



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

October 19, 2018

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: #19-037

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 September 14, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXXX, 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 student.

The MSDE investigated the allegation that the MCPS has not ensured that the student’s Individualized Education Program (IEP) has been implemented in her math class since September 4, 2018, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is sixteen (16) years old, is identified as a student with an Other Health Impairment under the IDEA related to Attention Deficit Hyperactivity Disorder (ADHD), and has an IEP that requires the provision of special education and related services. The student is in the eleventh (11th) grade and attends XXXXXXXXXXXXXXXXXXXX.

XXX

Mr. Philip A. Lynch

October 19, 2018

Page 2

FINDINGS OF FACTS:

1. The IEP in effect at the start of the 2018 - 2019 school year documents that the student has needs in the area of math problem solving skills and requires that the student be provided with specialized instruction in a supported math class.¹
2. During Spring of the 2017 - 2018 school year, the student completed the "11th Grade Registration" form to determine class selections for the 2018 - 2019 school year. The registration form, which was signed by the complainant, reflects that Algebra II was the requested math class for the student for the 2018 - 2019 school year. Based on this information, the school staff scheduled the student for Algebra II for the 2018 - 2019 school year.
3. During Summer 2018, the student requested to take Honors Algebra II instead of Algebra II for the 2018 - 2019 school year. The student's schedule was changed, placing her in Honors Algebra II.
4. On August 10, 2018, the school staff contacted the complainant by telephone "to discuss [the student's] schedule for the fall semester and adjustments that needed to be made to align [the student's] IEP with services indicated on [her] IEP." The complainant objected to any changes in the student's schedule and requested that an IEP team meeting be convened during the first (1st) week of school.²
5. On September 4, 2018, the student began the 2018 - 2019 school year in an Honors Algebra II class without support.³ It is not a co-taught class.
6. On September 8 and 11, 2018, the complainant inquired about support for the student in the Honors Algebra II class. In response, the school staff explained that a supported math class required a schedule change and that an IEP meeting had been scheduled for the team to address the student's schedule and to discuss the complainant's concerns.
7. On September 18, 2018, the IEP team convened. The IEP team discussed that the student had reported having difficulty in the unsupported Honors Algebra II class and had advocated to the school staff for a class change. The complainant expressed concern that the student's difficulty was because she was not receiving special education support required by the IEP in the Honors Algebra II class, and that the support of an additional teacher in the classroom is necessary for the student to succeed.

¹ The parties agree that a supported class is co-taught by two (2) teachers.

² The school system staff report, and later documented, that they intended to discuss the need to change the student's math class during that conversation, but were not given the opportunity to do so before the complainant ended the call.

³ The Honors Algebra II class consisted of 32 students with one (1) teacher.

XXX

Mr. Philip A. Lynch

October 19, 2018

Page 3

8. The IEP team considered the data relating to the student's math achievement, including her performance the previous year in a supported Algebra I class, performance on statewide and county assessment measures, and teacher reports which indicated that the student benefits from immediate feedback, is weak in recalling Algebra I skills, and appears to be independent but relies on step-by-step explanation of skills.
9. The school staff explained that, while both math classes cover the same curriculum, instruction in the Honors Algebra II class moves at a faster pace and the concepts are presented at a deeper, more advanced level than in the Algebra II class.
10. The IEP also team discussed that the recommendation of the student's math teacher from the previous school year was for her to take Algebra II not Honors Algebra II.
11. Based on all the data, the IEP team determined that the appropriate math class for the student is Algebra II and that she would continue to need support in order to be successful in this class. The school system staff explained that, in order to implement the IEP, the student's schedule would be changed to reflect a supported Algebra II class and removal from Honors Algebra II. The complainant expressed her disagreement and was informed of her procedural safeguards.
12. On September 20, 2018, the student's schedule was changed to a supported Algebra II class.

CONCLUSION:

In this case, the complainant asserts that the MCPS is required to ensure that there is a supported Honors Algebra II class in the student's school order to implement the student's IEP.

Based on the Findings of Facts #1 - #6 and #12, the MSDE finds that the MCPS did not ensure that the student was provided with a supported math class, as required by the IEP, from the start of the 2018-2019 school year until September 20, 2018, in accordance with 34 CFR 300.101 and .323. Therefore, this office finds that a violation occurred.

However, based on the Findings of Facts #6 - #12, the MSDE is not aware of a requirement to ensure that there is a supported Honors Algebra II class in the student's school, and finds that since September 20, 2018, the student has been offered math services in accordance with the IEP and consistent with the IEP team's decision. Therefore, this office does not find that the violation is ongoing.

CORRECTIVE ACTION/TIMELINES:

Student-Specific

The MSDE requires the MCPS to provide documentation by December 1, 2018, that the IEP team has convened and determined whether the violation identified in this investigation had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

School-Based

The MSDE requires the MCPS to provide documentation by January 1, 2019, of the steps it has taken to ensure that the XXXXXXXXXXXXXXXX staff comply with the IDEA requirements for IEP implementation and that class scheduling is developed consistent with IEP requirements.

The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not reoccur.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention and Special Education Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Pries, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

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

XXX

Mr. Philip A. Lynch

October 19, 2018

Page 4

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
and Special Education Services

MEF/ksa

c: Jack Smith
Kevin Lowndes
Julie Hall
Tracee Hackett
XXXXXXXXXX
Dori Wilson
Anita Mandis
K. Sabrina Austin