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December 22, 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: #16-043

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 November 3, 2015, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant.” In that correspondence, she alleged that the Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to her son, the above-referenced student.

The MSDE investigated the allegation that MCPS has not ensured that the student has been provided with a “dedicated portable keyboarding device with word prediction software,” as required by the Individualized Education Program (IEP) since May 2015, in accordance with 34 CFR §§300.101, .323, and COMAR 13A.05.01.09.

**INVESTIGATIVE PROCEDURES:**

1. Mr. Gerald Loiacono, Complaint Investigator, MSDE, was assigned to investigate the complaint.
2. On November 5, 2015, the MSDE sent a copy of the complaint, via facsimile, to Mr. Phillip A. Lynch, Director of Special Education Services, MCPS.

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3. On November 5, 2015, Mr. Loiacono conducted a telephone interview with the complainant about the allegation for the investigation.
4. On November 5, 2015, the complainant provided MSDE with documentation via electronic mail (email).
5. On November 10, 2015, 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 school system review the alleged violation.
6. On November 10 and 20, 2015, and and December 1, 2015, Mr. Loiacono contacted the MCPS, via email, requesting additional documentation related to the case.
7. On December 1, 2015, Mr. Loiacono contacted Ms. Lindsay Brecher, Attorney, Resolution and Compliance Unit, MCPS, via telephone, to request additional documentation and to discuss the parties' attempts to resolve the issues contained in the complaint.
8. On December 2, 2015, the MCPS provided the MSDE with documentation.
9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP dated May 14, 2015;
  - b. Email from the complainant to the MCPS staff, dated May 27, 2015;
  - b. Email from the complainant to the MCPS staff, dated June 16, 2015;
  - c. Email from the complainant to the MCPS staff, dated September 16, 2015;
  - d. Email from the complainant to the MCPS staff, dated October 14, 2015;
  - e. Email from the complainant to the MCPS staff, dated October 29, 2015; and
  - f. Correspondence from the complainant alleging violations of IDEA, received by the MSDE on November 3, 2015.

**BACKGROUND:**

The student is ten years old, and attends XXXXXXXXXXXXXXXXXXXX. He is identified as a student with a Specific Learning Disability under the IDEA, and has an IEP that requires the provision of special education services (Doc. a ).

There is documentation that the complainant participated in the education decision-making process and was provided with notice of the procedural safeguards during the time period covered by this investigation (Doc. a).

**FINDINGS OF FACTS:**

1. On May 14, 2015, the IEP team met and determined that the student should have access to a “dedicated portable keyboarding device with word prediction software” (appropriate keyboarding device) (Doc. a).
2. The student was not provided with the appropriate keyboarding device for the remainder of the 2014-2015 school year or at the beginning of the 2015-2016 school year. However, during that time period, the student was, at times, provided with access to a shared classroom desktop computer with the word prediction software (Docs. a-c).
3. On September 18, 2015, the student was provided with the appropriate keyboarding device. However, on October 13, 2015 the software malfunctioned and, until October 29, 2015, the student was unable to use the device (Doc. d).
4. On October 29, 2015, the student was provided with software that would work on the appropriate keyboarding device (Doc. e).

**DISCUSSION/CONCLUSIONS:**

The public agency is required to ensure that the student is provided with the special education services required by the IEP (34 CFR §§300.101 and .323 and COMAR 13A.05.01.09).

Based on the Findings of Facts #1 and 2, the MSDE finds that the student was not provided with access to an appropriate keyboarding device from May 14, 2015 to the end of the 2014-2015 school year. Further, based on the Findings of Facts #3 and 4, the MSDE finds that from the start of the 2015-2016 school year until October 29, 2015, the student did not have the consistent use of this device. Therefore, the MSDE finds a violation with respect to the allegation.

**CORRECTIVE ACTION/TIMELINE:**

The MSDE requires the MCPS to provide documentation by April 1, 2016 that the IEP team has determined the amount and nature of compensatory services or other remedy necessary to redress any educational impact caused by the loss of access to the keyboarding device and software, as required by the IEP, for the periods of time addressed through this complaint investigation.

The MCPS must also provide documentation of the IEP team’s development of a plan for how and when the services are to be provided within one year of the date of this Letter of Findings.

Documentation of completion of the corrective action is to be submitted to this office to the attention of: 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 complainant and the MCPS from Dr. Nancy Birenbaum, Compliance Specialist, MSDE. Dr. Birenbaum may be contacted at (410) 767-7770.

Please be advised that the MCPS 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 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 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  
Ashley Vancleef  
XXXXXXX  
XXXXXXXXXXXX  
Dori Wilson  
Anita Mandis  
Gerald Loiacono  
Nancy Birenbaum