



200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

May 19, 2016

XXX
XXX
XXX

Mr. Philip A. Lynch
Director of Special Education Services
Montgomery County Public Schools
850 Hungerford Drive, Room 230
Rockville, Maryland 20850

RE: XXXXX
Reference: #16-088

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 March 21, 2016, the MSDE received a complaint from Ms. XXXXXXXXXXXX, the student's mother, hereafter, "the complainant," on behalf of 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 did not ensure that the student was provided with accommodations and supports in his chemistry class, as required by the Individualized Education Program (IEP), since the start of the 2015-2016 school year, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. On March 23, 2016, the MSDE sent a copy of the complaint, via facsimile, to Mr. Philip A. Lynch, Director of Special Education Services, MCPS.

XXX

Mr. Philip A. Lynch

May 19, 2016

Page 2

2. On March 31, 2016, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, and Ms. Sharon Floyd, Education Program Specialist, Complaint Investigation Section, MSDE, conducted a telephone interview with the student's mother in order to clarify the allegations to be investigated.
3. On April 1, 2016, 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 they review the alleged violations.
4. On May 18, 2016, Ms. Floyd reviewed the student's educational record, and interviewed the following school system staff:
 - a. Ms. XXXXXXXX, Administrator;
 - b. Mr. XXXXXXXX, Special Education Teacher, Case Manager;
 - c. Ms. XXXXXXXXXXXX, Principal; and
 - d. Ms. XXXXXXXX, AP Chemistry Teacher.

Ms. Patricia Grundy, Paralegal, MCPS, Resolution and Compliance Unit, and Ms. Lindsay Brecher, Attorney and Acting Supervisor, Resolution and Compliance Unit, attended the interview session as representatives of the MCPS and to provide information on the MCPS policies and procedures, as needed.

5. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Notice of the procedural safeguards, sent to the complainant on December 8, 2015;
 - b. IEP, and prior written notice of the IEP meeting, dated December 8, 2014;
 - c. IEP, and prior written notice of the IEP meeting, dated December 14, 2015 and progress reports;
 - d. The report of Advanced Placement (AP) Chemistry syllabus for the 2015-2016 school year, dated August, 2015;
 - e. Report of the chemistry teacher's gradebook for the student, dated May 18, 2016;
 - f. IEP at a glance, provided by the special education case manager, to the chemistry teacher, updated December 8, 2015;
 - g. Chapter chemistry packet provided to the student prior to each chapter, dated August, 2015;
 - h. Report of assignments from the student for chemistry class, including accommodations, dated May 18, 2016;
 - i. Samples of the student's work from the MCPS online data system for teachers, and the school system's data system for students and parents, dated May 10, 2016;
 - j. Report of the MCPS psychological assessment, dated January 2, 2009;

XXX

Mr. Philip A. Lynch

May 19, 2016

Page 3

- k. The seating chart for the chemistry class, 2015-2016 school year;
- l. The student's schedule for the 2015-2016 school year;
- m. Email correspondence between the MCPS and the complainant, dated October 26, 2015 through April 13, 2016;
- n. Email correspondence between the MSDE and the MCPS, dated April 12, 2016 and May 11,-19, 2016; and
- o. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on March 22, 2016.

BACKGROUND:

The student is sixteen (16) years old and is identified as a student with Autism under the IDEA. The student attends XXXXXXXXXX High School and has an IEP that requires the provision of special education and related services (Docs. b and c).

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

FINDINGS OF FACTS:

1. The IEP requires accommodations, supplementary aids, services and program supports to occur during instruction and testing, including the following, on a daily basis:
 - math tools, including a calculator;
 - extended time which equals double the original allotted time;
 - opportunities to have checks for understanding;
 - a copy of student or teacher notes;
 - encouragement and reinforcement of appropriate behaviors;
 - non-verbal and verbal cues to reinforce appropriate behaviors;
 - reduced distractions; and
 - preferential seating (Doc. c).
2. While there is documentation that the accommodations and supports were provided by the teacher in the student's chemistry class, there is no documentation that they were consistently provided on a daily basis (Docs. d-i, k-m).

DISCUSSION/CONCLUSIONS:

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).

XXX

Mr. Philip A. Lynch

May 19, 2016

Page 4

In this case, the complainant alleges that the student's IEP is not being followed in the student's chemistry class. She states that the student needs the agreed upon supports to allow him to be able to learn in the chemistry classroom.

Based on the Findings of Facts #1 - #2, the MSDE finds that the MCPS did not ensure that the required accommodations and supplementary aids and services have been provided consistently in the student's chemistry class during the 2015-2016 school year. Therefore, this office finds that a violation has occurred.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the MCPS to provide documentation by the end of the 2015-2016 school year of the steps taken to ensure that accommodations and supplementary aids and services are provided as required by the IEP. The MCPS must also provide documentation that the IEP team has determined the amount and nature of compensatory services or other remedy to redress the lack of consistent provision of supports required by the IEP.

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 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 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 and Appropriate Public Education for the student, including issues subject to a State complaint investigation, consistent with the IDEA.

XXX

Mr. Philip A. Lynch

May 19, 2016

Page 5

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
 Julie Hall
 Lindsay E. Brecher
 Patricia Grundy
 XXXXXXXX
 Dori Wilson
 Anita Mandis
 Nancy Birenbaum
 Sharon Floyd