

February 23, 2024

Mr. Robert Tait  
2421 Homestead Drive  
Silver Spring, Maryland 20902

Ms. Kia Middleton Murphy  
Acting Director, Special Education  
Montgomery County Public Schools  
850 Hungerford Drive, Room 225  
Rockville, Maryland 20850

RE: Darius Tait  
Reference: #24-112

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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.

**ALLEGATION:**

On December 27, 2023, MSDE received a complaint from Mr. Robert Tait, hereafter, “the complainant,” on behalf of his son. In that correspondence, the complainant alleged that the Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the allegation that the MCPS did not follow proper procedures in the identification and evaluation of the student, in accordance with 34 CFR 300.301-.311 and COMAR 13A.05.02.13(A).

**BACKGROUND:**

The student is seven years old and is identified as a student with autism under the IDEA. In February 2023, he was enrolled at Bethesda Elementary School (BES). In August of 2023, his parents enrolled him at Flora M. Singer Elementary School (FMSES). The student has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. In February 2023, the student was enrolled at BES after moving from Prague, Czech Republic, where he had lived since birth.
2. On February 22, 2023, the IEP team at BES met for an initial intake and screening meeting for the student. According to the prior written notice (PWN), “the team reviewed reports provided by the family and agreed that more information was required to devise a plan for [the student].” The team asked for consent to assess the student in educational achievement, cognitive functioning, adaptive

[skills], and rating scales for attention and autism. The PWN further states that the family provided “detailed assessments regarding [the student’s] language skills;” however, there was no information provided regarding the student’s cognitive ability and academic achievement levels. The assessments provided referenced the student’s diagnosis of autism, but the family did not share the original diagnostic assessment. For this reason, the IEP team requested consent to conduct the additional assessments. The PWN reflects that the team considered reports from the Carbone Clinic UK and information provided by the parent and advocate.

3. On February 22, 2023, the parent provided consent for the student to be assessed in the areas of speech/language, cognitive/intellectual, social/emotional/behavioral, adaptive behavior, and academic performance.
4. On March 31, 2023, an initial evaluation was conducted for the student to determine the student's present levels of academic achievement, speech-language, cognitive, and social/emotional/behavioral functioning. The psychological report states that the data sources used to administer the evaluation were a record review, team and parent consultation, behavioral observations, the Wechsler Intelligence Scale for Children - Fifth Edition (WISC-V), the Conners Behavior Ratings Scale - Fourth Edition (CBRS-4), the Autism Spectrum Ratings Scale (ASRS), and the Adaptive Behavior Assessment System, Third Edition (ABAS-3). The assessments were conducted with the use of an interpreter. It is noted in the report that at home the student speaks English with his father, and Farsi with his mother, but understands and communicates in both languages. It is also stated that the student “...speaks in short one or two-word phrases, and does not sustain conversation.” The report states that directions were provided and repeated to the student in Farsi and English, but subtests were discontinued and scores were not collected due to the student’s inability to sustain attention on the testing items or demonstrate understanding of the task. The report reflects that an attempt was made to collect standardized cognitive scores using the WISC-V with the Farsi interpreter, but “...a lack of response on the measure, limited engagement with materials, and frequent hyperactivity and distractibility during the assessment, scores could not be collected, “and therefore, “due to the inability to obtain full score domains, consideration of his cognitive functioning in future reevaluations may be warranted.” The CBRS-4 was used to determine the student’s emotional/social/behavioral development. This assessment considered information provided by the student’s father and previous teacher in Prague, who had worked with the student for a year. According to the results from the parent and teacher rating scales it was determined that at the time of the evaluation, the student was exhibiting behaviors indicative of inattention and hyperactivity in the classroom. The report reflects that the student’s father and previous teacher completed the ASRS. Information provided by the student’s father suggested that the student had difficulty using appropriate verbal and non-verbal communication for social contact, had difficulty relating to peers, and used language in an atypical manner. ASRS information provided by his previous teacher relayed that the student has difficulty using appropriate verbal and non-verbal communication for social contact, engages in unusual behaviors, has problems with inattention and impulse control, has difficulty relating to peers and adults, has difficulty providing appropriate emotional responses to people in social situations, uses language in an atypical manner, engages in stereotypical behaviors, has difficulty tolerating changes in routine, overreacts to sensory stimulation, and has difficulty focusing attention. Reports from adults across settings on the ABAS suggested that the student’s adaptive functioning was significantly lower compared to same-aged peers. Additionally, the student's social skills, communication, and functional academics were observed to be in the extremely low range. It was stated in the report that the results of the evaluation indicate

that at that time the student met the diagnostic criteria for ADHD - combined presentation. Moreover, the results from the autism spectrum disorder (ASD) evaluation were consistent with the student's previous identification as a student with autism and continued to meet the criteria for ASD.

5. On March 31, 2023, an educational assessment was conducted for the student at BES with the use of an interpreter. According to the assessment report, to obtain the required observation when identifying a disability, the student was observed when he "...visited BES with his parents on Friday, February 17, [2023,] for thirty minutes." The report reflects that the student and his parents transitioned to two special education classrooms and the speech therapist's office. It is noted in the report that the student was not engaged in the classroom activities while present. The student was assessed using the Brigance Inventory of Early Development III Standardized (IED III). The report reflects that the student was able to participate and focus with multiple prompts, but in some cases, he did not respond despite having the questions presented and repeated to him in both English and Farsi. The report also states that the student had more difficulty focusing on math subtests, but was able to sing the entire alphabet and say the alphabet through the letter "P." The student was also able to identify all of the upper and lower case letters and closed shapes, but could not read the one-syllable words presented or identify which item was different in each field of shapes or letters presented. The student was able to blend two words successfully, but could not identify any of the three rhymes presented. He did successfully segment one of the three words that were presented to him. The student was unable to complete the auditory discrimination assessment, but instead made loud vocalizations and appeared to not understand the directions when presented in either English or Farsi. The student counted to the number five before stopping, and successfully compared three of the six groups presented to him. He also correctly read numbers between one and ten, but did not complete any of the other subtests in solving word problems, missing numerals in sequence, adding numbers, subtracting numbers, and sorting objects. The student was also assessed using the Autism Diagnostic Observation Schedule (ADOS-2), which noted that the student displayed typical features of ASD and ADHD. The report also states that the student began receiving behavioral, speech, and occupational therapy, in addition to receiving applied behavioral analysis therapy three times per week in November 2020.
6. After the need to reschedule a meeting to review and consider the data collected due to school and parental scheduling conflicts, on April 19, 2023, the IEP team at BES met to consider the student's identification and eligibility. At that meeting, the team determined that the student was eligible for services under the code of autism. According to the PWN, the team considered "the assessment report from the Carbone Clinic, teacher reports from the student's preschool in Prague, speech assessments, occupational therapy (OT) assessments, psychological assessment, and educational assessment" in making their determination.
7. The available OT assessment considered by the team is dated September 2021 and was conducted by OT Kids Prague.
8. The available speech/language assessment considered by the team is dated August 26, 2019, and was also conducted by a speech-language pathologist in Prague.
9. A meeting was scheduled for May 3, 2023, May 6, 2023, May 26, 2023, and June 6, 2023, to review and consider the draft IEP developed by the IEP team at BES dated May 3, 2023.

10. On June 2, 2023, the parent emailed the team at BES to inform them that they desired to enroll the student into full-time ABA therapy and were therefore not seeking a service plan at that time and declined to meet with the team to develop an IEP for the student.
11. After enrolling the student at BES, the student attended only two days. The complainant stated that the school was not the appropriate setting for the student based on the student's need for ABA therapy.
12. There is no documentation demonstrating the IEP team at BES attempted to contact the complainant regarding the student's failure to attend school from the time of enrollment in February 2023, to the end of school in June 2023.

**CONCLUSION:**

The allegation in this case considers whether or not the MCPS followed proper procedures in the identification and evaluation of the student. A local school system must ensure that all students with disabilities, 3 years old through the end of the school year in which the student turns 21 years old, residing within the jurisdiction of the local school system are located, identified, evaluated, and provided services. (COMAR 13A.05.02.13(A)) Additionally, each public agency must conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability within 60 days of receiving parental consent for the evaluation. The evaluation must utilize procedures to determine if the child is a child with a disability and to determine the educational needs of the child. The evaluation must be sufficiently comprehensive to identify all of the child's special education and related services needs and must assess the child in all areas related to the suspected disability. As part of an initial evaluation, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the child, including evaluations and information provided by the parents of the child; current classroom-based, local, or State assessments, and classroom-based observations; and observations by teachers and related services providers. (34 CFR §§300.301 - .311)

In this case, the IEP team met shortly after the student enrolled at BES to obtain consent to conduct an initial evaluation for the student. The team conducted a psychological evaluation and an educational assessment of the student at the school and utilized previous assessments conducted for the student in the areas of speech-language and occupational therapy. The team also considered information provided by a previous teacher who had worked with the student for a year in the psychological report. Due to an inability to obtain cognitive full score domains on the psychological evaluation, the school psychologist stated in the evaluation report that future reevaluations may be warranted. The prior written notice from the eligibility meeting on April 19, 2023, states that the team considered four assessments and two reports to make its determination that the student met the criteria for ASD. Despite scheduling several meetings to develop the student's IEP, on June 2, 2023, the student's parents informed the school of their desire to enroll the student in a full-time ABA therapy program, and of their decision to not meet with the team to develop an IEP at BES.

Based on the Findings of Fact #2 to #11, MSDE finds that the MCPS did follow proper procedures in the identification and evaluation of the student, in accordance with 34 CFR §§300.301 - .311 and COMAR 13A.05.02.13(A). Therefore, this office finds that a violation did not occur with respect to the allegation.

**TIMELINES:**

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/ebh

c: Dr. Monique T. Felder, Interim Superintendent, MCPS  
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