




Karen B. Salmon, Ph.D.
State Superintendent of Schools

January 6, 2020




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

RE: 
Reference: #20-053

Dear Parties:

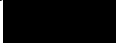
The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report of the final results of the investigation.

ALLEGATION:

On November 7, 2019, the MSDE received a complaint from Ms.  hereafter, “the complainant,” on behalf of her son, 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 has not ensured that the student’s Individualized Education Program (IEP) has addressed his social/emotional needs since November 1, 2019, in accordance with 34 CFR §§300.320 and .324.

BACKGROUND:

The student is thirteen (13) years old and is identified as a student with a Traumatic Brain Injury under the IDEA. He attends  Middle School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. On October 2, 2019, the IEP team convened for a reevaluation of the student. The meeting summary reflects that the team discussed the student's behavior, social interactions, educational performance, and "struggles" since coming to the school. The team determined that updated educational, cognitive, and behavioral assessments were warranted. The complainant provided consent for the assessments at the meeting.
2. On November 1, 2019, prior to the completion of assessments, the student was evaluated by the Behavior Threat Assessment Team (BTAT) for making "threats of violence" toward school staff. The student was not disciplinarily removed from school for the incident; however, the team determined that the student required an immediate psychological assessment by medical staff due to the nature of the threats.
3. There is documentation that on November 5, 2019, the school staff contacted the complainant via electronic mail (email) and raised concern that the student had not attended school on that day. The email further reflects that the school staff requested a meeting with the complainant to discuss possible schedule changes for the student to address his "ongoing issues of frustration" with his teachers, and to facilitate his return to school.
4. On November 8, 2019, the complainant and the school staff discussed schedule changes and additional support for the student.
5. On November 14, 2019, the school staff again, contacted the complainant via email and raised concern as to why the student had not yet returned to school, despite their meeting on November 8, 2019 to develop a plan to support the student. In response, the complainant indicated that she was pursuing an independent evaluation of the student's "mental health to help guide next steps, and ensuring the safety of both the student and the school community."
6. The school staff and complainant report that the student has not returned to school since the incident occurred on November 1, 2019.

CONCLUSION:

Based on the Findings of Facts #1 - #6, the MSDE finds that the MCPS has attempted to obtain data needed to identify and address the student's social/emotional needs since November 1, 2019, in accordance with 34 CFR §§300.320 and .324, but that the complainant has not made him available to do so. Therefore, this office does not find that a violation occurred with respect to the allegation.

The MSDE reminds the parties that, because the student is of compulsory school age, steps must be taken immediately to ensure the student returns to school without delay.

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TIMELINE:

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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 Appropriate Public Education (FAPE) 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 a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Early Intervention/Special Education Services

MEF:ac

c: Jack R. Smith
Kevin Lowndes
Tracee Hackett
Julie Hall
[REDACTED]
Dori Wilson
Anita Mandis
Albert Chichester