



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

June 13, 2018

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Dr. Kristin Mentges
Coordinator of Special Education
Talbot County Public Schools
12 Magnolia Street
Easton, Maryland 21601

RE: XXXXX
Reference: #18-141

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 April 16, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Talbot County Public Schools (TCPS) 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 TCPS should have suspected, between April 2017 and December 2017, that the student is a student with a disability, and conducted an evaluation under the IDEA, in accordance with 34 CFR §300.111 and COMAR 13A.05.01.06.

2. The TCPS has not ensured that an Individualized Education Program (IEP) has been in place for the student during the 2017-2018 school year, in accordance with 34 CFR §§300.323 and .324.

BACKGROUND:

The student is seven years old and attends XXXXXXXXXXXXXXXXXXXX. She is identified as a student with a Speech/Language Impairment, under the IDEA and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. On May 24, 2017, the IEP team met in response to a referral from the complainant concerning the student's behavior. The IEP team determined that the behaviors described by the complaint were not exhibited in the school setting and that they did not suspect that the student had a disability at that time. The IEP team agreed to reconvene if the student began to display behavioral difficulties at a later date.
2. On December 4, 2017, in response to a request from the complainant, the IEP team met to conduct an IDEA evaluation. The complainant reiterated her concerns regarding the student's behavior at home, including that the student hit her and made threats. The student's classroom teacher reported that she did not have concerns regarding the student's behavior, but that she "was not where she should be for first grade." Based on the parent and teacher input, and the results of a private psychological assessment, the IEP team recommended additional assessments in the areas of "reading, mathematics, expressive/receptive language and pragmatics, intellectual, cognitive functioning, and social/emotional/behavior." Following the IEP team meeting, on December 6, 2017, the complainant provided consent for assessment.
3. On February 7, 2018, the IEP team met and determined that the student qualifies as a student with a disability under the IDEA with a Speech/Language Impairment.
4. On March 6, 2018, the IEP team met to develop and initial IEP for the student. Before the IEP team could complete its development of the student's IEP, the complainant requested that the meeting end, and left the meeting.
5. On March 27, 2018, the complainant informed the TCPS staff that she planned on having additional private assessments completed for the student, and that she would not agree to attend an IEP team meeting until the testing was complete. The TCPS staff scheduled an IEP team meeting for April 19, 2018, and the complainant declined an invitation to the meeting, citing the unavailability of her attorney. The TCPS staff and the complainant agreed to reconvene on May 23, 2018.
6. On May 23, 2018, the IEP team completed the development of the student's IEP, with the participation of the complainant.

DISCUSSION/CONCLUSIONS:

Allegation #1: Child Find

In this case, the complaint alleges that the TCPS should have suspected that the student was a student with a disability, prior to December 4, 2017, and conducted an IDEA evaluation.

Based on the Finding of Fact #1, the MSDE finds that the IEP team met to consider the complainant's concerns about the student's behavior at home in May 2017, and determined that the student was not suspected of having a disability, consistent with the information regarding her behavior at school. Furthermore, based on Findings of Facts #2 and #3, when the student did exhibit signs of a suspected disability in November 2017, the IEP team met and determined that the student qualified under the IDEA as a student with a disability. Therefore, this office does not find that a violation occurred with respect to this allegation.

Allegation #2: IEP Development

In this case, the complainant alleges that the IEP team should have completed the development of the student's initial IEP, following the determination of IDEA eligibility, prior to May 23, 2018.

Based on Findings of Facts #4-#6, the MSDE finds that the development of the student's IEP was not completed in the timeframe required by 34 CFR §§300.323 and COMAR 13A.05.01.06, and that a violation occurred.

However, based on those same Findings of Facts, the MSDE finds that the delay was the result of the steps taken to ensure the complainant's participation in the IEP process. Therefore, no corrective action is required.

TIMELINE:

Please be advised that the TCPS 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 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 student's parents 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/gl

c: Kelly L. Griffith
XXXXXXXXXX
Dori Wilson
Anita Mandis
Gerald Loiacono