



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

September 25, 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: #19-019

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 August 6, 2018, the MSDE received a complaint from Mr. and Mrs. XXXX, hereafter “the complainants,” on behalf of the above-referenced student. 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 student.

The MSDE investigated the following allegations:

1. The MCPS has not ensured that the student’s Individualized Education Program (IEP) has addressed his needs since the start of the 2017 – 2018 school year, in accordance with 34 CFR §§300.101, .320 and .324; and
2. The MCPS has not ensured that reports of the student’s progress towards achievement of the annual IEP goals have been provided as required by the IEP, since the start of the 2017 – 2018 school year, in accordance with 34 CFR §§300.101, .320 and .323.

BACKGROUND:

The student is seventeen (17) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services. The student is in the twelfth (12th) grade and attends XXXXXXXXXXXXXXXXXXXX.

ALLEGATION #1 ADDRESSING THE STUDENT’S NEEDS

FINDING OF FACT:

1. The MCPS acknowledges that the IEP has not addressed the student’s needs since the 2017 - 2018 school year and that the IEP team is in the process of reviewing and revising the IEP.

CONCLUSION:

Based on the above Finding of Fact, the MSDE concurs with the acknowledgement and therefore finds that a violation occurred.

ALLEGATION #2 PROVISION OF IEP PROGRESS REPORTS

FINDINGS OF FACTS:

2. The IEP requires that the student’s progress towards mastery of the annual IEP goals be reported each quarter.
3. There is documentation that the school staff developed quarterly reports of the student’s progress towards mastery of the annual IEP reading, life skills/community, math and written language goals since the start of the 2017 - 2018 school year. However, there is no documentation that quarterly reports of the student’s progress towards mastery of the annual the IEP speech/language communication goal were developed for the first (1st) and second (2nd) quarters of the 2017 - 2018 school year.

CONCLUSION:

Based on the Findings of Facts #2 and #3, the MSDE finds that, while the school system staff reported quarterly progress on some of the annual IEP goals, there is no documentation that quarterly progress reports have been provided on all of the annual IEP goals since the start of the 2017 - 2018 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTION/TIMELINES:

Student-Specific

The MSDE requires the MCPS to provide documentation by the end of the first (1st) quarter of the 2018 - 2019 school year that the IEP has been reviewed and revised to address the student's needs.

The MCPS must also provide documentation, by the same date, that the IEP team has determined the amount and nature of compensatory services or other remedy to be provided to the student for a loss of a Free Appropriate Public Education (FAPE) since the start of the 2017 - 2018 school year, and developed 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 the end of the first (1st) quarter of the 2018 - 2019 school year of the steps it has taken, including training, to ensure that the XXXX XXXXXXXXXXXX staff comply with the IDEA requirements for the development of an IEP that addresses all of a student's needs, and ensuring that reports of a student's progress towards mastery of the IEP goals are provided as required.

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 Dr. Nancy Birenbaum, 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.

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The complainants 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 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/ksa

c: Jack Smith
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