



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

April 19, 2019

XXX
XXX
XXX

Dr. Debra Brooks
Director of Special Education
Baltimore City Public Schools
200 East North Avenue, Room 204 B
Baltimore, Maryland 21202

RE: XXXXX
Reference: #19-115

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.

ALLEGATIONS:

On February 19, 2019, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, 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 student. The MSDE investigated the following allegations:

1. The BCPS did not provide a prior written notice (PWN) of the removal of occupational therapy from the student’s Individualized Education Program (IEP) on June 19, 2018, in accordance with 34 CFR §300.503.
2. The BCPS has not ensured that the student’s IEP has addressed his reading, writing, math and occupational therapy needs at the start of the 2018-2019 school year, in accordance with 34 CFR §§300.320 and .324.

3. The BCPS did not ensure that the IEP team reviewed and revised, as appropriate, the student's IEP to address lack of expected progress toward achieving the reading and math IEP goals since the start of the 2018-2019 school year, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is seven (7) years old and is identified, under the IDEA, as a student with a Specific Learning Disability. He has an IEP that requires the provision of special education and related services.

The student attended XXXXXXXXXXXXXXXXXXXXXXXX in the Baltimore County Public Schools through the end of the 2017-2018 school year. The student has attended XXXXXXXXXXXX XXXXXXXXXXXXXXXX in the BCPS since the start of the 2018-2019 school year as a result of the family's move to Baltimore City.

FINDINGS OF FACTS:

IEP in Effect on June 6, 2018

1. The June 6, 2018 IEP, developed by the Baltimore County Public Schools, identified that the student's primary disability was Specific Learning Disability, and that it "impacted the student's functioning in reading comprehension, reading phonics, writing, and visual perceptual, motor skills." It documented that the student's "disability impacts his participation in all areas of the general curriculum when required to independently read and write grade level tasks." The student's needs included phoneme recognition, listening comprehension, writing letters, words and sentences and visual perceptual, motor skills.
2. The June 6, 2018 IEP also documented that the student, who was in the first (1st) grade, was functioning at a kindergarten level in reading phonics and reading comprehension. The student's oral reading skills were at the pre-kindergarten level along with his sentence writing fluency skills. As an emergent writer, the student was also performing on the kindergarten level. In the area of visual and motor perception and coordination, the student was performing below grade level. It does not contain information on the level of performance in math.
3. The June 6, 2018, IEP documented that the student was working on a reading phonics goal to use consonant blends and short and long vowel patterns at his instructional kindergarten (K) grade level, a listening comprehension goal to identify characters, setting and retell details of the text at the first (1st) grade level, a writing goal to write a paragraph, and a visual perceptual and motor skills goal to be able to participate in visual perceptual motor activities needed for classroom performance.

4. The June 6, 2018 IEP also documented that the student was being provided with special education instruction in the general education classroom for two (2) hours per week for reading and writing needs, inside of the general education classroom and two (2) hours per week for reading and writing needs, inside of the special education classroom.
5. The June 6, 2018 IEP also required an occupational therapy goal and the accommodation of a scribe due to the student's visual perceptual needs and it included occupational therapy for one (1) hour, thirty (30) minutes per month to address his needs.
6. The June 6, 2018 IEP also required that the student receive frequent breaks, reduced distractions, text to speech, human scribe, and extended time to complete assignments. The IEP also requires paraphrased and repeated information, use of manipulatives for reading and math, use of pictures for reading, frequent changes in activities, and sensory activities to promote focusing and listening skills.
7. The student was withdrawn from the Baltimore County Public Schools at the end of the 2017-2018 school year.

Transfer to the Baltimore City Public Schools

8. On June 12, 2018, the complainant registered the student into the BCPS.
9. On June 14, 2018, the BCPS made a request for records from the Baltimore County Public Schools; there is documentation that BCPS was in receipt of the record on June 19, 2018.
10. On June 19, 2018, the XXXXXXXXXXXXXXXXXXXXXXX, BCPS IEP team met to review the IEP from the Baltimore County Public Schools and determined that it would be implemented. However, at that meeting they reviewed the IEP developed on March 21, 2018, rather than the most current IEP document, dated June 6, 2018. The IEP dated March 21, 2018, did not include occupational therapy services, since occupational therapy services was added to the IEP on June 6, 2018.
11. On November 14, 2018, the progress reports indicated that the student was not making sufficient progress in reading comprehension, reading phonics, and written language content.
12. On November 15, 2018, the IEP team revised the reading goal to reflect a standards based goal and expanded the writing goal but did not ensure that it was standards based. The IEP team added breaks to the supplementary, aids and supports, and increased special education services from four (4) hours to eleven (11) hours and fifteen (15) minutes.
13. On November 15, 2018, the IEP team considered the complainant's concerns about math and determined that there was insufficient data to add an IEP goal for math, instead, they decided to conduct an informal math assessment, collect math classroom data and reconvene to review the information at the end of January, 2019.

14. On February 8, 2019, the IEP team met to review the student's IEP and determine if there was a need for math services. The IEP team recommended an occupational therapy assessment after reviewing the Baltimore County occupational therapy assessment and considering the complainant's concerns in this area. The IEP team determined that the student did not need specialized instruction for math.
15. On April 3, 2019, the IEP team agreed to conduct an assessment of the student's academic performance. Also on April 3, 2019, the IEP team decided to provide three (3) sessions of occupational therapy for thirty (30) minutes per month, as indicated on the IEP dated June 19, 2018 from the Baltimore County Public Schools, pending the review of the updated occupational therapy assessment.

DISCUSSION/CONCLUSIONS:

Allegation #1: Removal of Occupational Therapy Services

Based on the Findings of Facts #1 - #6, and #11, the MSDE does not find that the occupational therapy was removed from the IEP, and, as a result there would be no prior written notice to document such a decision, in accordance with 34 CFR §§300.503. Therefore, this office does not find a violation occurred with respect to the identified allegation.

However, based on the Findings of Facts #1 - #9, the MSDE finds BCPS did not implement the June 6, 2018 IEP that was in effect when the student transferred from the Baltimore County Public Schools, in accordance with 34 CFR §§300.323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Allegation #2: Addressing Reading, Math, Written Language and Occupational Therapy Needs

Reading Needs

Based on the Findings of Facts #1 - #6 and #11- #13, the MSDE finds that the IEP did not address the student's reading needs from the start of the 2018-2019 school year until November 2018, in accordance with 34 CFR §§300.320 and .324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Math Needs

Based on the Findings of Facts #1- #16, the MSDE finds that there is no evidence that the student has math needs requiring specialized instruction, in accordance with 34 CFR §§300.320 and .324. Therefore, this office finds that no violation occurred with respect to this aspect of the allegation.

Written Language Needs

Based on the Findings of Facts #1 - #6 and #11 - #13, the MSDE finds that the IEP did not address the student's written language needs from the start of the 2018-2019 school year, in accordance with 34 CFR §§300.320 and .324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Occupational Therapy Needs

Based on the Findings of Facts #1 - #6 and #11 - #16, the MSDE finds that the IEP did not address the student's occupational therapy needs from the start of the 2018-2019 school year until April 3, 2019, in accordance with 34 CFR §§300.320 and .324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Allegation #3: Lack of Expected Progress

Based on the Findings of Facts #12 and #13, the MSDE finds that the IEP team reviewed and revised as appropriate, the student's IEP to address the lack of expected progress, in accordance with 34 CFR §§300.324. Therefore, this office does not find that a violation occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific:

By the end of the 2018-2019 school year, the BCPS must convene an IEP team to revise the IEP to ensure that it addresses the student's written language needs. The BCPS must also provide documentation that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to adequately redress the violations identified, and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

School-Based:

The MSDE requires the BCPS to provide documentation by the start of the 2019-2020 school year, of the steps it has taken to ensure violations do not recur at XXXXXXXXXXXXXXXXXXXX XXXXX and how the BCPS will monitor to ensure the effectiveness of those steps.

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 and Special Education Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Consultant, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that the BCPS 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 be accompanied by a substantial explanation of why it was not provided 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. 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, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The student's parent 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 and Appropriate Public Education 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 due process.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Early Intervention
and Special Education Services

MEF: sf

c: Sonja B. Santelises
Allen Perrigan
XXXXXXXXXXXX
Dori Wilson
Anita Mandis
Sharon Floyd
Bonnie Preis