

December 31, 2024



Ms. Kim Waller
Supervisor Special Education
Dorchester County Public Schools
700 Glasgow Street
Cambridge, Maryland 21613

Re: [REDACTED]
Reference: #25-123

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 on the final results of the investigation.

On November 6, 2024, MSDE received a complaint from [REDACTED], hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Dorchester County Public Schools (DCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements concerning the above-referenced student.

MSDE investigated the following allegations:

1. The DCPS did not follow proper procedures when conducting an IDEA evaluation, since November 7, 2023, in accordance with 34 CFR §§ 300.111, .301 - .311, and COMAR 13A.05.01.06.
2. The DCPS did not ensure that the IEP team considered the parent information and concerns at the IEP meeting held on June 25, 2024, in accordance with 34 CFR § 300.324.
3. The DCPS did not ensure that the IEP team meeting convened on June 25, 2024, included the required participants, in accordance with 34 CFR §§ 300.321.

BACKGROUND:

The student is 11 years old and is not identified as a student with a disability under the IDEA. The student attended [REDACTED] and has a 504 plan. ¹The student currently attends [REDACTED].

¹ Section 504" refers to Section 504 of the Rehabilitation Act of 1973, which requires 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).

ALLEGATION #1 AND #3

EDUCATIONAL EVALUATION AND MEETING PARTICIPANTS

FINDINGS OF FACT:

1. On November 27, 2023, the IEP team convened at the complainant's request. The prior written notice (PWN) generated following the meeting on November 27, 2023, reflects the complaint requested an IEP meeting to address the student's academic performance. The IEP team conducted a referral screening meeting to review all available data from the school and parent to determine if the student had a disability requiring special education instruction.
 - The IEP team reviewed State assessment scores, MCAP, grades, informal observations, parent input and notes provided from therapist, as well as the student's diagnosis, teacher input, therapist input, and DIBELS scores;
 - After reviewing all data, the IEP team determined that the student did not qualify as a student with a disability requiring specially designed instruction under the IDEA. However, due to his [REDACTED] diagnosis, the team suggested that the student may benefit from academic accommodations; and
 - Provided the complainant with their procedural safeguards.
2. The PWN generated following an IEP team meeting on April 30, 2024, reflects the IEP team reviewed a parent referral from April 2, 2024, along with current reading and math data and parent and teacher reports. The IEP team determined assessments were required in reading, math, written language, fine motor, social-emotional, cognitive, articulation, and expressive/receptive language areas.
3. The PWN generated following an IEP team meeting on June 25, 2024, reflects the IEP team reviewed educational, psychological, speech-language, and fine motor assessments, along with updated classroom assessments and grades since the April 2024 referral screening meeting. Based on the assessment results and current data, the IEP team determined that the student did not qualify as a student with a disability requiring specially designed instruction under the IDEA. The PWN further reflects:
 - The IEP team reviewed assessments and data and found no evidence of a specific learning disability (SLD). They recommended convening the Multi-Tiered System of Supports (MTSS) team to consider a Tier 3 intervention for spelling and decoding issues. The student showed age-appropriate social-emotional and behavioral skills, ruling out emotional disability and autism.
 - The complainant expressed disagreement with the school-based team and inquired about an Independent Educational Evaluation (IEE), the school-based team provided the complainant with the criteria for the IEE and the procedure for communication with DCPS once an evaluator was secured. The complainant also inquired about mediation. The school-based team provided the complainant with the form to request mediation, an explanation of the mediation process and the sections of the Parent's Rights document that covers mediation was also read to the parent.

Meeting participants on June 25, 2024, included the following: DCPS school psychologist, speech pathologist, Principal, Parents, Special Education Teacher, DCPS Supervisor of Special Education, General Education Teacher, family advocate, and parent advocate.

There is no documentation of the certification of each IEP team member as to whether the written SLD report reflects the member's conclusion.

DISCUSSION AND CONCLUSION:

Evaluation Procedures

When a student is suspected of having a SLD, the IEP team must prepare a written report that includes:

- 1) A statement of whether the student has a SLD;
- 2) The basis for making the determination;
- 3) The relevant behaviors, if any, noted during the observation of the student;
- 4) The relationship of the behaviors to the student's academic functioning;
- 5) The educationally relevant medical findings, if any;
- 6) The determination of the IEP team concerning the effects of visual, hearing, or motor disability, intellectual disability, emotional disability, cultural factors, environmental or economic disadvantage, or limited English proficiency on the student's achievement level; and
- 7) The written certification of each IEP team member as to whether the written report reflects the member's conclusion. If the written report does not reflect an IEP team member's conclusion, the team member must submit a separate statement presenting the team member's conclusions. 34 CFR § 300.311; COMAR 13A.05.01.06D(5) & (6).

While a student with dyslexia, dyscalculia, or dysgraphia may qualify for services under the IDEA, having one of these conditions does not automatically qualify a student for IEP services. A student only qualifies for services after an IEP team has conducted a comprehensive evaluation, determined that the student meets all of the criteria for one of the disability categories under the IDEA, and found that the student requires specially designed instruction to address the unique needs that result from his or her disability and to ensure access to the general education curriculum. [REDACTED] are not their own disability categories, but rather examples of SLD. Thus, even if one of these conditions is identified, the student must be evaluated and determined eligible by an IEP team in accordance with the IDEA.

In this case, the complaint alleges that the team did not follow proper procedures when determining whether the student qualifies for special education services, disability under the IDEA. During the June 25, 2024, IEP team meeting, the IEP team did not prepare a written report that included the written certification of each IEP team member as to whether the written report reflects the member's conclusion.

Based on the Findings of Facts # 1 through #3, MSDE finds that the DCPS did not follow proper procedures when conducting an IDEA evaluation, by failing provide a written report certifying each IEP team member's conclusion, since June 25, 2024, in accordance with 34 CFR § 300.311, and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred concerning this aspect of the violation.

Meeting Participants

Based on the Finding of Fact #3, MSDE finds that the DCPS did ensure that the IEP team meeting convened on June 25, 2024, included the required participants, in accordance with 34 CFR §§ 300.321. Therefore, this office finds that a violation did not occur concerning this allegation.

ALLEGATION #2

ADDRESSING PARENT CONCERNS

FINDINGS OF FACT:

4. There is audio documentation that the DCPS school-based IEP team members addressed the complainant concerns raised during the IEP team meeting on June 25, 2024.

CONCLUSION:

Based on the Finding of Fact #4, MSDE finds that the DCPS did ensure that the IEP team considered the parent information and concerns at the IEP meeting held on June 25, 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occurred concerning this allegation.

CORRECTIVE ACTIONS AND TIMELINES:

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR § 300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable timeframes below to ensure that noncompliance is corrected in a timely manner.²This office will follow up with the public agency to ensure that it completes the required actions consistent with MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks technical assistance, they should contact Ms. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.³ Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the DCPS to convene an IEP team meeting by March 3, 2025, to complete a written report of each IEP team member's conclusion regarding the determination of SLD.

² The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, the MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

School-Based

MSDE requires the DCPS to provide documentation by March 3, 2025, of the steps it has taken to ensure that the DCPS staff at [REDACTED] properly implements the requirements for determining eligibility for SLD under the IDEA. These steps must include staff development.

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 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 why the documentation was not made available during the investigation. Requests for reconsideration must be sent to Tracy Givens, Section Chief, Dispute Resolution Branch, at Tracy.Givens@maryland.gov.

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/ra

c: Dr. Jymil Thompson, Superintendent, DCPS
[REDACTED] Principal, [REDACTED], DCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Rabiatu Akinlolu, Complaint Investigator, MSDE