



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

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March 1, 2018

Ms. Ashley S. VanCleaf
Law Office of Brian K. Gruber, P.C.
6110 Executive Boulevard
Suite #220
Rockville, Maryland 20852

Ms. Trinell Bowman
Executive Director
Department of Special Education
Prince George's County Public Schools
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 20785

RE: XXXXX
Reference: #18-072

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 January 4, 2018, the MSDE received a complaint from Ms. Ashley S. VanCleaf, hereafter, “the complainant,” on behalf of the above-referenced student, and her mother Ms. XXX XXXXXXXX. In that correspondence, the complainant alleged that the Prince George’s County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the PGCPS did not ensure that proper procedures were followed when conducting an IDEA evaluation. Specifically, it was alleged that the student was not assessed in all areas of need, and that the Individualized Educational Program (IEP) team did not appropriately apply eligibility criteria in accordance with 34 CFR §§300.304-.306.

BACKGROUND:

The student is nine (9) years old, and attends XXXXXXXXXXXXXXXXXXXXXXXX. On December 6, 2017, the student was identified as a student with a Specific Learning Disability, under the IDEA, and has an IEP that requires the provision of special education and related services.

FINDINGS OF FACTS:

1. On November 2, 2016, the IEP team met in response to the mother's request for an evaluation based, in part, on her concerns that she thought the student had dyslexia or another learning disability. The team documented its decision at the time that they did not suspect a disability, and that assessment data was not necessary. The team, however, recommended that educational, speech/language, and psychological assessments be completed in order to establish "baseline data."
2. On January 4, 2017, the IEP team met to consider assessment reports and conduct an evaluation for the student. The IEP team documented its discussion that they did not suspect that the student did not have a disability related to her speech/language needs. The IEP team discussed assessment data, including a psychological assessment that included parent concerns related to "transposing of letters and numbers," but did not discuss the eligibility criteria for other possible disabilities or the student's reading needs.
3. On January 9, 2017, the student's mother, through the complainant, requested another Independent Educational Evaluation (IEE) to include assessments designed to measure the student's decoding abilities. The parties report that an agreement was made that the PGPCS would conduct an additional assessments.
4. On May 23, 2017, the IEP team met to consider assessment reports. An educational assessment was completed for the student in areas requested by the student's mother, including decoding. The assessment report indicated that the student performed in the "very low" to "average" range in reading. The report further stated that the student "appears to rely on sight words rather than phonetic decoding when attempting to read. This strategy may be insufficient as she gets older and encounters more unfamiliar and irregular words." The IEP team did not discuss the criteria for a particular disability, noting only that the "impact of these academic deficits in 3rd grade is minimal at this time" and concluded that the student was not eligible for special education services.
5. On December 6, 2017, the IEP team met to consider the results of a private assessment that was obtained by the parent. The report stated that while the student was able to read grade level texts with appropriate fluency, she was relying on sight word memory and struggled to read unfamiliar words. Based on the results of the assessment and parent and teacher input, the IEP team concluded that the student met the criteria as a student with a Specific Learning Disability related to dyslexia and dysgraphia.

DISCUSSION/CONCLUSIONS:

In this case, the complainant alleges that the IEP team did not assess the student in all areas of concern, specifically the student's decoding skills, and did not apply the appropriate criteria in determining the student's eligibility as a student with a disability.

Based on Findings of Facts #1-#3, the MSDE finds that the IEP team did not assess the student in all areas of need when conducting an evaluation in January 2017, in accordance with 34 CFR §§300.304. Furthermore, based on Findings of Facts #3-#5, the MSDE finds that the IEP team's decision that the student did not have a disability in May 2017 was inconsistent with the data, and that the team did not properly apply the eligibility criteria, in accordance with 34 CFR §§300.305. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation, by April 1, 2018, that the IEP team has properly determined the compensatory services, or other remedies necessary to address the delay, since January 2017, in identifying the student as a student with a disability under the IDEA.

The PGCPS must provide documentation, within one (1) year of the date of this Letter of Findings, that the student has been provided with the compensatory services or other remedy determined by the IEP team as a result of this investigation, or documentation of parent refusal of such compensatory services or other remedy.

School -Based

The MSDE requires that the PGCPS provide documentation by May 1, 2018, of the steps taken to determine if the violations identified in this Letter of Findings are unique to this case or if it represents a pattern of noncompliance at XXXXXXXXXXXXXXXXXXXX. If it is determined that a pattern of noncompliance exists, the documentation must describe the actions taken to ensure that the staff properly implement the requirements of the IDEA and COMAR, and provide a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of noncompliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Consultant, Family Support and Dispute Resolution Branch, MSDE, at (410) 767-7770.

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 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. Pending the decision on a request for reconsideration, the school system must implement any corrective actions within the timelines reported in this Letter of Findings.

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

c: Kevin W. Maxwell
Gwendolyn Mason
Barbara VanDyke
Monica Wheeler

XXXXXX
Dori Wilson
Anita Mandis
Bonnie Pries