



Mohammed Choudhury
State Superintendent of Schools

August 13, 2021



Ms. Rae Ann Record
Supervisor of Special Education
6270 Worcester Highway
Newark, MD 21841

RE: [REDACTED]
Reference: #21-118

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 22, 2021, the MSDE received a complaint from [REDACTED] hereafter “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Worcester County Public Schools (WCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the WCPS did not follow proper procedures when conducting an evaluation of the student in response to a March 24, 2021 referral, in accordance with 34 CFR §§300.301 - .311 and COMAR 13A.05.01.04 - .06.

BACKGROUND:

The student is nine (9) years old and is not identified as a student with a disability under the IDEA. The student attends [REDACTED]

FINDINGS OF FACTS:

1. There is electronic mail (email) documentation that reflects that on March 24, 2021, the complainant requested formal assessments in the areas of “reading writing, math, social/emotional, depression/anxiety, attention, aggression/angry behavior, and non-

compliant behavior.” She stated that the student was struggling and the school was not addressing his difficulties appropriately.

2. On April 7, 2021, the IEP team met and the complainant expressed concerns about her son that included the following:

- vision;
- hearing;
- cognitive/intellectual;
- social/emotional/behavioral;
- phonics;
- reading fluency;
- reading comprehension;
- math calculation;
- math problem solving; and,
- written expression.

3. Frequently observed behaviors listed on the complainant’s referral included:

- difficulty beginning a task;
- difficulty maintaining attention;
- easily distracted;
- loses or forgets work and/or material;
- difficulty with organization;
- difficulty completing tasks/assignments;
- difficulty with changes in routine;
- overactive;
- inadequate note-taking and test-taking skills;
- difficulty toileting;
- limited eye contact;
- repetitive behaviors;
- lacks self-control;
- easily frustrated;
- sudden changes in mood;
- inconsistent in performance;
- needs constant approval;
- interrupts and distracts class;
- unusually aggressive towards others;
- difficulty interpreting social cues;
- difficulty making and keeping friends; and,
- difficulty accepting responsibility for his own behavior.

4. The complainant was concerned that the student has poor grades, even though he is “extremely smart.” She expressed that the student’s emotional and behavioral issues are negatively impacting his grades and his grades do not “reflect his true ability.” She

reported that, although he was diagnosed with Autism, she did not believe that diagnosis to be accurate.

5. The IEP team considered the student's current academic performance in third grade, based on school-based assessments, current classroom progress, midterm grades and parental input. According to school-based informal reading and math assessments, the student was performing on grade level in reading and on a second/third grade level in math.
6. The complainant reported that the student receives private therapy and takes medication for depression.
7. The IEP team determined that a comprehensive IDEA evaluation would be completed, including educational, psychological and speech/fluency assessments.
8. The written summary of the IEP team meeting reflects that hearing and vision tests had been performed by the school nurse prior to this IEP meeting, and no concerns were noted. Consent for assessments in the areas of academic performance, communication, intellectual/cognitive functioning, and social emotional/behavior development, was provided on April 12, 2021.
9. On April 14, 2021, a psychological evaluation was conducted. The student's full scale IQ was measured at 122, and the report reflects that the student is currently functioning within the "very high" range of cognitive ability, with no areas of weakness in his cognitive profile.
10. On April 16, 2021 and April 23, 2021, a speech/language assessment was conducted. The speech/language assessment report reflects that, while the complainant reported that the student "had difficulty getting his words out at times," the test results did not reflect that the student was demonstrating a problem in this area.
11. On April 26, 2021, April 27, 2021 and April 28, 2021, an educational assessment was administered to the student, who was in the 3rd grade at the time of the assessment. The student received "average," "high average," "superior" and "very superior" classifications on various subtests of the reading, writing and math formal assessments. Additionally, an Independent Reading Level Assessment (IRLA) was administered to the student on May 7, 2021, which reflected that the student had an independent reading level of Grade 4, and was able to complete Grade 3 assignments without assistance.
12. On May 14, 2021, the IEP team met to review evaluation data to determine if the student met eligibility requirements to receive services through an IEP as a student with a disability under IDEA. The IEP team considered assessment results, parental concerns, teacher input, and report card grades.

13. The written summary of the IEP team meeting reflects that following the discussion of the evaluation reports and report card grades, the team considered whether the student met the criteria for a Specific Learning Disability, and determined that the student did not meet the criteria for identification with this disability because he did not display a pattern of strengths and weaknesses.
14. The written summary of the IEP team meeting reflects that, while the student's report card documents a drop in academic performance during the second quarter of the 2020-2021 school year, the teacher reports reflect that this was caused by the fluctuating school environments between virtual learning and in-school learning which created a situation of uncertainty for the student. The teacher reports further indicate that this could be addressed through a Behavioral Intervention Plan (BIP), and one-to-one assistance during more difficult periods. The student received passing grades during the 2020-2021 school year, and teacher comments on the student's report card state that the student is on a mid 3rd grade level, and participates in the "highest reading group."
15. The written summary reflects that the IEP team then considered eligibility as a student with an Other Health Impairment, but found no health problems that impacted the student's educational performance.
16. The IEP team also considered eligibility as a student with an Emotional Disability. The team determined that, while the student exhibits an emotional condition based on inappropriate behaviors or feelings under normal circumstances, and a general pervasive mood of unhappiness or depression, the student's learning process is not significantly disrupted because of his emotional condition and he is able to progress academically. Therefore, he had no need for specialized instruction. Additionally, the team determined that the student's behaviors could be successfully addressed by the BIP that was developed on April 7, 2021.

DISCUSSION/CONCLUSION:

In this case, the complainant alleges that the WCPS did not ensure that a comprehensive IDEA evaluation was conducted.

Based on the Findings of Facts #1 - #16, the MSDE finds that the WCPS followed proper procedures when conducting an evaluation of the student in response to the March 24, 2021 referral, and that the eligibility determination was consistent with the data, in accordance with 34 CFR §§300.301 - .311 and COMAR 13A.05.01.04 - .06. Therefore, the MSDE 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

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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 timeframes reported in this Letter of Findings.

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 Early Intervention
and Special Education Services

MEF/dee

c: Louis Taylor
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