



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

RE-ISSUED WITH CORRECTION ON PAGE 3

May 14, 2018

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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: #18-128

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 March 22, 2018, the MSDE received a complaint from Mrs. XXXXXXXXXXXX, 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 student.

The MSDE investigated the allegation that the MCPS did not follow proper procedures to ensure that Home and Hospital Teaching (HHT)¹ services were provided to the student when school staff received verification, since March 21, 2017, that the student was unable to attend school, in accordance with COMAR 13A.05.01.10.

¹ The use of Home Hospital Teaching services on an itinerant basis is referred to as Interim Instructional Services (IIS) by MCPS (<http://www.montgomeryschoolsmd.org/curriculum/instruction/faq.aspx>).

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BACKGROUND:

The student is fourteen (14) years old and attends XXXXXXXXXXXXXXXXXXXX. He is identified as a student with Autism under the IDEA and has an IEP that requires the provision of special education and related services.

FINDINGS OF FACTS:

1. On February 28, 2017, the complainant submitted an application for renewal of HHT services to be provided on an itinerant basis. The complainant submitted verification from the student's treating physician of the student's severe anxiety, disruptive and aggressive behaviors, insomnia, difficulty eating, and extreme fear of using a public bathroom, resulted in the student's inability to attend school regularly. The student's physician recommended that the student receive HHT in the home simultaneously while being integrated back to school slowly, one class period at a time.
2. On March 22, 2017, the MCPS denied the student's application for HHT, citing that the student has been receiving instruction outside of the home and attending school successfully for six (6) weeks from eleven o'clock (11:00) am to three o'clock (3:00) pm. The denial was based on the contradictory information within the physician's statement.
3. On September 20, 2017, the complainant submitted a request for an Administrative Review addressing her disagreement with MCPS denial of HHT during the 2016-2017 school year. The complainant stated that the student was unsuccessful when receiving HHT and only received minimal instruction with inconsistent grades, having never regained full-time status at school, and that the school staff's contact with the physician was inappropriate.
4. On October 10, 2017, the Associate Superintendent reviewed the student's educational records, including the application to renew HHT and the denial letter to renew HHT. He also reviewed the March 22, 2017, letter which indicates that the student was not prevented from attending school, as he had been attending school as part of his return to school transition plan when the HHT renewal application was completed. Based upon this review, the Associate Superintendent upheld the MCPS determination.
5. The written summary of an IEP team meeting held on February 28, 2018 reflects that the teacher reported that the student is doing well when in school. The complainant requested transportation services, stating that once the bus is in place the student will attend full days of school. Since January 2, 2018, the student has not been absent for the entire school day. However, while he has been occasionally tardy, his tardiness has steadily decreased to zero (0) days by April 2018.

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DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts #1 - #5, the MSDE finds that the MCPS school staff followed the school system's procedures for resolving disagreements in the implementation of HHT services, as required by COMAR 13A.03.05.03. Therefore, the MSDE finds that **NO** violation occurred.

TIMELINE:

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.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The student's mother 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
Philip A. Lynch
Tracee Hackett

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Dori Wilson
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