


January 18, 2024




Ms. Chris Wittle
Director of Special Education
Carroll County Public Schools
125 North Court Street
Westminster, Maryland 21157

RE: 
Reference: #24-079

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education 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.


ALLEGATIONS:

On November 22, 2023, MSDE received a complaint from Ms. , hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Carroll County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The CCPS did not follow proper procedures when conducting an evaluation of the student since January 2023, in accordance with 34 CFR §300.303-311, including that the CCPS did not consider the student’s behavioral needs and did not respond to a proposal by the parent to assess the student’s reading and adaptive abilities.
2. The CCPS did not follow proper procedures when responding to a request for an Individualized Education Program (IEP) team meeting since October 7, 2023, in accordance with 34 CFR §300.503.

BACKGROUND:

The student is fifteen years old and attends  School. The student was previously found eligible for special education services as a student with a Specific Learning Disability (SLD). On March 9, 2022, he was determined not to meet the eligibility criteria as a student requiring specially designed instruction under the IDEA.

FINDINGS OF FACTS:

- 1 On February 1, 2023, the IEP team met to continue an IEP team meeting convened on January 20, 2023, to review Independent Education Evaluations (IEE) obtained by the parent and determine the student's eligibility for special education services. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team reviewed a Neuropsychological IEE, a Speech and Language IEE, prior CCPS assessments, teacher reports, classroom performance, work samples, and English Speakers of Other Languages (ESOL) teacher information. The private psychologist reviewed the Neuropsychological IEE and answered the team's questions. The IEP team discussed the low average reading comprehension score from the Neuropsychological IEE, versus the average scores on the reading comprehension subtest from the CCPS' speech and language assessment. The CCPS teacher shared that the student is capable of honors work and does "great work when focused and interested." The student does well on his "article summaries" and struggles with online lab reports completed at home.

The private speech and language pathologist reviewed the Speech and Language IEE and answered the team's questions. The CCPS speech and language pathologist noted that the pragmatic assessment was done "only using parent input and prior speech and language reports and indicated that having input from the educational environment would be important. The private neuropsychologist shared that data was used from teachers and evaluation data to provide data on the student's social language deficits.

The IEP team considered whether the student qualified as a student with Other Health Impairment (OHI), Speech and Language Impairment (SLI), and SLD.

The IEP team determined that the student did not meet the eligibility criteria under the disability code of OHI. The team discussed that when the student completes his work it is done well. The CCPS teacher shared that the student understands the assignments and has the ability to be successful, "with good effort," and he is expected to exit ESOL. The CCPS team further shared the student's low art grade was due to assignments not being turned in. The parents disagreed with the IEP team's decision.

The IEP team determined that the student did not meet the eligibility criteria under the disability code of SLI. The IEP team considered the CELF-5, and receptive and expressive language scores from the IEE. The student's pragmatic language was assessed with a single scaled score from his parents without input from the educational environment. The CCPS speech pathologist shared the teacher's input that the student is able to follow directions, makes good eye contact, responds respectfully even when corrected, and has no indication of pragmatic language concerns. The student's articulation skills are within normal limits. The IEP team determined that the student had a hearing screening or audiological evaluation to rule out hearing loss, and a comprehensive speech and language assessment. The student's native language is not English; however, the CCPS Dual Language Assessment Specialist was consulted on January 19, 2023. The specialist determined based on his WIDA score that he is "high intermediate." He is expected to test out of ESOL. The IEP team considered evaluation data in the areas of articulation, expressive, receptive, and pragmatic language and determined there is no evidence of a moderate, moderate-severe, or severe speech impairment compared to peers of same age and gender in his native language. The parent disagreed with the IEP team's decision.

The IEP team determined that the student did not meet the eligibility criteria under the disability code of SLD. The IEP team considered the student's first semester grades (A's, B's and C's), the student's performance is average to above average compared to his peers, and he is capable of doing honors level work in physics. The Neuropsychological IEE data reflects that the student has average reading, written language, and math skills. The student's Broad Reading score is 97, Broad Math 98, and Written Language 104. The student demonstrated a weakness in decoding with a score of 84 in Letter Word Identification; however, his Sentence Reading Fluency is 112. The IEP team determined there is documentation of repeated measures of classroom achievement reflecting the student's performance during instruction. The IEP team further determined that the student does not exhibit a lack of achievement relative to age, state-approved grade level standards, or intellectual development. The parent disagreed with the IEP team's decision.

2. On May 19, 2023, the IEP team met to review a private Psychological Assessment (March 3, 2023). The PWN generated after the IEP team meeting reflects that the IEP team reviewed the evaluation and the CCPS staff shared that the evaluation did not include input from the student's teachers on the Autism Rating Scales. The IEP team noted that the private evaluation stated there was a language disorder but there were no assessments used for pragmatic language and the concerns noted for expressive language were based on some inconsistent results. The IEP team determined that an emotional/social/behavior assessment would be conducted to complete the Autism rating scales with teacher input, a communication assessment in the areas of expressive language and social pragmatics, a classroom observation and an academic assessment in the area of written language be conducted. The parent proposed a receptive language assessment. The IEP team rejected this proposal based upon the previous assessment data that indicated no significant receptive language disorder. The IEP team considered an executive functioning assessment but rejected this proposal because the student has a 504 plan that addresses his executive functioning needs.
3. There is documentation that the private Psychological Assessment (March 3, 2023) included an Oral Reading Test, executive functioning subtests, executive functioning Behavior Rating Inventories, Behavior Assessment Systems for Children (BASC), Trauma Symptom Checklist for Children, Adaptive Behavior Assessment, and Autism Rating Scale.
4. On May 23, 2023, the parent emailed the CCPS staff requesting that the school consider a reading comprehension assessment and adaptive behavior testing. The parent shared that the student had not been recently assessed in these areas.
5. On May 24, 2023, the CCPS staff emailed the parent. The CCPS staff shared that the decision for additional assessments is an IEP team decision. The CCPS staff advised the parent that the request for additional assessments can be proposed at the next IEP team meeting. The CCPS staff requested that the parent return the consent to evaluate for the agreed upon assessments from the May 19, 2023, IEP team meeting as soon as possible.
6. On May 24, 2023, the parent emailed the CCPS staff inquiring if the IEP team would be agreeable to adding "those assessments" as an amendment to the consent form?
7. On May 24, 2023, the CCPS staff emailed the parent sharing that amendments can be made outside of the IEP team meeting if the school system and the parents agree. All other discussions must be made in an IEP team meeting with the consensus of the IEP team. The May 19, 2023, IEP team ordered assessments that they felt were needed. In order to consider the need for additional assessments an IEP team meeting would need to be convened.

8. On May 24, 2023, the parent emailed the CCPS staff stating that the parents are members of the IEP team. The parent shared that the CCPS IEP team members proposed the assessments on the consent form; however, the parent IEP team members were not aware of the other options on the consent form. The parent inquired when the IEP team was available to meet.
9. On May 26, 2023, the CCPS staff responded to the parent's email agreeing that the parents are members of the IEP team and were present at the May 19, 2023, IEP team meeting when the assessments were proposed. The email reflects that the IEP team discussed what assessments were needed and the question was asked if additional assessments were needed. The IEP team agreed to the assessments on the notice and consent to evaluate form. The CCPS staff also stated that the proposed IEP team meeting dates were previously shared with the parent.
10. On July 7, 2023, and continued on August 31, 2023, the IEP team met to review evaluations. The PWN generated after the August 31, 2023, IEP team meeting reflects that the IEP team reviewed the student's grades, classroom observations, a CCPS Educational Assessment (June 15, 2023), CCPS Psychological Report (June 22, 2023), CCPS Speech and Language Assessment Report (June 28, 2023), a private Psychological Evaluation, parent input, and teacher input.

The IEP team determined the student had been diagnosed with an Autism Spectrum Disorder "Level," but did not display significant difficulties with verbal communication skills. The IEP team reviewed the student's speech and language scores noting he scored a standard score of ninety-six, he is able to verbally communicate, can respond to questions, verbally respond when "interacting," observed holding conversations with peers, communicates appropriately with adults, and during the writing assessment "he was able to discuss his thoughts about the story clearly." The IEP team also noted that the private Neuropsychological IEE reflects he is "able to use eye contact and hold a conversation appropriately." The IEP team determined that the student did not meet the eligibility criteria under the disability code of Autism.

The complainant proposed that the IEP team review historical data previously provided. The IEP team rejected this proposal because the "data that was emailed to the team was parts of data and not full reports." The CCPS staff shared that the Educational Assessment, Speech and Language Assessment, and the Psychological Assessment all contained educational records and background information.

The complainant proposed that the IEP team re-consider OHI and SLD disability classifications. The IEP team rejected this proposal citing the May 19, 2023, PWN stating that assessments would be completed to determine if the student was eligible as a student with Autism. The PWN further reflects that eligibility tools were previously completed in February 2023, and the IEP team determined the student did not meet the eligibility criteria as a student with a disability requiring special education services.

11. There is documentation that the CCPS Psychological Assessment (June 22, 2023) included a review of the student's record, a student interview, classroom observations, an Autism Rating Scales (completed by parent and teacher), Piers-Harris Self-Concept Scale, and SEL Composite and Core Skills (measures student's social-emotional skills).
12. There is documentation that the CCPS Educational Assessment Report (June 15, 2023), included a Test of Written Language - 4.

13. There is no documentation that the parent requested a reading or adaptive evaluation at the IEP team meeting convened on July 7, 2023, or August 31, 2023.
14. On October 7, 2023, the parent emailed the CCPS staff to request an emergency IEP team meeting.
15. The PWN generated on October 20, 2023, reflects that the complainant proposed to convene an emergency IEP team meeting to discuss items outlined in the October 7, 2023, email. The CCPS reviewed the parent's request and special education documentation including PWNs from previous IEP team meetings. The CCPS rejected the complainant's proposal to schedule an emergency IEP team meeting because the complainant did not present any new information for the IEP team to consider. The PWN further reflects that all issues raised by the complainant were previously addressed in IEP team meetings when the complainant was present. Additionally, the PWN summarizes the IEP team findings from previous meetings convened on October 27, 2021, November 29, 2021, January 12, 2022, February 9, 2022, March 9, 2022, January 20, 2023, February 1, 2023, May 19, 2023, July 7, 2023, and August 31, 2023. The CCPS rejected the complainant's proposal to reinstate the student's IEP. The PWN reflects that based upon documentation from the March 9, 2022, February 1, 2023, and August 31, 2023, IEP team meetings the student does not qualify as a student requiring specially designed instruction.

The CCPS rejected the complainant's proposal for compensatory services. The PWN from March 9, 2022, documents the decision of the IEP team that the student no longer qualified for special education services and was exited on March 31, 2022.

DISCUSSION/CONCLUSIONS:

Allegation #1: Evaluation Procedures

Evaluation procedures must be individualized to meet the child's current needs, and formal assessment data is not required if the IEP team finds there is enough data to determine the student's eligibility and educational needs (34 CFR §300.305).

The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student is classified. The eligibility determination must be made on an individual basis and be based on the student's specific needs. The IEP team must review the evaluation data, and based on that data, determine whether the student meets the criteria for identification as a student with a disability under the IDEA (COMAR 13.A.05.01.06).

In order to meet the criteria for identification as a student with a disability under the IDEA, a student must have at least one (1) of a list of impairments, and who, by reason thereof, requires special education and related services. If a student is determined to have one (1) of the impairments listed, but is found to require only related services, and not special education instruction, the student does not meet the criteria for identification as a student with a disability under the IDEA (34 CFR §300.8). Regardless of the category of disability, the IEP team must ensure that all of the student's suspected areas of needs that arise out of the disability are addressed (34 CFR §§300.304).

Based upon the Findings of Facts #1 to #13, MSDE finds that the CCPS did follow proper procedures when conducting an evaluation of the student since January 2023, in accordance with 34 CFR §300.303-.311, including that the CCPS did consider the student's behavioral needs and did respond to a proposal by the parent to assess the student's reading and adaptive abilities. Therefore, this office finds that a violation did not occur with respect to the allegation.

Allegation #2: Request for an IEP Team Meeting

Based upon the Findings of Facts #14 and #15, MSDE finds that the CCPS did follow proper procedures when responding to a request for an IEP team meeting since October 7, 2023, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation did not occur with respect to the allegation.

TIMELINE:

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 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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/tg

c: Ms. Cynthia McCabe, Superintendent, CCPS
Mr. Wayne Whalen, Supervisor of Special Education Data and Compliance, CCPS
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Ms. Diane Eisenstadt, Compliance Specialist, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
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