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March 6, 2018

Ms. Jessica Williams, Advocate
Education Due Process Solutions
711 Bain Drive #205
Hyattsville, Maryland 20725

Dr. Terrell Savage
Acting Executive Director of
Special Education & Student Services
Department of Special Education
Howard County Public Schools
The Old Cedar Lane Building
5451 Beaverkill Road
Columbia, MD 21044

RE: XXXXX
Reference: #18-074

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.

ALLEGATIONS:

On January 5, 2018, the MSDE received a complaint from Ms. Jessica Williams, hereafter, “the complainant,” on behalf of Mrs. XXXXXXXXXXXX and her daughter, the above-referenced student. In that correspondence, the complainant alleged that that the Howard County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The HCPS did not develop an Individualized Education Program (IEP) that addresses the student’s identified speech/language needs since March 7, 2017, in accordance with 34 CFR §300.324.

2. The HCPS did not ensure that the student was provided with the speech/language services required by the IEP since March 7, 2017, in accordance with 34 CFR § 300.101.

BACKGROUND:

The student is nine (9) years old, is identified as a student with a Speech/Language Impairment under the IDEA, and has an IEP that requires the provision of special education and related services.

During the period of time addressed by this investigation, the student's mother participated in the educational decision-making process and was provided with notice of the procedural safeguards.

FINDINGS OF FACTS:

1. The IEP was developed based on information from the speech/language pathologist (SLP) who reported that the student's overall intelligibility to the unfamiliar listener is 50-70% of the time. Her vowel production is impacted and is caused by the student speaking with her teeth clenched. The SLP further reported the student's rhythm of speech is "choppy" which makes it difficult for others to understand her speech. The SLP reported that the student scored within the "above average range" for organizing incoming speech with prior knowledge and memory and within the "average range" on the following subtests:
 - Expressive language skills;
 - Oral language skills;
 - Grammar;
 - Semantics; and
 - Listening.
2. The SLP further reported that the three areas of need for the student included pragmatic, spoken, and written language skills. Specifically, the student's needs to strengthen her skills to include making inferences based upon facial expressions and the body language of others, taking another's perspective, demonstrating flexibility of thought, initiating, maintaining, and appropriately terminating conversations with peers and adults. The SLP also reported that the student has difficulty stating multiple details, providing relevant, on-topic responses, using appropriate noun and verb tenses, using age appropriate sentence length and structure, and using context clues to explain the main idea.
3. The IEPs includes annual goals for language, social interaction skills, speaking and listening to tell a story, sharing personal news, engaging in conversations with peers and adults, maintaining a topic, initiating a conversation, explaining the meaning of examples of figurative language, and using appropriate intonation to support the meaning of a message.

4. The supplementary aids and supports include the provision of checklists, organizational aids, copies of student/teacher notes, allowing for movement within the class, and low noise levels in the classroom.
5. The accommodations included testing within a small group, frequent breaks, and extended time. The IEP required that the student be allowed to use organizational aids, copy of student/teacher notes, checking for understanding, breaking down assignments into smaller units, deleting extraneous information, providing adult support, allowing movement, encouraging the student to ask for assistance when needed, providing headphones, visuals, and provision of a desk carrel for assessments.
6. The IEP requires that the student be provided with two (2) thirty (30) minute sessions of speech/language therapy per week in order to assist her in achieving annual IEP goals to improve her speech/language skills.

IEP Team Meeting March 7, 2017

7. On March 7, 2017 an IEP team convened for the consideration of the student's need for Extended School Year Services. The student's mother expressed concerns about whether the speech/language goals on the IEP addressed the student's deficits. The complainant, who attended the meeting as the mother's advocate, informed the IEP team of a private assessment completed at XXXXXXXXXXXXXXXXXXXX (XXX) in January 2015, which indicated that the student exhibited "expressive and receptive deficits and a severe fluency disorder." The complainant stated that the HCPS was not addressing the student's speech/language needs as identified within the private assessment on the current IEP. The IEP team was not provided with a copy of the private assessment at the team meeting.
8. The teacher reported that the student is reading on grade level. The teacher also stated that the student needs consistent support to pay attention in class even though she completes all classwork independently. The IEP team decided to wait until the student's annual review, in approximately two (2) months to review and revise the student's IEP.

IEP Team Meeting May 2, 2017

9. On May 2, 2017, the IEP team convened to review the private speech/language assessment report provided by the student's mother, dated January 8, 2015, and to conduct an annual review. The documentation of the May 2, 2017 IEP team states that the student's achievement on the private speech/language evaluation ranged from "below average to high average" with a mixed receptive-expressive language disorder and a pragmatic language disorder. The student's mother expressed concerns about the student's use of present tense verbs and past tense verbs when speaking, feeling that the student mixes the tenses. In addition, the student's mother also expressed concerns that

the IEP did not address the student's expressive and receptive language needs. The SLP explained that she is currently addressing both pragmatic and expressive/receptive language skills during the speech/language sessions. In response to the student's mother's concerns, the IEP team decided to collect additional data in those areas.

IEP Team Meeting June 6, 2017

10. The IEP meeting held on June 6, 2017 was a continuation of the annual review from May 2, 2017. The SLP reported the results of the student's work samples on verb tenses in response to the student's mother's concerns. The teacher reported that, overall, the student was successful when using verb tenses and when she did make an error she was able to self-correct her mistakes. In response to the student's mother's concerns, the IEP team revised the IEP to add an additional thirty (30) minute session per week for speech/language therapy to address the student's speech/language needs.

IEP Team Meeting February 15, 2018

11. On February 15, 2018, the IEP team convened to plan for a reevaluation of the student. The student's mother expressed concern about the speech/language services that are being provided to her daughter; specifically she wanted to ensure prompts and reminders are being provided in the classes consistently.
12. The IEP states that the student has some difficulty understanding inferences and sentences when given in the negative. It also states that the student is challenged when making predictions, summarizing, and identifying the more important details.
13. The SLP reported when communicating orally, the student is able to independently determine the main idea and at least two to three details on 75% occasions. The SLP also reported that the student continues to benefit from a verbal prompt to initiate conversations and to ensure that she is demonstrating expected body language. The SLP further reported that the student picks up new figurative language quickly, uses correct intonation, understands when intonation changes, and is able to use previously learned information effectively. In addition, the SLP reported that the student continues to make sufficient progress on generating oral narratives, and is making sufficient progress to meet the annual goals for speech/language.
14. For the reevaluation, the IEP team recommended that an updated speech/language assessment, classroom observations, and an educational assessment be conducted. The IEP team also agreed to conduct assessments in the specific areas identified in the private assessment provided by the student's mother.

15. The SLP's service reports document that the student has not been provided with all of the speech/language therapy sessions required since March 7, 2017. The three (3) sessions were missed due to provider absences. The SLP has submitted a plan for the substitute SLP to make-up the (3) sessions missed.

DISCUSSION/CONCLUSIONS:

Allegation #1 IEP that Addresses Speech/Language Needs

Based on the Findings of Facts #2 -#14, the MSDE finds that the HCPS has ensured that the IEP team has considered all of the evaluation data, including the results of private assessments and the student's mother's concerns, when identifying and addressing the student's speech/language needs. Based on those Findings of Facts, this office finds that, while the private assessments and the public agency data are not entirely consistent with each other, the public agency data supports the IEP team's decisions, in accordance with 34 CFR §300.324. Therefore, the MSDE does not find that a violation has occurred with respect to this allegation.

Allegation #2 Provision of Speech/Language Services

Based on the Findings of Facts #1 and #15, the MSDE finds that the student has not received all of the speech/language therapy sessions, as required by 34 CFR §§300.101 and .323. Therefore the MSDE finds a violation occurred.

Notwithstanding the violation, based on the Findings of Facts #13 and #15, the MSDE further finds that the three (3) missed sessions are being made up and the student is making sufficient progress to achieve the annual IEP goals with the provision of the speech/language therapy that has been provided. Therefore, no student-specific corrective action is required to remediate this violation.

TIMELINE:

Please be advised that the PGCPs and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact or conclusions reached in this Letter of Findings. The additional written documentation must be accompanied by a substantial reason why it was not provided during the investigation.

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 student's mother 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 (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

MEF/sf

c: XXXXXXXXXX
 Michael Martirano
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