



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

June 11, 2019

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

RE: XXXXX
Reference: #19-149

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 April 12, 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 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) team has identified all of the student’s needs and developed an IEP that addresses these needs, since November 2018, in accordance with 34 CFR §§300.101, .320 and .324. The complainant specifically expressed concern about the student’s speech and language needs and fine and gross motor skills needs.

BACKGROUND:

The student is eleven (11) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services. The student is in the sixth (6th) grade and attends XXXXXXXXXXXX (XXXXXXXXXXXX).

FINDINGS OF FACTS:

1. The IEP in effect in November 2018 states that the student has selective mutism.
2. The documentation reflects that, at that time, the IEP team decided to discontinue the provision of direct speech/language services to attempt to assist the student with communicating verbally, and to work on improving her ability to communicate using different methods, including writing and gestures, through the provision of consultative services.¹
3. The IEP team documented that the student has a history of refusing to communicate verbally. However, there is documentation that a Behavioral Intervention Plan (BIP) had previously been implemented to address the student's aggressive and inappropriate verbal communication. There is also documentation that a private neuropsychological assessment had been conducted in 2016, the report of which reflects that the student demonstrated verbally aggressive and inappropriate verbal communication. That assessment report recommends updated neuropsychological testing in two (2) to three (3) years.
4. There is no documentation that the team has attempted to obtain data about the reason why the student now refuses to communicate verbally and any connection between this behavior and the implementation of interventions to decrease prior verbal communication that had been deemed inappropriate.
5. On May 7, 2019, the IEP team completed a reevaluation and decided, based on recommendations in the data, to use a team approach involving counseling and speech services together to attempt to improve the student's verbal communication.
6. There is no data that the student has gross motor skills needs.
7. There is data that the student has sensory motor skills needs for which she is provided with occupational therapy services. There is also documentation that the student's handwriting is not always legible, but that the school staff report that this can be addressed by encouraging the student to slow down when she writes. There is no data that the student's handwriting legibility is impacted by fine motor skills needs or that the student has demonstrated fine motor skills needs related to other tasks.

¹ There is documentation that, when the student was receiving direct speech/language services, the complainant filed a complaint against the speech/language therapist for harassment of the student because it was alleged that the therapist attempted to take away the student's other means of communication in order to force her to communicate verbally.

CONCLUSIONS:

Based on the Finding of Fact #6, the MSDE finds that the student does not have gross motor skills needs to be addressed, in accordance with 34 CFR 300.324. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based on the Finding of Fact #7, the MSDE finds that the student does not have fine motor skills needs to be addressed, in accordance with 34 CFR 300.324. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based on the Findings of Facts #1 - #5, the MSDE finds that the student's need to communicate verbally was not addressed between November 2018 and May 2019, in accordance with 34 CFR 300.324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation for this time period.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the BCPS to provide documentation, by the end of the first (1st) quarter of the 2019 – 2020 school year, that the IEP team has convened and taken the following actions:

- a. Conducted testing to identify the causes of the student's selective mutism and reviewed the results of the testing, including recommendations to address the identified causes; and
- b. Reviewed and revised the IEP, as appropriate, based on the results of the testing and recommendations, and developed a plan to improve the student's verbal communication skills consistent with the data.

The MSDE also requires the BCPS to convene an IEP team meeting at the end of the second (2nd) and third (3rd) quarters of the 2019-2020 school year. At each meeting, the IEP team must review the student's progress towards increasing her verbal communication skills and review and revise as appropriate, the IEP based on that progress.

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 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

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Ms. Rebecca Rider

June 11, 2019

Page 4

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 complainant maintains the right to request mediation or to file a due process complaint, if she disagrees 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
and Special Education Services

MEF/ksa

c: Verletta White
Conya Bailey
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Dori Wilson
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