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State Superintendent of Schools

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August 1, 2016

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Mrs. Chris Wittle
Director of Special Education
Carroll County Public Schools
125 N. Court Street
Westminster, Maryland 21157

RE: XXXXX
Reference: #16-139

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 May 31, 2016, 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 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, since the start of the 2015 – 2016 school year, the CCPS has not ensured that the student’s Individualized Education Program (IEP) addresses her reading needs that arise from her dyslexia, in accordance with 34 CFR §§300.101, .320, and .324.

INVESTIGATIVE PROCEDURES:

1. On June 6, 2016, the MSDE provided a copy of the State complaint, by facsimile, to Mr. Russell Gray, Director of Special Education, CCPS, and Mr. Wayne Whalen, Coordinator of Compliance, CCPS.
2. On June 8, 2016, Ms. K. Sabrina Austin, Education Program Specialist, MSDE, conducted a telephone interview with the complainant to clarify the allegation to be investigated. On the same date, the complainant provided documentation to the MSDE for consideration.
3. On June 8, 2016, the MSDE sent correspondence to the complainant that 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.
4. On June 15, 2016, the MSDE requested documentation from the CCPS.
5. On July 7, 2016, Ms. Austin and Ms. Anita Mandis, Chief, Complaint Investigation Section, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXXXXXX (XXXX XXXXXX) and interviewed the following school system staff:
 - a. Mr. XXXXXXXXXXX, Principal, XXXXXXXX ES;
 - b. Ms. XXXXXXXXXXX, Reading Specialist, XXXXXXXX ES;
 - c. Ms. XXXXXX, General Educator, XXXXXXXX ES;
 - d. Ms. XXXXXXX, Special Educator, XXXXXXXX ES; and
 - e. Ms. Christine Wittle, Supervisor of Special Education, CCPS.

Mr. Whalen participated in the site visit as a representative of the CCPS and to provide information on the school system's policies and procedures, as needed. Also at the site visit, the CCPS provided the MSDE with documentation for consideration.
6. On July 8, 2016, the CCPS provided the MSDE with additional documentation requested at the site visit.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated February 19, 2015;
 - b. Amended IEP, dated April 9, 2015;
 - c. Amended IEP, dated November 16, 2015;
 - d. IEP, dated February 8, 2016, and Prior Written Notice, dated February 8, 2016;
 - e. Electronic mail (email) messages between the complainant and the school staff, from December 2015 to March 2016;

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- f. Report of an independent speech and language assessment, dated October 19, 2015;
- g. Notice of an IEP team meeting scheduled for February 8, 2016;
- h. Report of a private educational consultation conducted on January 7, 2016;
- i. The school system's daily schedule for instruction in English/language arts, dated November 22, 2015, and the guidelines for first (1st) grade instruction using Foundations;
- j. Documentation of the student's performance on the CCPS English/language arts (ELA) assessments, September 2104 to May 2016, and chart describing interpretation of the ELA scores for first (1st) grade;
- k. The school staff's chart identifying instructional reading levels and describing growth in reading for kindergarten to fifth (5th) grade;
- l. The student's report card for the 2015 - 2016 school year;
- m. The complainant's written requests for revisions and additions to the student's IEP, submitted on January 29, 2016; and
- n. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on May 31, 2016.

BACKGROUND:

The student is six (6) years old and is identified as a student with an Other Health Impairment under the IDEA related to a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD). She attends XXXXXXXXXXXXXXXXXXXX, and has an IEP that requires the provision of special education and related services (Docs. a - d).

During the period of time addressed by this investigation, the complainant participated in the education-making process and was provided with written notice of the procedural safeguards (Docs. c and d).

FINDINGS OF FACTS:

- 1. The student's IEP in effect at the start of the 2015-2016 school year was developed on April 9, 2015. The IEP states that the student "struggles with writing sentences that have meaning," and that she "struggles with putting her thoughts on paper with letters that are phonetically accurate." In order to address the student's needs in this area, the IEP includes one (1) academic goal in the area of written language expression. The IEP does not reflect that the student has any needs in reading (Doc. e).
- 2. On December 4, 2015, through an electronic mail (email) message, the complainant provided the school staff with the report of a speech and language assessment that she

privately obtained.¹ The complainant noted that the report indicates “concerns for reading difficulty” due to the student’s below average performance in “phoneme-graphic correspondence” (Doc. e).

3. On January 11, 2016, the complainant sent an email to the school staff inquiring about the student’s reading level. In its response, the school staff explained that, while the student was “very solidly” at a level F, and not at the level G where students are expected to be at that point in the school year, the student “has made great strides in reading, and she has really closed in a lot of gaps” (Doc. e).
4. On January 20 and 21, 2016, the complainant sent emails to the school staff stating that the student was recently diagnosed with “moderate Dyslexia.” The complainant requested instruction for the student using the “*Orton-Gillingham* method.”² In its response, the school staff noted that they have been using instructional reading strategies with the student that are based on “*Orton-Gillingham*,” and also explained that the student receives reading instruction in the classroom through *Foundations*³ which is based on the “*Orton-Gillingham* method” (Doc. e).
5. On January 28, 2016, through an email, the complainant provided the school staff with the report of an “educational consultation” that she privately obtained,⁴ and a written document outlining her requests for revisions to the student’s IEP. The complainant specifically requested annual IEP goals in phonemic or phonological awareness, reading fluency, and decoding, in order to address the student’s reading needs as indicated by her diagnosis of “moderate Dyslexia” (Doc. e).
6. On February 8, 2016, the IEP team convened to conduct the annual review of the student’s IEP, and to review the assessment report of the independent speech and language assessment, and the report of the independent educational consultation, that the complainant privately obtained (Doc. d).

¹ The private evaluation was conducted by Kennedy Kreiger Institute (Doc. f).

² “*Orton-Gillingham* is an instructional approach intended primarily for use with persons who have difficulty with reading, spelling, and writing of the sort associated with dyslexia” (See the *Orton-Gillingham* website: www.ortonacademy.org).

³ *Foundations* is a reading intervention program that provides research-based instruction in reading and spelling strategies that is designed to integrate multiple learning modalities (See the *Foundations* website: www.wilsonlanguage.com).

⁴ The private evaluation was conducted by Bowman Educational Services, Inc. (Doc. h).

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7. At the February 8, 2016 IEP team meeting, the IEP team reviewed the report of the independent educational consultation. The report reflects the following conclusions by the private evaluator:
 - The student is functioning below expectation in the area of phonological skills and phoneme-grapheme correspondence, as she does not understand how to segment words into syllables and phonemes.
 - The student has “great difficulty” identifying initial and medial sounds in words.” While she can identify letters, she is unable to identify the individual sounds, or corresponding phonemes, for each letter. The evaluator stated that “this [is] a significant concern,” as the student is unable to sound out words and blend sounds.
 - The student performed in the “below average range to well below average range” on phonological awareness tasks. The evaluator noted that the phonological awareness skills that the student lacks are “crucial for learning to read.”
 - The student scored in the “average” range in reading performance on the Woodcock Reading Mastery Tests. However, rather than sounding out the words, the student tended to “guess,” focusing only on one or two letters in words, and often used the pictures to get the correct answer. The evaluator specifically cautioned that these scores “are very misleading,” and “it is crucial that the school team not over-interpret these numbers as positive indicators of her decoding skills, as these are not truly a reflection of where she is functioning on a day to day basis.”
 - The student’s “greatest weakness” is in the area of encoding skills where she has difficulty applying basic phonetic rules to spelling words in isolation (Doc. h).

8. The report of the independent educational consultation includes the following recommendations in the area of reading, along with suggested IEP goals to address each area:
 - A multisensory, structured language approach like *Orton Gillingham*, that teaches the basics of decoding.
 - Specific instruction in phonological awareness skills.
 - Reading fluency strategies to increase the student’s speed and accuracy.
 - Spelling strategies in order for the student to be able to segment words into phonemes and syllables.
 - “Pull out” and “push in” services to remediate the student’s reading weaknesses (Doc. h).

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9. At the February 8, 2016 IEP team meeting, the IEP team also reviewed the report of the independent speech and language assessment. The report reflects the following conclusions by the private evaluator:
- The student performed in the “below average to well below average range” on several phonological awareness tasks including segmenting and isolating phonemes. She had difficulty with sounding out words and understanding sound patterns.
 - The evaluator reported “significant concern” due to the student’s inability to identify all phonemes, given that “understanding the sound-symbol relationship is crucial for learning to read.”
 - The student’s performance on tests measuring reading fluency and comprehension indicates that her reading skills are below expectation for her age and language skills.

The independent evaluator recommended reevaluation of the student’s reading skills in order to determine her level of functioning and intervention needs in reading (Doc. f).

10. Based on the findings and recommendations in the reports of the independent speech and language assessment and the private educational consultation, the complainant requested that the IEP team document the student’s weaknesses in phonological awareness, reading fluency, spelling and decoding, and to develop annual IEP goals in reading to address these areas of identified weaknesses (Docs. d, e and m, and interview with the parties).
11. The IEP team discussed current data on the student’s progress in reading. The IEP team considered that the student “has made more than a year’s growth in reading in less than six (6) months,” and that she had more than doubled the number of sight words she is able to read since the beginning of the 2015 - 2016 school year (Doc. d).
12. The written summary of the February 8, 2016 IEP team meeting documents that the IEP team also considered the student’s performance on the CCPS assessments. At the time of the meeting, the CCPS assessments document that the student was “approaching” the reading level and the fluency level expected for her grade. The CCPS assessments also document that the student was functioning below the levels expected for her grade in reading high frequency words, reading closed syllables with digraphs, and reading closed syllables with blends (Docs. d, j and k).
13. The student’s performance on the CCPS assessments administered in May 2016 reflects that, while she scored one (1) level below the expected reading level for her grade, her score was (2) levels above her last tested level.⁵ In addition, the student’s scores on individually assessed areas indicate that she was on grade level in four (4) areas, and that she had more than doubled her reading of sight words from 70 to 155 (Docs. j and k).

⁵ The student’s reading level increased from Level F to Level H. Level J was the expected level (Docs. j and k).

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14. The February 8, 2016 IEP specifically states that the student “struggles with making the sound/symbol relationships needed to learn how to read, write and spelling.” The IEP also provides the following information about the student’s reading.⁶
- The student “struggles [with] learning sight words and benefits from [a] multi-sensory approach to learning and practicing sight words.”
 - The student is “being instructed in the general education setting as well as in the small group setting using the *Foundations* program (a program based on *Orton- Gillingham* methods), to address her weaknesses with phonemic awareness that [a]ffect her encoding of sounds, and her decoding of single and multi-syllabic words.”
 - She is able to identify correct sound-symbol relationships with better than eighty percent (80%) when identifying letters by pointing. She relies on redirection to “tap out sounds” (Doc. d).
15. The written language expression goal in the February 8, 2016 IEP includes objectives that address reading, phonemic awareness and spelling skills. Specifically, objective number three (3) requires the student to use learned spelling patterns and “tapping out sounds” to spell words, and objective number seven (7) requires instruction and practice in reading sight words using a multi-sensory approach. In addition, objective number four (4) requires the student to choose words from a word bank to form sentences, and objective number six (6) requires her to edit her writing (Doc d.).
16. The IEP team determined that, based on the data from the student’s performance in the classroom, and on standardized testing and the CCPS assessments, the student does not require separate reading goals on the IEP in order to address her needs. The IEP team documented the complainant’s disagreement with the decision not to develop reading goals for the student (Doc d).
17. The student’s 2015 - 2016 report card documents that, in each of the four (4) marking periods, she received “satisfactory” grades for the “use of phonics and word structures to decode words in text” and in reading fluently (Doc. 1).

DISCUSSION/CONCLUSIONS:

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student’s disability that are identified in the evaluation data. The public agency must ensure that

⁶ This information is included in the section of the IEP identifying the student’s present levels of performance in the area of written language expression (Doc. d).

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all of the student's special education and related services needs are identified and addressed, whether or not commonly linked to the disability category in which the student has been classified (34 CFR §§300.101, .301- .305, and .320).

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 (34 CFR §300.324).

The public agency must ensure that the IEP team reviews the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved (34 CFR §300.324). In addition to reviewing the IEP at least annually, the public agency must ensure that the IEP team reviews and revises, as appropriate, the IEP to address any information from the parents and the student's anticipated needs (34 CFR §300.324).

In this case, the complainant alleges that the IEP does not address the student's reading needs associated with her Dyslexia diagnosis because the IEP does not identify "reading" as an area of need, and because the IEP does not include goals to address the student's identified reading weaknesses.

Based on the Findings of Facts #1 - #10 and #14 - #16, the MSDE finds that, while the IEP does not include a separate present level of performance and goal for "reading," it includes information on the student's performance and an annual IEP goal to address the student's identified needs in reading. Further, based on the Findings of Facts #11 - #13 and #17, the MSDE finds that the student's performance in reading improved during the 2015 - 2016 school year with the provision of specialized instruction on the IEP goals. Therefore, the MSDE does not find a violation occurred.

TIMELINE:

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 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.

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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 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

c: Stephen Guthrie
Wayne Whalen
XXXXXXXXXXXX
Dori Wilson
Anita Mandis
K. Sabrina Austin
Nancy Birenbaum