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December 6, 2017

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

RE: XXXXX  
Reference: #18-026

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention 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 October 10, 2017, the MSDE received a complaint from Ms. XXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, 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 reports of the student’s progress towards achievement of the annual Individualized Education Program (IEP) goals to improve speech/language skills have been provided since January 2017, in accordance with 34 CFR §§300.101 and .323.

**BACKGROUND:**

The student is fifteen (15) years old and attends XXXXXXXXXXXXXXXX. She is identified as a student with an Other Health Impairment under the IDEA due to an Attention Deficit Disorder and has an IEP that requires the provision of special education and related services.

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**FINDINGS OF FACTS:**

1. On January 26, 2017, April 7, 2017, and June 15, 2017, the complainant received reports of the student's progress towards achievement of the goal to improve speech/language skills.
2. On July 18, 2017, the complainant expressed her concerns, in writing, about the accuracy of the reports of the student's progress towards achievement of the goal to improve speech/language skills.
3. On September 6, 2017, the complainant decided not to allow the student to receive speech/language services.
4. On October 11, 16, and 26, 2017, in response to the complainant's concerns, the MCPS staff revised the progress reports and provided the complainant with an addendum to the progress reports containing a more detailed explanation of the student's progress, along with the data that was used as a basis for the reports. The school system staff also provided the complainant with "Progress notes (Logs)" of the speech/language services.
5. After receiving the revised progress reports, the complainant requested to see documentation of the number of opportunities (trials) the student needed to be able to complete the objective within each speech session and/or period of evaluation, in order to see the number of times the student was able to accurately complete the objectives independently and the number of times she required prompting. The complainant also requested that this information be included on the quarterly IEP progress report. The school system denied the complainant's request, stating that the data did not exist in that format, and suggested that once the student resumes speech/language services, the data will be collected in accordance with the criteria indicated on the IEP.
6. On November 8, 2017, based upon the one speech/language session held on September 6, 2017, the student's IEP progress report on the speech/language goal stated that the student was making sufficient progress to meet the goal.
7. On November 16, 2017, an IEP team was convened and the IEP team revised the student's present levels of performance in the areas of receptive and expressive language as a result of updated assessment information. The written summary of the meeting states that the IEP team used the private evaluation provided by the complainant, the data from the September 2017 speech/language session, teacher reports, and parental input as a basis for the IEP team decisions. The IEP team determined that the student's receptive language skills were within age expectancy but that her expressive language skills continues to be an area of need. The expressive language objectives related to the expressive language goal were revised, as the IEP team determined that she will continue to receive speech/language therapy, weekly, for 45 minutes per session, outside of the general education classroom.

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8. The IEP team proposes to meet before January 25, 2018, which is the end of the second marking quarter of the 2017-2018 school year. If the complainant has given consent for the student to resume speech/language services, the IEP team will also provide the complainant with the requested data used in determining the student's progress on the quarterly report.

### **CONCLUSIONS:**

In this case, the complainant alleges that reports of the student's progress towards achievement of the annual speech/language goals must contain specific information about each piece of data collected in order to measure the student's progress.

Based on the Findings of Facts #1 and #2, the MSDE finds that there is documentation that reports of the student's progress towards achievement of the speech/language goals were provided to the complainant on a quarterly basis as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Because there is no requirement to include the specific information requested by the complainant on the progress reports, no violation is found with respect to this aspect of the allegation.

However, based on the Findings of Facts #2 - #4, the MSDE finds that there was a delayed response by the MCPS to the complainant's request for access to the documents containing the data in the educational record, in accordance with 34 CFR §§300.501 and .613, and that a violation occurred with respect to this aspect of the allegation.

### **CORRECTIVE ACTION/TIMELINE:**

#### **Student Specific**

The MSDE requires the MCPS to provide documentation by March 1, 2018, that the complainant has been provided with data she requested that is used to compile the quarterly progress reports for the second marking period of the 2017-2018 school year, contained within the student's record.

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

### **TECHNICAL ASSISTANCE:**

Technical assistance is available to the complainant and the MCPS by Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE. Dr. Birenbaum can be reached at (410) 767-7770.

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Please be advised that both the complainant and the MCPS 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 facts or conclusions reached in this Letter of Findings.

The additional written documentation must be accompanied by a substantial reason why it was not provided during the investigation.

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 within the timelines reported in this Letter of Findings.

Questions regarding the findings and conclusions 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 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 Special Education/Early Intervention Services

MEF: sf

c: Jack R. Smith  
Tracee Hackett  
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Dori Wilson  
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