



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

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April 25, 2014

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Mrs. Chrisandra A. Richardson, Associate Superintendent
Department of Special Education and Student Services
Montgomery County Public Schools
850 Hungerford Drive, Room 220
Rockville, Maryland 20850

Ms. Gwendolyn J. Mason
Director of Special Education Services
Montgomery County Public Schools
850 Hungerford Drive, Room 225
Rockville, Maryland 20850

RE: XXXXX

Reference: #14-069

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 28, 2014, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf her daughter. In that correspondence, the complainant alleged that the Montgomery County Public Schools (MCPS) 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 MCPS did not ensure that the student was provided with the accommodations, supports, and modifications required Individualized Education Program (IEP) in her English class from September 2013 until February 2014, in accordance with 34 CFR §§300.101, .320 -.323, and COMAR 13A.05.01.10.

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INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On February 28, 2014, the MSDE received correspondence from the complainant alleging a violation of the IDEA.
3. On March 4, 2014, the MSDE sent a copy of the complaint, via facsimile, to Ms. Gwendolyn J. Mason, Director of Special Education Services, MCPS; and Ms. Julie Hall, Director, Division of Business, Fiscal, and Information Systems, MCPS.
4. On March 7, 2014, Ms. Moyo spoke with the complainant, by telephone, to clarify the allegation to be investigated.
5. On March 11, 2014, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the MCPS of the allegation and requested that it review the alleged violation.
6. On March 20, 2014, Ms. Moyo spoke with the complainant, by telephone, regarding the State complaint investigation process and the allegation being investigated.
7. On April 9, 2014, the MCPS provided the MSDE with a written response to the complaint.
8. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Correspondence and attachments from the complainant to the MSDE, received on February 28, 2014; and
 - b. The MCPS written response to the complaint, received by the MSDE on April 9, 2014.

BACKGROUND:

The student is twelve (12) years old and attends XXXXXXXXXXXXXXXX. She is identified as a student with a Specific Learning Disability under the IDEA. She has an IEP that requires the provision of special education instruction and related services. During the period of time addressed by this investigation, the complainant participated in the education decision-making process (Docs. a and b).

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FINDINGS OF FACTS:

1. On October 14, 2013, the complainant met with the school staff and indicated that she believed that the student was not being provided with the supports required by her IEP in her English class. Specifically, she indicated that the student was not being provided with modified writing assignments. On the same day, she sent an electronic mail (email) correspondence to the school staff expressing concern about whether “in-class writing assignments are modified for [any] kids with IEPs” in the class (Doc. a).
2. The MCPS provided a written response to the MSDE indicating that there is “not consistent documentation that the student was provided with the accommodations, supports, and modifications required by her IEP from September 2013 until February 2014” (Doc. b).
3. In February 2014, the student was transferred to another English class, which is taught by a different teacher, and the complainant indicates that the new English teacher has been modifying the student’s assignments (Doc. a).

DISCUSSION/CONCLUSION:

The public agency must ensure that special education and related services are available to each student in accordance with the IEP (34 CFR §§300.101 and .323). In this case, the complainant alleges that the student was not provided with the supports, including modified assignments in her English class as required by her IEP from September 2013 until February 2014. Based on the Findings of Facts #1 - #3, the MSDE finds that there is not documentation that the student was provided with the supports required by her IEP, in her English class, from September 2013 until February 2014. The MSDE appreciates the MCPS response and finds that a violation occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINE:

Student-Specific

The MSDE requires the MCPS to provide documentation by June 1, 2014 that either the IEP team has determined the amount and nature of compensatory services or that the parties have agreed to another remedy to redress the violation identified through this investigation.

The MCPS must provide the complainant with proper written notice of the determinations made at the IEP team meeting, including a written explanation of the basis for the determinations, as required by 34 CFR §300.503. If the complainant disagrees with the IEP team’s determinations, she maintains the right to request mediation or to file a due process complaint, in accordance with the IDEA.

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School-Based

The MSDE requires that MCPS provide documentation by the start of the 2014-2015 school year of the steps taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern at the XXXXXXXXXXXXXXXX. Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine whether there is documentation that the students were provided with the supports required by the IEP in the classes taught by the student's first English teacher. The MCPS must provide documentation of the results of these reviews to the MSDE.

If the school system reports compliance with the requirements, the MSDE staff will verify compliance with the determinations found in the initial report. If the school system determines that the regulatory requirements are not being implemented, the school system must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the initial date that the school system determines non-compliance.

Upon receipt of this report, the MSDE will verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the OSEP. Additionally, the findings in the Letter of Findings will be shared with the MSDE's Policy and Accountability Branch, Accountability and Monitoring Section, for its consideration during present or future monitoring of the MCPS.

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 complainant and the MCPS from Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

Please be advised that both the complainant and the MCPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of facts 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. 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 consistent with the timeline requirements as reported in this Letter of Findings.

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Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The complainants 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 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 a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Special Education/Early Intervention Services

MEF:km

c: Joshua P. Starr
Julie Hall
Ashley VanCleaf
XXXXXXX
Dori Wilson
Anita Mandis
Koliwe Moyo
Martha J. Arthur