




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

October 16, 2019




Mr. Philip A. Lynch  
Director of Special Education Services  
Montgomery County Public Schools  
850 Hungerford Drive, Room 230  
Rockville, Maryland 20850

RE:   
Reference: #20-029

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and Special Education 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 September 9, 2019, the MSDE received a complaint from Dr.  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) with respect to the student.

The MSDE investigated the allegation that the MCPS did not provide a copy of the proposed Individualized Education Program (IEP) at least five (5) business days before it was considered by the IEP team during the 2018-2019 school year, in accordance with COMAR 13A.05.01.07.

**SUMMARY OF FINDINGS AND CONCLUSIONS:**

The MCPS staff acknowledge that a violation occurred with respect to the allegation that the proposed IEP was not sent to the complainant five (5) business days in advance of the December 3, 2018 IEP team meeting, in which both parents participated. Further, the MCPS has reported that a plan has been developed to ensure future compliance with the requirements. The MSDE concurs with the MCPS's conclusion and appreciates the school system's responsiveness.

Notwithstanding the violation, because the failure to provide the draft IEP five (5) days prior to the IEP team meeting does not constitute a substantive denial of a Free and Appropriate Public Education (FAPE), no student specific corrective action is required.

**CORRECTIVE ACTIONS/TIMELINES:**

**School-Based:**

The MSDE requires the MCPS to provide documentation by March 1, 2020, of the following in accordance with its plan to ensure future compliance:

- That the special education department at [REDACTED] School has been provided with written guidance regarding the legal requirements of COMAR 13A.05.01.07;
- That the special education department at [REDACTED] School has procedures in place to ensure the documentation of compliance with the requirements related to the provision of documents to be discussed at IEP team meetings at least five (5) business days prior to the meeting; and
- That the special education department at [REDACTED] School has been monitored regarding the requirement from October 11, 2019 through January 24, 2020, the end of the MCPS first semester.

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

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the

Mr. Philip A. Lynch

October 16, 2019

Page 3

written request must include a compelling reason for why the documentation was not made available during the investigation.

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 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 Early Intervention  
and Special Education Services

MEF/sf

c: Jack R. Smith  
Kevin Lowndes  
Julie Hall  
Tracee Hackett  
Dori Wilson  
Anita Mandis  
Sharon Floyd  
Nancy Birenbaum