



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

January 3, 2019

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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: #19-060

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services (DEI/SES), 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 8, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXX, 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 did not provide the student with the Extended School Year (ESY) services, as required by the Individualized Education Program (IEP), during the summer of 2018 school year, while on Home and Hospital (HHT), in accordance with 34 CFR §§300.101 and COMAR 13A.05.01.10.

BACKGROUND:

The student is eight (8) years old and is identified as a student with an Other Health Impairment under the IDEA. The student has an IEP that requires the provision of special education and related services and attends XXXXXXXXXXXXXXXX.

FINDINGS OF FACTS:

1. The IEP required the provision of ESY services from July 9, 2018 to August 3, 2018.
2. During the last week of school for the 2017-2018 school year, there is documentation that the complainant informed the MCPS that the student was hospitalized and would be in the hospital or rehabilitation services through September 2018.
3. The MCPS cancelled ESY services for 2018 and there is no documentation that the school staff inquired about whether the complainant wanted to pursue Home Hospital Teaching (HHT) services during the period of the ESY or requested her consent to contact the student's medical providers to determine if she could access instruction in the hospital. While the complainant has submitted an application for HHT services in the past, she reports that the school staff provided her with the application once she informed them of the student's hospitalization and she expected them to provide her with an application this time as well.

CONCLUSION:

Based on the Findings of Facts #1 - #3, the MSDE finds that the MCPS did not ensure that the ESY services required by the IEP were accessible for the student from July 9, 2018 to August 3, 2018, in accordance with 34 CFR §§300.101 and COMAR 13A.05.01.10. Therefore, the MSDE finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINE:

Student-Specific

If the complainant provides the MCPS with medical documentation that the student was able to access HHT instruction while hospitalized, by the end of the third marking period for the 2018-2019 school year, the MCPS must provide documentation by the end of the 2018-2019 school year that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to be provided to the student to remediate the violation identified in this Letter of Findings.

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.

School-Specific

The MSDE requires the MCPS to provide documentation by the end of the 2018-2019 school year, of the steps it has taken to ensure that XXXXXXXXXXXXXXXXXXXX staff properly implements the requirements for ESY and HHT services. The documentation must include a description of how the MCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, 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.

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 and Appropriate Public Education 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 Smith
Kevin Lowndes
Julie Hall
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XXXXXX
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Anita Mandis
Sharon Floyd
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