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December 14, 2015

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Mr. Philip A. Lynch
Director of Special Education Services
Montgomery County Public Schools
850 Hungerford Drive, Room 225
Rockville, Maryland 20850

RE: XXXXX
Reference: 16-039

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention Services (MSDE), 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 our investigation.

ALLEGATION:

On October 23, 2015, the MSDE received correspondence forwarded from Mr. Michael Eig, Esq., on behalf of Mr. XXXXXXXXX and Mrs. XXXXXXXXX, hereafter the “complainants,” regarding their daughter. In that correspondence, the complainants alleged that the Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and the corresponding federal and State regulations with respect to their daughter, the above referenced student.

The MSDE investigated the following allegations:

- 1) The MCPS has not ensured that the Individualized Education Plan (IEP) in effect since October 22, 2014 addresses the student’s behavioral and transportation needs, in accordance with 34 CFR §300.324 and COMAR 13A.05.01.10.
- 2) The MCPS did not follow proper procedures when amending the IEP to require the use of a student safety restraint system, in accordance with 34 CFR §300.324.

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Mr. Philip A. Lynch

December 14, 2015

Page 2

INVESTIGATIVE PROCEDURES:

1. On October 29, 2015, the MSDE sent a copy of the complaint, via facsimile, to Mr. Philip Lynch, Director of Special Education Services, MCPS.
2. On November 3, 2015, Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a telephone interview with the student's mother and the complainants' attorney, Mr. Michael Eig, to discuss the allegations.
3. On November 4, 2015, Mr. Loiacono, and Dr. Linda Bluth, Transportation Specialist, MSDE, conducted a telephone interview with the following MCPS staff to discuss the allegations:
 - a. Mr. Todd Watkins, Transportation Director, MCPS;
 - b. Ms. Ivy Montague, Transportation Specialist, MCPS;
 - c. Ms. Ashley Vancleef, Supervisor, Resolution and Compliance Unit, MCPS;
 - d. Ms. Lindsay Brecher, Attorney, Resolution and Compliance Unit, MCPS; and
 - e. Ms. Patty Grundy, Paralegal, Resolution and Compliance Unit, MCPS.
4. On November 6, 2015, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified the MCPS of the allegations and requested that the school system review the alleged violations.
5. On November 9, 2015, Mr. Loiacono sent electronic correspondence to the MCPS, requesting additional documentation.
6. On November 18, 2015, MCPS provided additional documentation to the MSDE.
7. On December 2, 2015, the MCPS provided the MSDE with a written response to the allegations.
8. The MSDE reviewed documentation relevant to the findings and conclusions referenced in this Letter of Findings (LOF), which include:
 - a. Correspondence from the complainant alleging violations of IDEA, received by the MSDE on October 23, 2015; and
 - b. Written response from MCPS, received by MSDE on December 2, 2015.

XXX

Mr. Philip A. Lynch

December 14, 2015

Page 3

BACKGROUND:

The student is twelve years old, and is identified as a student with an Other Health Impairment related to Fetal Alcohol Syndrome, and Attention Deficit Hyperactivity Disorder, under the IDEA. The student attends XXXXXXXXXXXX, a nonpublic, special education school, in Baltimore, Maryland, where she was placed by the MCPS (Docs. a and b).

SUMMARY OF FINDINGS AND CONCLUSIONS

In its written response, the MCPS acknowledges that violations occurred with respect to the allegations and proposes to ensure that a Behavior Intervention Plan is developed by the IEP team to address the student's behavior and transportation needs. In addition, the MCPS reports that the IEP team will consider additional placement options that will continue to meet the student's educational needs while shortening the length of time in which she is required to ride the bus.

The MCPS will ensure that compliance staff, the placement staff, and transportation staff, will conduct training with MCPS staff members on "how to work with IEP teams to develop BIPs for transportation related matters" (Doc. b).

The MSDE concurs with the MCPS' conclusions and appreciates the school system's response to the investigation.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the MCPS to provide documentation by February 1, 2016 that the IEP team has reviewed and revised the IEP to address the student's behavioral and transportation needs and determined the compensatory services to be provided to remediate the violation.

The MSDE also requires the MCPS to provide documentation by April 1, 2016 that the proposed staff training has been conducted.

Documentation of completion of corrective actions 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 parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that the BCPS and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with

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Mr. Philip A. Lynch

December 14, 2015

Page 4

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 within the timelines 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 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 Free and 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

MEF:gl

c: Larry A. Bowers
Chrisandra A. Richardson
Julie Hall
Ashley Vancleef
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