



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

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July 11, 2014

Mr. XXXXXXXX
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XXXXXXXXXX

Mrs. Chrisandra A. Richardson
Associate Superintendent
Montgomery County Public Schools
850 Hungerford Drive, Room 220
Rockville, Maryland 20850

Dr. Gwendolyn J. Mason
Director
Department of Special Education Services
Montgomery County Public Schools
850 Hungerford Drive, Room 230
Rockville, Maryland 20850

RE: XXXXXXXX
Reference: #14-094

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 May 14, 2014,¹ the MSDE received a complaint from Mr. XXXXXXXX, hereafter, “the complainant,” on behalf of his son, the above-referenced student. 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 has not ensured that the student has been provided with the supports required by the Individualized Education Program (IEP) since May 14, 2013, in accordance with 34 CFR §§300.101 and .323. Specifically, the complainant alleged that supports which are required, but not being provided, include providing a setting for special education

¹ On May 11, 2014, the MSDE received correspondence from the complainant that did not include all of the information necessary to initiate a State complaint investigation. On May 13, 2014, the MSDE informed the complainant of the additional information that was required, which the complainant provided on May 14, 2014.

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instruction where noise and other distractions are reduced, and ensuring that the school staff refrain from making negative comments to the student.

INVESTIGATIVE PROCEDURES:

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On May 13, 2014, Ms. Anita Mandis, Section Chief, Family Support and Dispute Resolution Branch, MSDE, contacted the complainant to clarify the allegation to be investigated.
3. On May 14, 2014, the MSDE sent a copy of the complaint, via facsimile, to Dr. Gwendolyn J. Mason, Director, Department of Special Education Services, MCPS, and Ms. Julie Hall, Director, Division of Business, Fiscal, and Information Systems, MCPS.
4. On May 20 and 22, 2014, June 12, 16, 23, 24, and 25, 2014, and July 3, 7, and 8, 2014, the complainant sent electronic mail (email) correspondence to the MSDE for consideration during the investigation.
5. On June 2, 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 the MCPS review the alleged violations.
6. On June 11, 13, and 17, 2014, the MSDE sent the MCPS email correspondence to request information and documentation from the MCPS to consider in conducting the complaint investigation.
7. On June 12, 2014, the MCPS provided a written response to the complaint.
8. On June 13, 2014 and July 7, 2014, Ms. Williams conducted telephone interviews with the MCPS Central Office staff regarding the complaint investigation and requested additional documentation to consider in conducting the complaint investigation.
9. On June 16 and 27, 2014 and July 7, 2014, Ms. Williams conducted interviews with the complainant regarding the complaint investigation.
10. On June 29, 2014 and July 3 and 8, 2014, the MCPS submitted additional information and documentation for the MSDE to consider during the complaint investigation.
11. The MSDE reviewed documentation, relevant to the findings and conclusion referenced in this Letter of Findings, listed below.
 - a. Correspondence and attachments from the complainant to the MSDE, received on May 11, 2014 and May 13, 2014;

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- b. The MCPS written response to the complaint sent to the MSDE, dated June 12, 2014;
- c. The MCPS follow-up written response to the complaint, dated June 29, 2014;
- d. Email correspondence from the MCPS to the MSDE, received July 8, 2014; and
- e. Email correspondence from the complainant to the MSDE, received July 8, 2014.

BACKGROUND:

The student is fourteen (14) years old and is identified as a student with Autism under the IDEA. From May 14, 2013 until November 19, 2013, the MCPS placed the student at The XXXXXXXXXXXX, a nonpublic separate special education school. From November 19, 2013 until the end of the 2013-2014 school year, the MCPS placed the student at the XXXXXXXX, another nonpublic separate special education school. During the period of time addressed by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Doc. e and interview with the complainant).

FINDINGS OF FACTS:

1. In its written response to the complaint, the MCPS staff acknowledges that the student was not provided with all of the supports required by the student's IEP (Docs. a, b, and c).
2. There is no documentation that each teacher and service provider responsible for implementation of the student's IEP was informed of their specific responsibilities related to implementing the student's IEP and the specific supports that must be provided for the student (Review of the educational record).
3. The complainant and the MCPS staff report that the IEP team convened on July 7, 2014 and determined the compensatory services to be provided to remediate the violation (Docs. d and e, and interview with the complainant).

DISCUSSION/CONCLUSION:

The public agency must ensure that special education services, accommodations, and supplementary aids and services, are provided in accordance with each student's IEP (34 CFR §300.101). In order to ensure that the student is provided with the special education services required by the IEP, each teacher and service provider must be informed of their specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP (34 CFR §300.323). Based on the Findings of Facts #1-#3, the MSDE finds that a violation occurred.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the MCPS to provide documentation within one (1) year of the date of this letter that the MCPS has provided the student with the compensatory services determined by the IEP team. 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.

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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through the Family Support and Dispute Resolution Branch, MSDE, at (410) 767-0255.

Please be advised that the complainant and the school system 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 Conclusion 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 Conclusion is necessary. Upon consideration of this additional documentation, this office may leave its Findings and Conclusion 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.

Questions regarding the Findings, Conclusion and Corrective Actions contained in this letter should be addressed to this office in writing. The complainant 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 FAPE for the student, including issues subject to a 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 Special Education/Early Intervention Services

MEF:tw

c : Joshua P. Starr
Sarah Spross
Julie Hall
Ashley Vancleef
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XXXXXX
Cynthia Amirault
Dori Wilson
Tyra Williams