



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

August 14, 2018

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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: XXXXX
Reference: #18-177

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:

The MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter “the complainant,” on behalf of her daughter, 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 the student.

The MSDE investigated the allegation that the MCPS did not ensure that the student was provided with the Extended School Year (ESY) services during the summer of 2017, as required by the Individualized Education Program (IEP), in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is eight (8) years old and is identified as a student with an Other Health Impairment under the IDEA. The student has an IEP that requires the provision of special education and related services and attends XXXXXXXXXXXX.

FINDINGS OF FACTS:

1. The IEP required the provision of ESY services from July 10, 2017 to

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August 4, 2017. It also required that the student be provided with a “private duty nurse” to ride the school bus with the student in order for the student to access instruction.

2. There was a delay in obtaining a “private duty nurse” for the student for the provision of ESY services,¹ and on July 27, 2017, the MCPS offered to provide ESY services in the student’s home. However, the student was hospitalized, and therefore she could not access the services offered.

CONCLUSION:

Based on the Findings of Facts above, the MSDE finds that the MCPS did not ensure that the ESY services required by the IEP were accessible for the student from July 10, 2017 to July 27, 2017, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTION/TIMELINE:

Student-Specific

The MSDE requires the MCPS to provide documentation, by the end of the first (1st) quarter of the 2018 - 2019 school year, that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to be provided to the student to remediate the violation identified in this Letter of Findings.

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.

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

¹ There was a delay in identifying an available provider for the service and a delay in ensuring that the identified provider had all of the necessary medical orders.

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Mr. Philip A. Lynch

August 14, 2018

Page 3

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 consistent with the timeline requirement as 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 parents 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. 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/ksa

c: Jack Smith
Kevin Lowndes
Julie Hall
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