



Karen B. Salmon, Ph.D.
State Superintendent of Schools

April 23, 2019

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

RE: XXXXX
Reference: #19-116

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.

ALLEGATION:

On February 22, 2019, the MSDE received a complaint from Ms. Julie Yankovich, hereafter “the complainant” on behalf of the above-referenced student and her mother, Ms. XXXXXXXXXXXX.¹ In that correspondence, the complainant alleged that the Dorchester County Public Schools (DCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the DCPS did not follow proper procedures when conducting a reevaluation of the student, since the start of the 2018 - 2019 school year, in accordance with 34 CFR §§300.303 - .306.

BACKGROUND:

The student is six (6) years old. She has been enrolled by her parent in a home instruction program since the 2017 – 2018 school year and is currently in kindergarten.

At the start of the 2018 – 2019 school year, the student was identified as a student with a Speech Language Impairment under the IDEA. On January 25, 2019, the student was found to no longer meet the criteria for identification as a student with a disability.

¹ Because the MSDE did not receive written parental consent to release the results of this investigation to the complainant, as requested, this letter is addressed to the parent and the school system only.

FINDINGS OF FACTS:

1. On October 29, 2018, the parent requested a reevaluation of the student because she was considering the student's participation in a school-based program. The documentation reflects that the parent expressed concern about the student's speech articulation and speech fluency.
2. On November 27, 2018, the IEP team convened. The IEP team agreed that additional information was needed about the student's speech articulation and fluency, and recommended an assessment in these areas. The IEP team also recommended an assessment of the student's academic performance. The parent provided written consent for these recommended assessments at the November 2018 meeting.
3. At the November 2018 IEP meeting, the parent also raised concerns about other areas of the student's functioning. Specifically, the parent requested assessments of the student's expressive, receptive and pragmatic language, cognitive skills, social and emotional behavior, and fine motor skills. The IEP team documented that it would need to reconvene with the participation of a psychologist and occupational therapist in order to address the parent's request for assessments in these additional areas.
4. On December 11, 2018, the IEP team reconvened. The IEP team agreed that additional information was needed about the student's functioning in the other areas that the parent requested at the November 2018 IEP meeting, as well as her adaptive functioning and sensory skills. The IEP team recommended assessments in these areas and the parent provided written consent at the December 2018 meeting.
5. On January 25, 2019, the IEP team convened and reviewed the results of the assessments that were recommended at the November 2018 and December 2018 IEP meetings.
6. The IEP team discussed that the student exhibits characteristics of Autism, but that all assessment data shows that she is performing at grade level, within normal limits, or at expected levels.
7. Based on the data, the IEP team determined that the student does not require specialized instruction to access the general curriculum, and therefore is not eligible as a student with a disability for special education and related services. The parent and the complainant disagreed.
8. A review of the audio recording of the January 2019 IEP team meeting documents that the complainant expressed the belief that the student has a disability that requires special education services because, based upon how the test was scored, she believes that the data shows a regression in her speech articulation skills.
9. A review of the data reflects that the student made 33 articulation errors in "sounds-in-words" on the current assessment. However, the student made more articulation errors in "sounds-in-words," specifically 43, on the previous assessment.
10. Further, the current assessment assessed the student's articulation errors not only in "sounds-in-words" but also in "sounds-in-sentences."
11. The IEP team documented that the student "is exhibiting age appropriate articulation errors which are not impacting her academic performance at this time."

12. On February 21, 2019, the DCPS granted permission for the parent to obtain an Independent Educational Evaluation (IEE) at public expense.

CONCLUSION:

In this case, the complainant alleges the student's articulation skills have regressed below the level that was previously used as the basis to identify her as a student with a Speech Language Impairment requiring special education services.

Based on the Findings of Facts #1 - #12, the MSDE finds that the documentation does not support the complainant's allegation. Further, based on the same Findings of Facts, the MSDE finds that, while the IEP team found the student exhibits characteristics of Autism, the documentation does not reflect a negative impact on her educational performance and ability to access instruction. Therefore, this office does not find a violation occurred.

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 parents 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/ksa

c: XXXXXXX Diana Mitchell
 Vaughn Evans Dori Wilson
 Anita Mandis K. Sabrina Austin
 Nancy Birenbaum