



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

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • MarylandPublicSchools.org

August 12, 2014

Wayne Steedman, Esq.  
Jeffrey Archer Miller, Esq.  
Callegary and Steedman, P.A.  
201 North Charles Street  
Suite 1402  
Baltimore, Maryland 21201

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

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

RE: XXXXX  
Reference: #14-114

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 June 27, 2014, the MSDE received a complaint from Wayne Steedman, Esq. and Jeffrey Archer Miller, Esq., hereafter, “the complainants,” on behalf of the above-referenced student and his parents, Mr. XXXXX and Mrs. XXXXXXXX. In that correspondence, the complainants 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.

Wayne Steedman, Esq.  
Jeffrey Archer Miller, Esq  
Mrs. Chrisandra A. Richardson  
Dr. Gwendolyn J. Mason  
August 12, 2014  
Page 2

The MSDE investigated the allegation that the MCPS did not ensure that the written notice of a May 27, 2014 Individualized Education Program (IEP) team meeting included information that the school system's legal counsel would attend the meeting, in accordance with 34CFR §300.322 and COMAR 13A.05.01.07.

### **INVESTIGATIVE PROCEDURES:**

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On July 2, 2014, the MSDE sent a copy of the complaint, via facsimile, to Dr. Gwendolyn Mason, Director, Department of Special Education Services, MCPS, and Ms. Julie Hall, Director, Division of Business, Fiscal, and Information Systems, MCPS.
3. On July 10, 2014, Ms. Williams spoke with both of the complainants by telephone to clarify the allegation to be investigated.
4. On July 14, 2014, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified Mrs. Chrisandra A. Richardson, Associate Superintendent, Department of Special Education and Student Services, MCPS of the allegation and requested that her office review the alleged violation.
5. On August 1, 2014, the MCPS provided the MSDE with a written response.
6. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. Written invitation to the May 27, 2014 IEP team meeting, dated May 9, 2014;
  - b. Electronic mail (email) message from the student's mother to the school system staff, dated May 19, 2014, informing them that she and her legal counsel would attend the May 27, 2014 IEP team meeting;
  - c. IEP, dated May 27, 2014; and
  - d. Written response to the allegation from the MCPS, received by the MSDE on August 1, 2014.

### **BACKGROUND:**

The student is ten (10) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education instruction and related services. He attends XXXXXXXX Elementary School (Doc. c).

Wayne Steedman, Esq.  
Jeffrey Archer Miller, Esq  
Mrs. Chrisandra A. Richardson  
Dr. Gwendolyn J. Mason  
August 12, 2014  
Page 3

### **FINDINGS OF FACTS:**

1. In its written response to the allegation, the MCPS reports that it has a practice of including its legal counsel at IEP team meetings when the parents' legal counsel participates in a meeting (Doc. d).
2. The school system also reports, and there is documentation that, when the written notice was sent to the parents informing them of the May 27, 2014 IEP team meeting, the school staff were not aware that the parents intended to have their legal counsel attend the IEP meeting. Therefore, the notice did not include the information that the school system's legal counsel would participate. The MCPS proposes to revise its meeting notice form to reflect its practice of including its legal counsel at IEP team meetings when the parents' legal counsel participates (Docs. a, b, and d).
3. There is documentation that the student's mother and her legal counsel, as well as the school staff and their legal counsel, participated in the May 27, 2014 IEP team meeting (Doc. c).

### **DISCUSSION/CONCLUSIONS:**

The public agency must take steps to ensure that a parent is present at each IEP team meeting or are afforded the opportunity to participate, including notifying the parent of the purpose, time, and location of the meeting, and who will be in attendance (34 CFR §300.322). In Maryland, the parent must be provided with written notice of this information at least ten (10) days before the meeting (COMAR 13A.05.01.07).

Based on the Findings of Facts #1 and #2, the MSDE finds that the student's parents were not provided with written notice of the May 27, 2014 IEP team meeting that included information that the school system's legal counsel would attend the meeting. Therefore, the MSDE finds that a violation occurred with respect to the allegation.

However, based on the Finding of Fact #3, the MSDE finds that the violation did not impact the parents' right to participate in the IEP team meeting. Therefore, no student-specific corrective action is required.

### **CORRECTIVE ACTION/TIMELINE:**

The MSDE requires the MCPS to provide documentation by November 1, 2014 of the steps taken to ensure that the violation does not recur.

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.

Wayne Steedman, Esq.  
Jeffrey Archer Miller, Esq  
Mrs. Chrisandra A. Richardson  
Dr. Gwendolyn J. Mason  
August 12, 2014  
Page 4

**TECHNICAL ASSISTANCE:**

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

Please be advised that both parties 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 fact 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.

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 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 Special Education/Early Intervention Services

cc :    XXXXXXXX  
          XXXXXXXX  
          Joshua P. Starr  
          Julie Hall  
          XXXXXXXX  
          Ashley Vancleef  
          Dori Wilson