



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

May 1, 2018

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Ms. Michelle Concepcion
Director of Instruction and Student Performance
Frederick County Public Schools
191 South East Street
Frederick, Maryland 21701

RE: XXXXX
Reference: #18-114

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention Services (MSDE), 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 March 2, 2018 the MSDE received correspondence from Ashley S. VanCleaf, Esq., hereafter, “the complainant” on behalf of Mr. XXXXXXXXXXXXXXX and Mrs. XXXXXXXXXXXXXXX and their son, the above-referenced student. In that correspondence, the complainant alleged that the Frederick County Public Schools (FCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the FCPS has not ensured that the student’s Individualized Education Program (IEP) addresses his reading and writing needs since March 2017, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is eleven (11) years old 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, and he attends XXXXXXXXXXXXXXX School.

FINDINGS OF FACTS:

1. The IEP developed on March 20, 2017 identified needs in reading phonics that impacted the student's reading comprehension, reading fluency, and written language mechanics. The IEP included goals to improve these skills and special education instruction to assist the student in achieving the goals. At that time, the student was participating in a reading intervention to improve decoding skills for approximately one (1) year.
2. On November 14, 2017, the IEP team considered information from the student's teacher that the student was making progress with the provision of a reading intervention. Based on this information, the team revised the IEP to reflect that the student would receive a reading intervention. However, there is no documentation that the school staff had been conducting appropriate progress monitoring with the provision of the reading intervention and it was later determined by the school staff that the student should have made more progress than he had, given the amount of time in which he was provided with the intervention. At the IEP team meeting, the student's mother provided a diagnosis from a private provider of Dyslexia and expressed concern about Dysgraphia as well. The team decided to do assessments to determine whether there was the presence of Dysgraphia.
3. On January 26, 2018, the IEP team considered information from the school staff about the student's progress with the use of different reading interventions that had been provided since December 11, 2017, in order to address the lack of progress with the use of the original reading intervention. Based on the reports of the student's progress with these interventions, the team determined that the new interventions were appropriate.
4. On February 12, 2018, the IEP team reviewed the student's assessment data, indicated the student had Dysgraphia, but the team decided not to revise the IEP until the scheduled annual IEP team meeting on March 12, 2018.
5. On March 12, 2018, the IEP team determined that the student would participate in a new reading intervention which addresses both Dyslexia and Dysgraphia. The team also revised the services and supports in the IEP and the intervention was to begin in April 2018.
6. There is documentation that the student has made expected progress in reading with interventions that have been provided since December 11, 2017.

CONCLUSIONS:

Based on the Findings of Facts #1 - 5, the MSDE finds that the FCPS did not provide the student with an appropriate reading intervention to address his needs, from March 2017 until December 11, 2017, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation during this time period.

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However, based on the Findings of Facts #2, #3 and #6, the MSDE further finds that the student has been provided with appropriate interventions to address his needs in reading, since December 11, 2017, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation since December 11, 2017.

Based on the Findings of Facts #1 - #3, the MSDE finds that the FCPS did address the student's written language needs, from March 2017 until February 2018, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation during this time period.

However, based on the Findings of Facts #4 and #5, the MSDE finds that the FCPS did not address the student's written language needs, between February 12, 2018 and March 12, 2018, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation during this time period.

CORRECTIVE ACTION/TIMELINE:

Student-Specific

The MSDE requires the FCPS to provide documentation by June 15, 2018, that the IEP team has determined the compensatory services to remediate the violation identified through this investigation and to provide documentation within one year of the date of this Letter of Findings that the compensatory services have been provided.

School-Based

The MSDE requires the FCPS to provide documentation by the start of the 2018-2019 school year of the steps it has taken to ensure that XXXXXXXXXXXXXXXXXXXX staff properly implements reading interventions. The documentation must include a description of how the FCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violation does not recur.

School-Based

During the course of this investigation, a similar violation was identified with respect to the use of a reading intervention in an investigation involving another FCPS student attending a different school (State complaint #18-113). Through that investigation, the MSDE required the FCPS to provide documentation by the start of the 2018-2019 school year of the steps it has taken to determine if the violation represents a pattern of noncompliance within the school system, and if so, to take appropriate steps to ensure that each student's IEP addresses the student's needs and to ensure that the violation does not recur. Therefore, no additional system-based corrective action is required.

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TECHNICAL ASSISTANCE:

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 FCPS 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. 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 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 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:ac

c: XXXXXXXXXX
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