



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

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July 1, 2016

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

RE: XXXXX  
Reference: #16-122

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 May 5, 2016, the MSDE received a complaint from Dr. XXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of 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 his son, the above-referenced student.

The MSDE investigated the allegation that the MCPS has not ensured that the student has been provided with the required amount of special education instruction in a separate special education classroom, since May 5, 2015, as required by the Individualized Education Program (IEP), in accordance with 34 CFR §§300.101 and .323.

**INVESTIGATIVE PROCEDURES:**

1. On May 5, 2016, the MSDE received the State complaint and documentation to be considered.
2. On May 5, 2016, the MSDE sent a copy of the complaint, via facsimile, to Mr. Philip A. Lynch, Director of Special Education, MCPS.
3. On May 17, 2016, Mr. Albert Chichester, Complaint Investigator, MSDE, conducted a telephone interview with the complainant to discuss the allegation.
4. On May 17, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. The MSDE also notified Mr. Lynch of the allegation to be investigated and requested that his office review the alleged violation.
5. On June 22, 2016, the MSDE received a written response from the MCPS which acknowledged a violation with respect to the allegation.
6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
  - a. IEP, dated March 24, 2015;
  - b. IEP, dated December 17, 2015;
  - c. IEP, dated March 22, 2016;
  - d. The student's class schedule for the 2015-2016 school year;
  - e. The special educator's schedule for the 2015-2016 school year;
  - f. The general educator's schedule for the 2015-2016 school year;
  - g. Correspondence, dated June 21, 2016, from the MCPS Central Office staff; and
  - h. Correspondence from the complainant containing an allegation of a violation of the IDEA, received by the MSDE on May 5, 2016.

**BACKGROUND:**

The student is nine (9) years old and is identified as a student with Autism under the IDEA. He attends the XXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services (Docs. a - c).

During the time period covered by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. a - c).

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### **SUMMARY OF FINDINGS AND CONCLUSIONS:**

In its written response, the MCPS acknowledges that a violation has occurred with respect to the allegation. Specifically, the MCPS acknowledges that the student did not receive special education instruction in math, in a separate special education classroom. Further, there is documentation that the student did receive special education instruction in reading, in a separate special education classroom (Docs. a - g).

The MSDE concurs with MCPS' conclusions and appreciates the school system's response to the investigation.

### **CORRECTIVE ACTION:**

The MCPS has proposed to provide the student with compensatory services to remediate the violation. The MSDE requires the MCPS to provide documentation by September 1, 2016, that the MCPS has developed a plan with the complainant for the provision of compensatory services within one (1) year of the date of this letter.

### **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.

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 not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

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. Pending the decision on a request for reconsideration, the school system must implement any corrective actions within the timeline 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 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 for the student, including issues subject to this State complaint investigation, consistent with the IDEA.

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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:ac

c:     Larry A. Bowers  
       Chrisandra A. Richardson  
       Tracee Hackett  
       Lindsay Brecher  
       XXXXXXXXXXXX  
       Anita Mandis  
       Albert Chichester  
       Nancy Birenbaum