



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

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May 6, 2015

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

RE: XXXXX
Reference: #15-058

Dear Mr. and Mrs. Edgell:

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 your daughter, the above-referenced student. This correspondence is the report of the final results of the investigation.

ALLEGATION:

On March 10, 2015, the MSDE received a complaint from Mr. XXXXXXXXXXXX and Mrs. XXXXXXXXXXXX, the student's parents, hereafter, "the complainants," on behalf of the above-referenced student. In that correspondence, the complainants alleged that the Montgomery County Public Schools (MCPS) have not ensured that proper procedures have been followed in response to requests for the amendment of the student's educational record since May 8, 2014, in accordance with 34 CFR §§300.618 and .619.

INVESTIGATIVE PROCEDURES:

1. On March 10, 2015, the MSDE sent a copy of the complaint, via facsimile, to Mr. Larry Bowers, Interim Superintendent, MCPS, Mrs. Chrisandra A. Richardson, Associate Superintendent of Special Education and Student Services, MCPS,

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Dr. Gwendolyn J. Mason, Director of Special Education, MCPS, Mrs. Julie Hall, Division of Business , Fiscal and Information Systems, MCPS, Ms. Ashley Vancleef, Supervisor of Equity Assurance and Compliance, MCPS, and Mrs. XXXXXXXXXXXX, Principal, XXXXXXXXXXXXXXXXXXXX.

2. On March 11, 2015, Ms. Sharon Floyd, Education Program Specialist, Complaint Investigation Section, MSDE, conducted a telephone interview with the complainant in order to clarify the allegation to be investigated. Ms. Floyd identified herself as the complaint investigator for the case.
3. On March 16, 2015, 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 the MCPS of the allegation and requested that they review the alleged violation.
4. On March 14, and 17, 2015, the complainants provided the MSDE with documentation to be considered during the investigation.
5. On April 21, 2015, Ms. Floyd, conducted a review of the student's educational record at MCPS Board of Education. Ms. Vancleef, Supervisor of Equity Assurance and Compliance Unit, MCPS, and Mrs. Patricia Grundy, Paralegal, MCPS attended the site visit as representatives of the MCPS and to provide information on the MCPS policies and procedures, as needed.
6. On April 24, 2015, Ms. Floyd, sent an electronic correspondence (email) to the complainants in response to inquiries about the student's report card and the timeliness of responses from MCPS.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Individualized Education Program (IEP), prior written notice dated April 10, 2014;
 - b. Kindergarten report card, 2013-2014;
 - c. Grade report, home and hospital teaching, dated June 6, 2014, July 1, to July 31, 2014, and August 14, 2014 to October 31, 2014;
 - d. Receipt of procedural safeguards, dated April 10, 2014;
 - e. Kindergarten progress report for the 2013-2014 school year;
 - f. Notice of IEP team meetings, dated February 27, 2014, March 19, 2014, April 2, 2014, parent reports, meeting response forms, and documents;
 - g. Assurance of consent for home instruction, dated July 18, 2014 and August 25, 2014;

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- h. Applications for Home and Hospital Teaching, dated October 9, 2013 and February 12, 2014;
- i. Complaint from the public, MCPS regulation for responding to inquiries and complaints from the public;
- j. Letter from school staff to complainants, dated March 10, 2015;
- k. Letter from complainants to school staff, dated September 23, 2014;
- l. Letter from complainants' attorney to attorney hired by school staff, dated September 23, 2014;
- m. Correspondence from the complainants to the MSDE containing allegations of violations of the IDEA, received on March 10, 2015;
- n. Audio recording of the February 27, 2014, March 24, 2014, April 10, 2014, and May 8, 2014 IEP team meetings provided by the complainants; and
- o. Correspondence from school staff, dated August 21, 2014.

BACKGROUND:

The student is six (6) years old, and is identified as a student with Autism under the IDEA, (Doc. a).

From May 8, 2014 to August 20, 2014, the student was enrolled at XXXXXXXXXXXXXXXXXXXX XXXX. On August 20, 2014, the complainants withdrew the student from the MCPS and began home instruction (Docs. a and o).

There is documentation that the complainants participated in the education decision-making process and were provided with written notice of the procedural safeguards during the time period addressed by this investigation (Docs. a and f).

FINDINGS OF FACTS:

1. On April 28, 2014, the complainants' attorney requested an amendment of the documentation of the IEP team meeting that was completed on April 10, 2014 from the private attorney who was hired to represent the school system (Doc. l).
2. On September 23, 2014, the complainants' attorney reiterated the request, but sent it to the school system staff (Doc. k).
3. On March 10, 2015, the school system staff notified the complainants that the request to amend the student's record was denied. The notification provided information about how to request a hearing within the school system to dispute the decision (Doc. j).

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DISCUSSION/CONCLUSIONS:

Response to Request for Amendment of the Educational Record

A parent who believes that information in the student's educational record is inaccurate or misleading or violates the privacy or other rights of the student may request that the public agency amend the information. Upon receipt of such a request, the public agency must decide whether to amend the information within a reasonable period time of the receipt of the request. If the public agency decides to refuse to amend the information, it must inform the parent of the refusal and advise the parent of the right to a hearing to challenge the information (34 CFR §§300.618 and .619).

Based on the Findings of Facts #1 - #3, the MSDE finds that, while the school staff has responded to the complainants' request to amend the student's record, the response, which was made approximately one (1) year after the request, was not made within a reasonable amount of time. Therefore, the MSDE finds a violation regarding this aspect of the allegation.

Notwithstanding the violation, based on the Findings of Facts, the MSDE finds that, because a response has now been provided, no student specific corrective actions are required.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the school system to provide documentation by November 1, 2015 of the steps taken to ensure that responses to requests for amendments of educational records are provided within a reasonable amount of time after the school system staff or their legal counsel receives the request.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties from Dr. Kathy Aux, Compliance Specialist, MSDE at (410) 767-7770.

Please be advised that the complainants and the public agencies 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

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request for reconsideration, the public agencies must implement any Corrective Actions consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the Findings, Conclusions and Corrective Action contained in this letter should be addressed to this office in writing. The parties 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 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:sf

c: Larry Bowers
Chrisandra A. Richardson
Gwendolyn J. Mason
Julie Hall
Ashley Vancleef
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Dori Wilson
Anita Mandis
Sharon Floyd
Kathy Aux