



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

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August 3, 2012

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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

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

RE: XXXXX
Reference: #12-103

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.

ALLEGATIONS:

On June 26, 2012, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son. 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 following allegations:

1. The MCPS has not ensured that the student’s Individualized Education Program (IEP) addresses the identified needs since June 2011,¹ in accordance with 34 CFR §300.324; and

¹ The complainant alleged violations dating back to May 2011. The complainant was informed, in writing, on July 3, 2012 that this office has authority to investigate allegations of violations that occurred not more than one (1) year from the date the complaint is received, in accordance with 34 CFR §300.153.

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2. The MCPS did not ensure that the IEP team followed proper procedures when making the educational placement determination during the 2011-2012 school year, in accordance with 34 CFR §§300.114-.116 and .321.

INVESTIGATIVE PROCEDURES:

1. Ms. Kathy Stump, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On June 20, 2012, the MSDE received correspondence from the complainant, alleging violations of the IDEA. However, that correspondence did not include a proposed remedy.
3. On June 22, 2012, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, Complaint Investigation and Due Process Branch, MSDE, conducted a telephone interview with the complainant to clarify the allegations to be investigated and to inform her of the requirement under the IDEA that a State complaint include a proposed remedy.
4. On June 26, 2012, the MSDE received the proposed remedy from the complainant.
5. On June 27, 2012, the MSDE sent a copy of the completed complaint, via facsimile, to Ms. Gwendolyn J. Mason, Director, Department of Special Education Services, MCPS; and Ms. Julie Hall Director, Division of Business, Fiscal, and Information Systems, MCPS.
6. On July 3, 2012, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified Ms. Mason of the allegations and requested that her office review the alleged violations.
7. On July 27, 2012, the MSDE received a written response to the complaint from the MCPS, via United States mail.
8. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Correspondence and attachments from the complainant to the MSDE, received on June 26, 2012; and
 - b. Written response to the complaint from the MCPS, dated July 24, 2012.

BACKGROUND:

The student is fifteen (15) years old and is identified as a student with an emotional disability under the IDEA. During the 2011-2012 school year, the student attended XXXXXXXXXXXX XXXXX, where she received special education instruction and related services. As a result of a

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change in placement determination made by the IEP team, the student will begin attending XXXXXXXXXXXXXXXXXXXXXXXX at the start of the 2012-2013 school year (Docs. a and b).

SUMMARY OF FINDINGS/CONCLUSIONS:

The MCPS acknowledges that violations occurred with respect to the allegations. The MCPS has indicated that an IEP team meeting, including the complainant, was held on July 12, 2012 to determine the *compensatory services*² necessary to remediate the violations. At the meeting, the IEP team determined that the student would be provided with tutoring services for two (2) hours per week during the first (1st) semester of the 2012-2013 school year (Doc. b).

The MSDE concurs with the findings of the school system and appreciates the response. The MSDE also concurs with the proposal for student-based corrective action and requires that the MCPS provide documentation by February 15, 2013 that the *compensatory services*² have been provided.

CORRECTIVE ACTION/TIMELINES:

School-based

The MSDE requires the MCPS to provide documentation by October 15, 2012, of the steps it has taken to determine if the violations are unique to this case or if they represent a pattern of noncompliance at XXXXXXXXXXXXXXXX.

Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine if the regulatory requirements are being implemented and must provide documentation of the results of this review to the MSDE. If the school system reports compliance with the requirements, the MSDE staff will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented, it must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the initial date that the school system determines non-compliance.

Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of The United States Department of Education, Office of Special Education Programs. Additionally, the findings in the Letter of Findings will be shared with the MSDE's Office of Quality Assurance and Monitoring for Continuous Improvement for its consideration during present or future monitoring of the MCPS.

² For the purpose of this letter, these are services, as determined by the IEP team, needed to remediate the denial of appropriate services to the student (34 CFR §300.151).

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Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

Please be advised that the complainant and the school system 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 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 (FAPE) 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:ks

cc : Joshua P. Starr
Julie Hall
Sharon Gooding
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Dori Wilson
Anita Mandis
Martha J. Arthur
Kathy Stump