



October 19, 2022

[REDACTED]

Mr. Phillip A. Lynch
Director of Special Education
Montgomery County Public Schools
850 Hungerford Drive, Room 225
Rockville, Maryland 20850

RE: [REDACTED]
Reference: #23-024

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/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 August 23, 2022, the MSDE received a complaint from Mr. [REDACTED] and [REDACTED] hereafter, “the complainants,” on behalf of their son, 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 above-referenced student.

The MSDE investigated the allegation that the MCPS has not ensured that the student has been provided with the specialized instruction, home-school communication system, and social skills training as required by the his Individualized Education Program (IEP) since the start of the 2021- 2022 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is nine (9) years old and is identified as a student with Other Health Impairment under the IDEA. He attends the [REDACTED] School and has an IEP that requires the provision of special education instruction.

FINDINGS OF FACTS:

1. The student’s IEP in effect at the start of the 2021- 2022 school year was developed on December 10, 2021. The IEP requires one (1) hour per week of specialized instruction outside of the general education setting for social skills and zones of regulation training. The IEP further requires daily social skills training across all settings.

2. There is no documentation that the student was consistently provided with the specialized instruction, and social skills training as required by the IEP since the start of the 2021- 2022 school year until November 11, 2021.
3. The student's IEP developed on November 11, 2021, requires the provision of thirty (30) minutes per week of specialized instruction outside of the general education setting for "social skills/executive functioning", fifteen (15) minutes per week of specialized instruction inside of the general education setting "involving peers" to support his social interaction goals, and fifteen (15) minutes per week of specialized instruction outside of the general education setting to "support and facilitate his social interaction goals". The IEP further requires daily social skills training across all settings and a daily "Home-School communication system in order to communicate with parents regarding the student's day and progress."
4. There is no documentation that the student was provided with the specialized instruction as required by the IEP from November 11, 2021, through December 17, 2021. There is no documentation that the student was provided specialized instruction outside of the general education setting for thirty (30) minutes per week for the week of January 24, 2022, until the week of February 28, 2022, and the week of March 21, 2022.
5. There is documentation that the student received social skills training; however, it does not demonstrate that it was provided daily and across all settings as required by the IEP.
6. There is documentation of a home-school communication system; however, it does not demonstrate that it was provided daily to the complainant as required by the IEP.

DISCUSSION/CONCLUSION:

Based on the Finding of Facts #1 - #6, the MSDE finds that the MCPS has not ensured that the student has been consistently provided with the specialized instruction, home-school communication system, and social skills training as required by the his IEP since the start of the 2021- 2022 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

The MSDE has established reasonable time frames below to ensure that non-compliance is corrected in a timely manner.¹ This office will follow up with the public agency to ensure that it completes the required

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, the MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

actions consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks technical assistance, they should contact Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

Student-Specific

The MSDE requires the MCPS to provide documentation by December 1, 2022, that the school system has taken the following action:

- a. Provided the student with the specialized instruction, home-school communication system, and social skills training as required by his IEP; and
- b. Convened an IEP team meeting to determine the amount and nature of compensatory services or other remedy to redress the lack of provision of specialized instruction and developed a plan for the provision of those services within one (1) year of the date of this Letter of Findings. Additionally, the IEP team must determine whether the violation related to the home-school communication system and social skills training had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

The MCPS must ensure that the parent is provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

The MSDE requires the MCPS to provide documentation of the steps that have been taken to ensure that ██████████ School staff properly implements the requirements for the provision of specialized instruction and supplementary aids and services under the IDEA. These steps must include staff development, as well as tools developed to monitor the action steps, a monitoring schedule and provision of the completed monitoring tool to MSDE by March 1, 2023.

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.

² The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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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/Special Education Services

MEF/tg

c: Monifa B. Mcknight
 Zvi Greismann
 Maritza Macias
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