

April 9, 2024

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[REDACTED]
[REDACTED]

Ms. Kia Middleton - Murphy
Director of Special Education Services
Montgomery County Public School
850 Hungerford Drive, Room 225
Rockville, Maryland 20850

RE: [REDACTED]
Reference: #24-147

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.

ALLEGATION:

On February 14, 2024, MSDE received a complaint from Ms. [REDACTED], “the complainant,” on behalf of her son, the above referenced student. 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 since January 23, 2024, in accordance with 34 CFR §§300.111 and .301-.311 and COMAR 13A.05.01.06.

BACKGROUND:

The student is 14 years old and is supported by a 504¹ Plan. The student currently attends [REDACTED] School.

FINDINGS OF FACTS

1. On October 23, 2023, the complaint emailed the MCPS staff, requesting that the student be evaluated for an Individualized Education Program (IEP).

¹ “Section 504” refers to Section 504 of the Rehabilitation Act of 1973, requiring schools to provide a free appropriate public education (FAPE) to each eligible student, including the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the student as adequately as the needs of a student without a disability are met. (34 CFR § 104.33).

2. On November 21, 2023, the IEP team convened to respond to a Child Find referral. During the meeting, the team reviewed teacher reports, teacher observations, MAP scores, and parental input. The IEP team determined that assessments were necessary to establish present levels of cognitive functioning and academic performance, to determine the student's eligibility for special education services.
3. On November 27, 2023, the complainant provided consent for the student to be evaluated.
4. On January 3, 2024, the MCPS conducted a psychological assessment. A summary of the assessment states "results of the cognitive measure noted overall average cognitive skills." Based on the results of the teacher and parent behavior rating scales, teacher and parent reports, observations, and review of records, the student does not meet the criteria to be identified as a student with ADHD as he is "not demonstrating the consistent number of symptoms and characteristics across various settings (i.e., home, classes)". In addition, the assessment results state "self-report and review of academic records suggest that [the student] is experiencing mild feelings of low self-concept and self-esteem, worthlessness, and inadequacy, which in turn are impacting his engagement and persistence resulting in inconsistent academic performance. Although at this time a diagnosis of a mood disorder is also not given, it is important to note that [the student] is experiencing subclinical levels of depressive feelings, such as feelings of low self-concept, sense of adequacy, and worthlessness, that should be closely monitored". The assessment provided recommendations for the school team to use in the academic setting.
5. On January 4, 2024, the MCPS conducted an educational assessment. A summary of the assessment states "in the area of reading, math, and written language, [the student] scored in the average range of achievement."
6. On January 23, 2024, the IEP team convened to conduct the initial evaluation of the student, determine eligibility under the IDEA, and if appropriate, develop an IEP for the student. The IEP team reviewed the cognitive assessment, academic assessment, teachers, and parent input. The written summary of the IEP meeting reflects, "The team determined that [the student] did not meet the criteria as a student requiring special education services," using the Other Health and Impairment Disability Worksheet. The complainant was in disagreement and asked the evaluators if she could review her rating scales because "her first language is not English and might have been confused by the questions asked of her on the forms." The complainant disagreed with the student's math teacher's responses to the rating scales and stated they were "completely different from the teacher report completed previously." The complainant expressed concern that the student was denied placement in the supported math class. During the meeting, members of the school team informed the complainant they met with the student to assist him with organization skills and will continue to meet with the student, however, the complainant requested that the student meet with someone who "looks like him." A member of the school team requested to meet with the complainant to develop an intervention plan to help the student "be successful" at the school and also requested that the team meet again for a 504 eligibility meeting.
7. On January 24, 2024, the school team found the student eligible for a 504 Plan. The focus of the 504 plan is to address the student's "subclinical levels of depressive feelings."
8. On February 5, 2024, as per the request made by the complainant during the January 29, 2024, eligibility meeting, the complainant reviewed the rating scale items she completed during the initial evaluation process. An interpreter translated the initial questions into her native language to facilitate understanding.

CONCLUSION:

Allegation #1: PROPER IDENTIFICATION OF STUDENT UNDER IDEA

In this complaint, the complaint alleges that the IEP team did not follow the proper procedure of identifying the student with a disability under IDEA.

Based on Finding of Facts #1 to #8, MSDE finds that the MCPS did follow proper procedures in the identification and evaluation of the student since January 23, 2024, in accordance with 34 CFR §§300.111 and .301-.311 and COMAR 13A.05.01.06. Therefore, this office finds that a violation did not occur concerning 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/Special Education Services

ALH/sj

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