



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

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April 17, 2017

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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: XXX  
Reference: #18-093

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 February 20, 2018, 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 Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related state requirements with respect to the student.

The MSDE investigated the allegation that the MCPS has not ensured that ensure that the student was provided with the supplementary aids and services required by his Individualized Education Program (IEP), between September 5, 2017 and February 15, 2018, in accordance with 34 CFR §§300.101 and .323.

**BACKGROUND:**

The student is seventeen (17) years old and attends XXXXXXXXXXXXXXXXXXXXXXXX. He is identified as a student with a Specific Learning Disability, under the IDEA and has an IEP that requires the provision of special education.

**FINDINGS OF FACTS**

1. The student’s IEP, in effect on September 5, 2017, requires that the student be provided with “rubrics, checklists, and/or exemplars for written assignments,” on a daily basis, and that assignments be broken down into smaller units, on a periodic basis.
2. On November 8, 2017, the IEP team amended the student’s IEP to include fifteen (15) minutes per week of consultative services with the student’s case manager.
3. The MCPS acknowledges that there is no documentation that these supports and services have been consistently provided to the student with the frequency required by his IEP.

**CONCLUSIONS:**

In this case, the complainant alleges that the student was not consistently provided with the supports and services required by his IEP and that this resulted in lower than expected performance on specific assignments.

Based on the Findings of Facts #1-#3, the MSDE finds that there is no documentation that the student has been provided the supports and services with the frequency required by his IEP, between September 5, 2017 and February 15, 2018, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

**CORRECTIVE ACTIONS/TIMELINES:**

The MSDE concurs with the MCPS proposal to provide documentation that the supports and services are being provided to the student, and that the IEP team determine if assignments can be reassessed with the provision of supports. Therefore, the MSDE requires that:

1. The MCPS provide documentation by May 15, 2018 that the supports and services required by the student’s IEP are being consistently provided to the student, in accordance with his IEP since the date of this Letter of Findings; and
2. The MCPS to provide documentation by June 1, 2018 that the IEP team has determined the assignments that can be reassessed with the provision of supports required in the student’s IEP, and that the student be reassessed on those assignments.

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.

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**TECHNICAL ASSISTANCE:**

Technical assistance is available to the complainant and the MCPS by Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE. Dr. Birenbaum can be reached 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 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 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 Special Education/Early Intervention Services

MEF:gl

c: Jack R. Smith  
Tracee Hackett  
XXXXXXXXXXXXXXXXX  
Dori Wilson  
Anita Mandis  
Gerald Loiacono  
Nancy Birenbaum