



Mohammed Choudhury
State Superintendent of Schools

August 13, 2021

[REDACTED]
[REDACTED]
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RE: [REDACTED]
Reference: #21-115

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 June 21, 2021, the MSDE received a State complaint from Mr. [REDACTED] and Mrs. [REDACTED] hereafter, “the complainants,” on behalf of their daughter, the above-referenced student. In that correspondence, the complainants alleged that the Anne Arundel County Public Schools (AACPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to their daughter.

The MSDE investigated the following allegations:

1. The AACPS did not ensure proper procedures were followed when the Individualized Education Program (IEP) team considered the results of an Independent Educational Evaluation (IEE) obtained at private expense, provided in December 2020, in accordance with 34 CFR §300.502.

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2. The AACPS has not ensured that the IEP addresses the student's needs arising out of Dyslexia and Dysgraphia, since December 2020, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is seven (7) years old and is identified as a student with a Specific Learning Disability, based on her Dyslexia and Dysgraphia, under the IDEA. She has an IEP that requires the provision of special education and related services. The student attends the [REDACTED].

FINDINGS OF FACTS:

1. The IEP in effect at the start of the investigation period reflects that the student was at that time identified with a Speech/Language Impairment, which affects her articulation of sounds. The IEP required both direct and consultative speech services to assist the student in achieving her articulation goals.
2. On December 11, 2020, the complainants requested that the student be reevaluated in the areas of reading and writing.
3. On January 15, 2021, the IEP team considered the complainants' concerns about the student's phonemic awareness, phonics, decoding, vocabulary and blends, as well as correlating concerns about her writing. The complainants shared that the student received private tutoring, utilizing an explicit, sequential, systematic, and multi-sensory approach used to teach literacy.
4. The written summary of the IEP team meeting on January 15, 2021, reflects that the complainants shared the report of a private assessment obtained by them in the areas of reading and writing. The report of the Independent Education Evaluation (IEE) reflected that the student has an impairment in reading consistent with Dyslexia and an impairment in writing consistent with Dysgraphia.
5. The written summary of the January 15, 2021 IEP team meeting documents that the team considered the results of the IEE and information from the student's teacher about her classroom performance. The IEE reflects that the student has a cognitive ability in the "average" range and scored from "average" to "moderately below average" in most categories, compared to what is expected and typical of students in the first grade. The data reflected that the student demonstrated strengths in reading comprehension and inferences, and weakness in decoding and writing skills. There was no data that the student was not meeting age or State-approved grade-level standards at that time.

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6. The IEP team also considered information from the school staff that interventions in the general education program had just been initiated, and thus, there was no data which indicated that the student would not respond to those interventions.
7. Based on the data, the IEP team decided that the student was not suspected of being a student with a Specific Learning Disability. The team decided that the student would participate in a structured language program that emphasizes phonemic awareness, phonics, reading fluency, vocabulary, comprehension, handwriting and spelling, and that the teacher would meet with her in a small group to improve writing skills.
8. On May 18, 2021, the IEP team reconvened to consider the student's progress with the general education supports. A written transcript of the audiotaped recording of the meeting reflects that the school staff reported that they were seeing a positive response to supplemental explicit instruction that had been implemented since the prior IEP team meeting, but that they would continue to gather data to monitor the student's progress. The team also decided that a classroom observation and updated educational assessments should be conducted.
9. On June 14, 2021, the IEP team reconvened and considered the educational assessment results and additional data from the provision of interventions. The assessment reflected that the student was performing in the "low average" range in the area of basic reading, with weaknesses in the area of phonological awareness. The classroom observation report reflects that the student was observed to use strategies such as sound tapping in order to blend words and she transferred sound knowledge to segment words for spelling, and that she accurately blended the words presented to her in the lesson. However, based on the additional data on the student's response to interventions being provided, the team decided that the student demonstrated a pattern of strengths and weaknesses that supported identification of the student with a Specific Learning Disability requiring special education instruction to address reading and written language.
10. The IEP team reconvened on July 13, 2021 and added goals for the student to improve her reading and written language skills consistent with the data, and determined the special education instruction needed to assist with achievement of the goals.

Allegation #1 Consideration of IEE

In this case, the complainants allege that, based solely on the data in the IEE, the IEP team should have determined that the student requires special education instruction as a result of her Specific Learning Disability.

Based on the Findings of Facts, #1 - #7, the MSDE finds that the IEP team considered the results of the IEE and there was no data of a severe discrepancy between the student's cognitive ability and academic performance, or that she was not responding to interventions, when the IEP team

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first considered the IEE on January 15, 2021, in accordance with 34 CFR §300.502. Thus, the data the team relied upon supported the determination not to identify the student with a Specific Learning Disability at the time that the decision was made. As a result, this office does not find a violation with respect to this allegation.

Allegation #2 Addressing Needs Arising out of Dyslexia and Dysgraphia

Based on the Findings of Facts #8 - #10, the MSDE finds that, once there was data to support the student's identification as a student with a Specific Learning Disability under the IDEA, based on Dyslexia and Dysgraphia, the IEP was revised to include special education instruction in these areas, in accordance with 34 CFR 300.320 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

The school system and the complainant 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 Early Intervention/Special Education Services

MEF:dee

c: George Arlotto Dori Wilson Anita Mandis
 Alison Barmat [REDACTED] Diane Eisenstadt