



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

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April 26, 2018

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Mr. Jon Tucker  
Head of School  
The SEED School of Maryland  
200 Font Hill Avenue  
Baltimore, Maryland 21223

RE: XXXXX  
Reference: #18-105

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.

**ALLEGATIONS:**

On February 28, 2018, 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 SEED School of Maryland (SEED School) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the following allegations:

1. The SEED School has not ensured that the student’s health services needs have been identified and addressed since March 1, 2017,<sup>1</sup> in accordance with 34 CFR §300.101, .320, and .323; and

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<sup>1</sup> The complainant alleged that the violation has occurred since September 2016. However, she was informed, in writing, that only allegations of violations that occurred within one year of the filing of a State complaint can be addressed through State complaint investigation procedure (34 CFR §300.153).

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2. The XXXXXXXXXX has not ensured that the Individualized Education Program (IEP) has been implemented since March 1, 2017,<sup>1</sup> in accordance with 34 CFR §300.101 and .323.

### **BACKGROUND:**

The student is 13 years old and is identified as a student with Multiple Disabilities under the IDEA, including a Specific Learning Disability and an Other Health Impairment related to Attention Deficit Hyperactivity Disorder (ADHD). She has an IEP that requires the provision of special education instruction and related services.

From the start of the 2016-2017 school year until February 2018, the student was enrolled at the XXX XXXX, a Statewide, public, college-preparatory boarding school for at-risk students.

On February 12, 2018, the student was disciplinarily removed from school. During the period of disciplinarily removal, the student was scheduled to receive instruction at the XXXXXXXXX.

In March 2018, the student transferred to XXXXXXXXXXXXXXXXXXXX in Anne Arundel County, her county of residence.

### **ALLEGATION #1: ADDRESSING THE STUDENT'S HEALTH NEEDS**

#### **FINDINGS OF FACTS:**

1. The student was prescribed medication under the care of her personal physician and was required to take the medication at designated times during the school day. The medication was to be administered by the school nurse, as prescribed.
2. On March 31, 2017, the complainant filed a school-based complaint at XXXXXXXXXX indicating concerns that the student's medication was not being administered at school as prescribed by her physician and that, as a result, the student reported that it was having an adverse effect on her ability to focus and learn in class.
3. The complainant and the school staff agree that on May 2, 2017, they met informally to discuss the complainant's concerns, including the administration of medication to the student. Both parties agree that a plan was developed which included the assurance from the complainant that she would provide medication to the school, and the assurance that the school nurse would notify the complainant if the student was out of medication or refused to take the medication administered by the school nurse.
4. On June 22, 2017, the complainant filed another school-based complaint at XXXXXXXXX indicating that the student again informed her that she was not receiving her medication from the school nurse. The complainant reiterated in that complaint that the medication helps the student to focus in class. There is no documentation that the school staff responded to the complainant's concerns raised through her complaint with the school.

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5. On February 8, 2018, the complainant again, filed a school-based complaint at XXXXXXXX indicating that the student continued to inform her and the physician that she is not being administered the medication at school and that she is continuing to experience difficulties with focusing and learning in class. There is no documentation that the school staff responded to the complainant's concerns filed at the school.
6. The school staff report that on several occasions, they would notice that while the student was in class, she would display "hyperactive behavior" and a lack of focus in completing work, which was an indication to them that the student had not taken her medication that day. There is no documentation that the IEP team met to discuss if not providing the student with her medication affected her ability to access the general education curriculum. Further, there is no documentation that the IEP team considered positive behavior interventions to address the student's refusal to take her prescribed medication.
7. There is no documentation of the administration of medication to the student from February 28, 2017 to September 6, 2017. There is documentation that, from September 6, 2017 to February 2018, the student either received her medication from the school nurse, refused to take medication from the school nurse, or was absent from school.
8. There is no documentation that the school nurse notified the complainant of the occasions when the student was either out of medication or that the student refused her medication, as the parties had previously agreed would occur.

### **CONCLUSION:**

Based on the Findings of Facts #1 - #8, the MSDE finds that the IEP team did not meet to consider the student's interfering behaviors that resulted from her refusal to take her medication or her inability to access the general education curriculum. Further, based on the same Findings of Facts, the MSDE finds that the IEP team did not address the complainant's continuing concerns related to the administering of the medication, in accordance with 34 CFR §300.101, .320, .323, and .324. Therefore, this office finds that a violation occurred with respect to the allegation.

### **ALLEGATION #2: IMPLEMENTATION OF SUPPORTS AND SERVICES**

#### **FINDINGS OF FACTS:**

9. The IEP requires that the student be provided with the following supports:
  - Use of laptop to type all responses more than 1 paragraph in length;
  - Proofreading checklist;
  - Agenda book for organization;

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- Word bank to reinforce vocabulary;
  - Repetition of directions;
  - Monitoring of independent work;
  - Check for understanding;
  - Altered/modified assignments;
  - Provide feedback in private;
  - Encouragement in asking for assistance from staff; and
  - Preferential seating.
10. The IEP also requires that the student be provided with counseling services, two (2) hours each month, by the school social worker.
  11. On April 2, 2017, June 27, 2017, and January 8, 2018, the complainant filed school-based complaints at XXXXXXXX alleging that the student was not receiving her supports and services required by the IEP, and that consequently, the student's grades were negatively affected. She also alleged in the complaints that she did not believe that all the student's teachers were provided with a copy of the IEP and, therefore, were not aware of the student's disability or required IEP services and supports.
  12. There is documentation that the student's teachers were provided with a copy of the IEP at the start of the 2016-2017 and 2017-2018 school years. The school staff report that during classes, the student was provided with the supports in the IEP, but not all provided supports were documented, as described by the IEP.
  13. The related service logs reflect that, from February 2017 to February 2018, the student was provided with counseling services in the manner and frequency required by the IEP.

### **CONCLUSIONS:**

Based on the Findings of Facts #10 and #13, the MSDE finds that the student was provided with counseling services in the manner required by the IEP, in accordance with 34 CFR §300.101 and .323. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

However, based on the Findings of Facts #9, #11, and #12, the MSDE finds that there is no documentation that the student received supports as required by the IEP, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

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

#### **Student-Specific**

The MSDE requires the SEED School to provide documentation by June 1, 2018, that it has

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contacted the student's current school of enrollment and requested an IEP team meeting be convened for the purposes of determining compensatory services. Further, the SEED School must ensure that the compensatory services are provided to remediate the violations identified through this investigation and developing a plan for the implementation of the services within one year of the date of this Letter of Findings.

The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the remedy offered.

### **School-Based**

The MSDE requires the XXXXXX to provide documentation by the start of the 2018-2019 school year of the steps taken to ensure that the XXXXXX staff comply with the requirements of the IDEA with regard to the violations identified in this Letter of Findings.

The documentation must include a description of how the XXXXXX will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

### **TECHNICAL ASSISTANCE:**

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that both parties 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 SEED School 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 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.

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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: Patricia Richardson  
Carol Beck  
Dori Wilson  
Anita Mandis  
Albert Chichester  
Nancy Birenbaum