



February 12, 2014

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Mr. Russell Gray
Director of Special Education
Carroll County Public Schools
125 North Court Street
Westminster, Maryland 21157

RE: XXXXX
Reference: #14-049

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 December 20, 2013, the MSDE received a complaint from Ms. XXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Carroll County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the CCPS has not ensured that the student’s reading and written language needs have been identified and addressed through the Individualized Education Program (IEP) since December 20, 2012,¹ in accordance with 34 CFR §§300.320 and .324.

INVESTIGATIVE PROCEDURES:

1. Ms. Christine Hartman, Education Program Specialist, MSDE, was assigned to investigate the complaint.

¹ While the complainant alleged an ongoing violation for a number of years, she was informed, in writing, that the MSDE has authority to investigate allegations of violations that occurred no more than one (1) year from the date the complaint was received (34 CFR §300.153(c)).

2. On December 26, 2013, the MSDE sent a copy of the complaint, via facsimile, to Mr. Russell Gray, Director of Special Education, CCPS.
3. On January 2, 2014, Ms. Hartman conducted a telephone interview with the complainant to clarify the allegation to be investigated.
4. On January 10, 2014, 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 CCPS of the allegation and requested that the CCPS review the alleged violation.
5. On January 24, 2014 and February 7, 2014, the MSDE requested information and documentation related to the allegation contained in the complaint from the CCPS, via telephone and electronic mail (email).
6. On January 27, 29, and 31, 2014, and February 4, 7, and 10, 2014, the MSDE received information and documentation from the CCPS, via email.
7. On January 28, 2014, Ms. Hartman conducted a telephone interview with the complainant regarding the allegation contained in the complaint.
8. On January 30, 2014, Ms. Hartman and Ms. Koliwe Moyo, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX (XXXX XXXXX) to review the student's educational record, and interviewed the following staff:
 - a. Ms. XXXXXXXXXXXX, Principal, XXXXXXXXX;
 - b. Ms. XXXXXXXX, English Language Arts General Education Fifth (5th) Grade Teacher, XXXXXXXXX;
 - c. Ms. XXXXXXXX, English Language Arts General Education Fourth (4th) Grade Teacher, XXXXXXXX;
 - d. Ms. XXXXXXXX, Speech/Language Pathologist, XXXXXXXX;
 - e. Ms. XXXXXXXX, Special Education Teacher, XXXXXXXX;
 - f. Ms. Molly Riggs, Program Consultant for Assistive Technology, CCPS;
 - g. Ms. Christine Wittle, Supervisor of Elementary Special Education, CCPS; and
 - h. Susan Zirpoli, Coordinator of Specialized Reading Intervention, CCPS.

Mr. Wayne Whalen, Coordinator of Compliance, CCPS, attended the site visit as a representative of the CCPS and to provide information on the CCPS policies and procedures, as needed.

9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Correspondence and attachments from the complainant to the MSDE, received on December 20, 2013;
 - b. IEP, dated December 11, 2012;

- c. Multidisciplinary Evaluation Review, dated December 14, 2011;
- d. Prior Written Notice document and Consent for Assessments, dated October 24, 2013;
- e. IEP and Prior Written Notice document, dated November 12, 2013;
- f. Report of the results of private psychological and educational testing that was conducted in September 2013;
- g. IEP, dated November 12, 2013;
- h. IEP and Prior Written Notice document, dated January 27, 2014; and
- i. Multidisciplinary Evaluation Review for the revaluation that was completed on January 27, 2014.

BACKGROUND:

The student is ten (10) years old. She is identified as a student with a Specific Learning Disability under the IDEA, and has an IEP that requires the provision of special education instruction and related services.

The student attended the XXXXXXXXXXXXXXXXXXXX from the start of the 2011-2012 school year until January 6, 2014, when she was parentally placed at the XXXXXXXXXXX, a private school for students “who have been diagnosed with dyslexia and other language learning differences.”²

During the period of time addressed by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. b-i, and interviews with the CCPS staff and the complainant).

FINDINGS OF FACTS:

1. The IEP in effect for the student on December 20, 2012 was developed by the IEP team on December 11, 2012, when the student was identified with a Speech/Language Impairment under the IDEA. This IEP addressed the identified articulation and receptive language needs that arose out of the disability. At that time, the evaluation data did not identify needs related to reading and written language skills (Docs. b and c).
2. On October 24, 2013, the complainant shared with the IEP team the report of the results of private psychological and educational testing that she had obtained. The report states that, while the student’s cognitive ability falls within the “average range,” her reading comprehension performance is in the “low average” range, and her reading fluency performance is in the “borderline range.” The report indicates that the private evaluator reviewed the data from reevaluations previously conducted by the CCPS, and found that the data did not reflect such discrepancy between the student’s cognitive ability and performance (Docs. d - f).

² See, XXXXXXXXXXXXXXXXXXXX.

3. Based on information from the private assessment, information from teachers about the student's classroom performance, and the complainant's concerns, the team decided that the student's identified disability should be changed to a Specific Learning Disability that impacts reading, and it developed a goal for her to improve her reading comprehension and fluency skills. The team also recommended additional assessments in the areas of written language and assistive technology in order to determine whether there are any other needs that arise out of the disability (Docs. d - g).
4. On January 2, 2014, the complainant withdrew the student from the CCPS and placed her in a private school at her own expense (Interviews with the CCPS staff and the complainant).
5. On January 27, 2014, the IEP team reconvened and considered the results of assessment data indicating that the student performed in the "below average" range in vocabulary, spelling, contextual conventions and story compositions, and that she demonstrated difficulty integrating the meaning of several short sentences into one grammatically correct sentence. Based on that data, the team added goals for the student to increase her skills related to written language content and mechanics. The team also decided that the student would be provided with special education instruction to assist her in achieving the goals in both the general education and special education classrooms, as well as with a word processing device with word prediction, screen reading, and scanning software (Docs. h and i).
6. At the January 27, 2014 IEP team meeting, the complainant indicated that she intends to return the student to the school system at the start of the 2014 - 2015 school year (Doc. h and interviews with the CCPS staff and the complainant).

DISCUSSION/CONCLUSION:

In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student. The public agency must then ensure that the IEP team identifies all of the student's educational needs, and that the IEP addresses each of the identified needs (34 CFR §§300.320 and .324).

In this case, the complainant asserts that the IEP team should have identified the student's needs in the areas of reading and written language earlier, particularly since a Specific Learning Disability was considered during a reevaluation that was conducted in 2011 (Doc. a and interview with the complainant).

Based on the Findings of Facts #1 - #6, the MSDE finds that there is no documentation that the student demonstrated needs related to reading and written language prior to the most recent reevaluation. Based on the Finding of Fact #2, the MSDE further finds that the data from previous reevaluations did not reflect the presence of a Specific Learning Disability. Based on the Findings of Facts #2, #3, and #5, the MSDE also finds that the IEP has been revised to

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address the identified needs in reading and written language, consistent with the data. Therefore, this office does not find that a violation occurred.

Please be advised that both the complainant and the CCPS 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.

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 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/ch

cc: Stephen H. Guthrie
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Dori Wilson
Anita Mandis
Martha J. Arthur
Christine Hartman