16, the MSDE finds that the HCPS continues to provide support to the student and seek a placement that is acceptable to the complainant.

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.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The complainants 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 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
and Special Education Services

MEF/ksa

c:	Michael J. Martirano	Terri Savage
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