



Bernard J. Sadusky, Ed.D.  
Interim State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • MarylandPublicSchools.org

April 5, 2012

XXX  
XXX  
XXX  
XXX

Ms. 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: #12-055

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 February 15, 2012, the MSDE received a complaint from Mr. XXXXXXXXXXXX and Mrs. XXXXXXXX, hereafter, “the complainants,” on behalf of their son. In that correspondence, the complainants 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 has not provided the student with special education instruction in a small group setting as required by the Individualized Education Program (IEP) since January 18, 2012, in accordance with 34 CFR §300.101.

XXX

XXX

Ms. Chrisandra A. Richardson

Ms. Gwendolyn J. Mason

April 5, 2012

Page 2

### **INVESTIGATIVE PROCEDURES:**

1. Ms. Kathy Stump, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On February 17, 2012, the MSDE sent a copy of the complaint, via facsimile, to Ms. Gwendolyn Mason, Director, Department of Special Education Services, MCPS; and Ms. Alison Steinfelds, Supervisor, Equity Assurance and Compliance Office, MCPS.
3. On February 21, 2012, Ms. Stump conducted a telephone interview with the student's mother to clarify the allegation to be investigated.
4. On February 23, 2012, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified allegations to be investigated. On the same date, the MSDE notified Ms. Mason of the allegations and requested that her office review the alleged violations.
5. On February 29, 2012, the MSDE received notification from the Maryland Office of Administrative Hearings that three (3) of the allegations that were initially identified for investigation through the State complaint process had been resolved through mediation.
6. On March 1, 2012, the MSDE sent correspondence to the complainants informing them that the MSDE would investigate the allegation that had not been resolved through the mediation process. On the same date, the MSDE notified Ms. Mason of this information.
7. On March 7, 2012, the MSDE requested documentation from the student's educational record from the MCPS.
8. On March 22, 2012, the MSDE received a written response to the complaint from the MCPS. The response included the documents that the MSDE had requested.
9. On the same date, the MSDE requested additional documentation from the MCPS, which was received on March 30, 2012, via electronic mail.
10. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. Correspondence and attachments from the complainants to MSDE, received on February 15, 2012;
  - b. Written response from the MCPS, dated March 19, 2012;
  - c. IEP, dated January 18, 2012;

XXX

XXX

Ms. Chrisandra A. Richardson

Ms. Gwendolyn J. Mason

April 5, 2012

Page 3

- d. Class roster for the 2011-2012 school year for the student's teacher;
- e. Paraeducator Schedules for the 2011-2012 school year; and
- f. Student's class schedule for the 2011-2012 school year.

### **BACKGROUND:**

The student is thirteen (13) years old and is identified as a student with autism under the IDEA. He attends XXXXXXXXXXXXXXXXXXXXXXXX (XXXXXXX), where he receives special education instruction and related services. During the period of time addressed by this investigation, the complainants participated in the education decision-making process and were provided with written notice of the procedural safeguards (Docs. a-f).

### **FINDINGS OF FACTS:**

1. The IEP in effect since January 18, 2012 includes annual goals for the student to perform specific tasks given "small group instruction," and requires that the student be provided with "small group instruction throughout the day to support increased engagement in learning" and minimize distractions (Doc. c).
2. Reports of the student's progress toward achieving the annual goals, dated January 2012, indicate that the student is making sufficient progress toward achieving the annual goals (Doc. c).
3. The student is enrolled in the "Learning for Independence" (LFI) program at XXXXXXXXX. There is documentation that there are fifteen (15) students assigned to the LFI classroom. There is documentation that one (1) special education teacher and three (3) paraeducators are assigned to the student's classroom so that these students can be separated into smaller groups for instruction (Docs. a-f).

### **DISCUSSION/CONCLUSIONS:**

The public agency is required to ensure that the student is provided with the special education instruction and related services required by the IEP (34 CFR §300.101). Based on the Findings of Facts #1 - #3, the MSDE finds that there is documentation that the student is provided with small group instruction as required by the IEP. Therefore, the MSDE finds no violation regarding the allegation.

Please be advised that both parties 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

XXX

XXX

Ms. Chrisandra A. Richardson

Ms. Gwendolyn J. Mason

April 5, 2012

Page 4

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.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The complainants 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 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

Alison Steinfelds

XXXXXXXXXXXX

Kathy Stump