



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

February 4, 2020

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Dr. Terri Savage  
Executive Director  
Special Education & Student Services  
Department of Special Services  
Howard County Public Schools  
The Old Cedar Lane Building  
5451 Beaverkill Road  
Columbia, MD 21044

RE: XXXXX  
Reference: #20-072

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and Special Education 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 December 11, 2019, the MSDE received a complaint from Ms. XXXXXXXXX, hereafter the “complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public School System (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the HCPS did not ensure that the student was provided with the supplementary aids and services required by the Individualized Education Program (IEP) from September 3, 2019 to October 15, 2019, in accordance with 24 CFR §§300.101 and .323.

**BACKGROUND:**

The student is twelve (12) years old, is identified as a student with a Specific Learning Disability under the IDEA and has an IEP that requires the provision of special education instruction.

During the 2018-2019 school year, the student was placed at XXXXXXXXXXXXXXXXXXXX. His placement was changed to an alternative program at the XXXXXXXXXXXX at the start of the 2019-2020 school year in order to address his interfering behaviors.

On October 15, 2019, the complainant discontinued sending the student to school due to her concerns after he eloped from the XXXXXXXXXXXX school building.

Since January 2, 2020, the student has attended XXXXXXXXXXXXXXXXXXXX in a program designed to address student behavior, as a result of a change in educational placement made by the IEP team on December 17, 2019.

**Findings of Facts:**

1. The IEP in effect at the start of the 2019-2020 school year was developed at XXXXXXXX XXXXXXXXXXXXXXXXXXXX. The IEP required the following:
  - a. Upon arrival at school, the student will wait in the front office for an adult to walk with him to his locker and homeroom;
  - b. An adult will escort the student to and from each class to monitor and limit unstructured situations;
  - c. Instead of using the physical education locker room with his peers, the student will wait for the other students in the gym with a staff member.
  - d. The student will be provided with opportunities for frequent breaks; and
  - e. The parent will be provided with daily communication through the provision of a picture of the chart used to document the student's behavior.
2. There is documentation that the reason why the IEP required the student to wait with an adult in the gym while his peers were in the locker room was because he would engage in altercations with his peers in that setting.
3. On September 27, 2019, the IEP team decided to discontinue the use of the adult escort at the complainant's request.
4. There is documentation that staff members were assigned to escort the student to his classes. A review of attendance records for those staff members reflects that they were present at school during the time period involved.

5. There is no evidence that students at the XXXXXXXXXX have gym lockers.
6. There is documentation that the student was issued a “flash pass” to take breaks and that he left the classroom frequently while class was in session.
7. There is documentation that the student’s teachers frequently communicated with the complainant about the student’s behavior and academic progress through electronic mail messages, but there is no documentation that they sent her pictures of behavior charts as required.
8. The HCPS acknowledges the violation and proposes to consult with the student’s teachers At XXXXXXXXXXXXXXXXXXXX to ensure the appropriate provision of IEP supports to the student in his current school. The HCPS also proposes to conduct training at XXXXXXXX XXXXX to ensure that the school staff document that all students are being provided with supports required by the IEP.

**Discussion/Conclusion:**

In this case, the complainant alleges that specific supplementary aids and services were not provided to the student as required by the IEP.

Based on the Findings of Facts #3 and #4, the MSDE finds that there is documentation of the provision of an adult escort during the time period this support was required. Therefore, no violation occurred with respect to this aspect of the allegation.

Based on the Finding of Fact #6, the MSDE finds that there is documentation that the student had opportunities to take frequent breaks as required by the IEP. Therefore, no violation occurred with respect to this aspect of the allegation.

Based on the Finding of Fact #5, the MSDE finds that due to the fact that there is no locker room at the XXXXXXXXXX, the support was not required while the student was placed at the school. Therefore, no violation occurred with respect to this aspect of the allegation.

However, based on the Finding of Fact #7, the MSDE finds that the school did not provide daily communication with the complainant, in the specific form required by the IEP, in accordance with 34 CFR §§300.101, and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding the violation, based on Finding of Fact #7, the MSDE finds that the school staff did provide the complainant with regular communication about the student’s behavior. Therefore, the violation did not impact the student’s ability to benefit from the program. Further, based on Finding of Fact #8, the HCPS is taking steps to ensure this violation does not recur. Therefore, no corrective action is required to remediate.

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 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:dee

c: Michael J. Martirano  
Kathy Stump  
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