



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

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March 17, 2017

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Mr. James Tucker, Superintendent  
Maryland School for the Deaf  
101 Clarke Place  
P.O. Box 250  
Frederick, MD 21705

RE: XXXXX  
Reference: #17-093

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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 January 31, 2017, the MSDE received a complaint from Ms. XXXXXXXXXXXX hereafter, “the complainant,” on behalf of he, the above-referenced student. In that correspondence, the complainant alleged that the Maryland School for the Deaf (MSD) 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 Individualized Education Program (IEP) developed for the student between November 2016 and January 2017 was inappropriate because the MSD had not ensured that it had been reviewed at least annually, in accordance with 34 CFR §300.324.

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### **INVESTIGATIVE PROCEDURES:**

1. On January 31, 2017, the MSDE sent a copy of the complaint, via facsimile, to the MSD.
2. On February 9, 2017, Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a telephone interview with the complainant, and identified the allegation for investigation.
3. On February 9, 2017, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the MSD of the allegation and requested that the school system review the alleged violation.
4. On February 14, 2017, Mr. Loiacono contacted Ms. Jennifer Lake, Special Assistant to the Superintendent and Coordinator of Administrative Projects, MSD, to arrange a document review and site visit.
5. On February 22, 2017, Mr. Loiacono reviewed the student's record at the MSD.
6. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP, dated December 8, 2015;
  - b. IEP, dated January 17, 2017;
  - c. Correspondence from the complainant containing allegation of violation of the IDEA, received by the MSDE on January 31, 2017; and
  - d. Written response from the MSD, received by the MSDE on March 7, 2017.

### **BACKGROUND:**

The student is 16 years old and attends Maryland School for the Deaf (MSD). He is identified as a student with a Hearing Impairment under the IDEA and has an IEP that requires the provision of special education instruction and related services (Doc. a).

### **FINDINGS OF FACTS**

1. The student's IEP, in effect at the start of the 2016-2017 school year, was developed at an IEP team meeting on December 8, 2015 (Doc. a).
2. On November 8, 2016, and January 17, 2017, the IEP team met to review and revise, as appropriate, the student's IEP as part of an annual review (Doc. b and d).
3. The MSD, in a written response, has acknowledged that the IEP team did not conclude its annual review of the student's IEP during the IEP team meetings, and that the completed IEP provided to the complainant dated January 17, 2017, does not wholly reflect the work of the IEP team. To remediate these violations, the MSD proposes to:

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- 1) Convene an IEP team to complete the review the student's IEP, as appropriate, to ensure participation of all IEP team members, and that their input is reflected;
- 2) Assign the "Supervisor of the IEP team" to be coordinator of the student's IEP team while the student is enrolled at the MSD; and
- 3) Conduct both group and individual training for staff members that includes review of State and federal regulations, parent communication practices, and IEP meeting facilitation skills (Doc. d).

### **DISCUSSIONS/CONCLUSIONS**

The public agency must ensure that the IEP is reviewed at least annually in order to determine whether the student is making sufficient progress towards achievement of the annual IEP goals. In addition, the IEP team must review and revise, as appropriate, the IEP to address lack of expected progress, information from the student's parents, and the student's anticipated needs (34 CFR §300.324).

Based on Findings of Facts #1-#3, the MSDE finds that the MSD did not ensure that the IEP process was completed in the required timeline. The MSDE appreciates the MSD acknowledgment and concurs that a violation occurred with respect to the allegation.

### **CORRECTIVE ACTIONS/TIMELINES:**

The MSDE requires the MSD to provide documentation by April 15, 2017 that the IEP team has completed the annual review of the student's IEP. The team must also determine if the delay in completing the annual review resulted a denial of the student's right to a Free and Appropriate Public Education (FAPE) and if so, whether compensatory services are necessary to remedy the violation.

The MSDE also requires the MSD to provide documentation by May 1, 2017 that the proposed staff training has been conducted.

Documentation of completion of corrective actions is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention 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.

Please be advised that the MSD and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with

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the findings of fact 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 timelines reported in this Letter of Findings.

Questions regarding the findings, conclusions and corrective actions 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 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 due process.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Special Education/Early Intervention Services

MEF:gl

c: Kevin Strachan  
Jennifer Lake  
XXXXXXXXXXXX  
Dori Wilson  
Anita Mandis  
Gerald Loiacono  
Nancy Birenbaum