



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

May 10, 2019

XXX
XXX
XXX

Mr. Nicholas Shockney
Director of Special Education
Carroll County Public Schools
125 North Court Street
Westminster, Maryland 21157

RE: XXXX
Reference: #19-133

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 March 12, 2019, the MSDE received a complaint from Ms. XXXXXXXX, hereafter, “the complainant,” on behalf of her son, 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.

The MSDE investigated the allegation that the CCPS did not ensure that the evaluation was sufficiently comprehensive to identify all suspected areas of a disability of the student during the 2018-2019 school year, in accordance with 34 CFR §§300.304 - .306, .323 and COMAR 13A.05.01.

BACKGROUND:

The student is five (5) years old, attends XXXXXXXXXXXXXXXX School, and is not identified as a student with a disability under the IDEA.

FINDINGS OF FACTS:

December 10, 2018 IEP Team Meeting

1. On December 10, 2018, the IEP team convened, in response to a referral made by the complainant for an IDEA evaluation of the student. Her referral identified concerns related to phonemic awareness, phonics, and reading comprehension. The complainant also provided the IEP team with a private independent educational evaluation.
2. The complainant's private evaluation reflects that the student "exhibits emerging traits of Dyslexia. Specifically, he demonstrates weak phonological awareness skills, poor letter identification, poor sound/symbol association, and substandard rapid naming skills." The report includes recommendations for psychological and speech/language evaluations, an evidence-based reading intervention, extended time for tests/quizzes, electronic word processor, audio books, assistance with multistep directions, and repetition of instruction.
3. The student's teachers reported that he displays inconsistencies in letter recognition, letter sounds and high frequency words. However, he is receiving an early learning intervention in both literacy and math, and has demonstrated the expected progress at this time of the school year. Consistent with the information in the complainant's private evaluation, the teachers reported that the student "was able to comprise short stories, connect thoughts, and displayed appropriate eye contact, prosody, and tone, but he did exhibit articulation difficulties, which are late developing sounds near the age of six (6) years old." The student's teachers further stated that the student did not demonstrate a severe discrepancy between his intellectual ability and achievement, that he has demonstrated "significant" gains with responding to the research-based interventions, and is accessing and performing on grade level in math and reading.
4. The complainant reported to the school-based members of the IEP team that the student was receiving private tutoring services in reading two (2) times a week which has helped the student, but that she feels he is not able to retain the letter sounds, and has difficulty writing less familiar words. She further reported that the student is capable of following directions and routines, demonstrates age appropriate grammar, and is "very smart" socially when interacting with known individuals. The complainant raised concern about the history of Dyslexia and Attention Deficit Hyperactivity Disorder (ADHD) in the family, and that the student may demonstrate challenges with internal processing and articulation that may not necessarily be noticed by individuals who are less familiar with him.

XXX

Mr. Nicholas Shockney

May 10, 2019

Page 3

5. Based on that review, the team determined that the student did not meet the criteria for identification of a student with a Specific Learning Disability (SLD) related to Dyslexia.
6. The audio recording of the IEP team meeting reflects that the team determined that additional assessments were required to identify whether the student had a disability related to Developmental Delay, based on the complainant's input and her observations of the student. However, the documentation does not reflect the basis for the team's decision to suspect a disability of a Developmental Delay.

February 4, 2019 IEP Team Meeting

7. On February 4, 2019, the IEP team reconvened to review assessment results, and parent and teacher input. The educational reading assessment reflects that, in phonics, the student demonstrated skills within the "average" range, in comprehension, he demonstrated skills within the "average" range, in fluency, he demonstrated difficulty compiling rapid naming tasks which could impact his fluency, and his phonemic awareness skills reflect "some" difficulty manipulating the phonemes of spoken words. The meeting summary reflects that, although the student's articulation skills are developmentally appropriate at this time, the team would continue to monitor the student's performance in those areas.
8. The student's classroom-based assessment results reflect that he was demonstrating "typical" reading behaviors for his grade level, and that he has made "substantial" gains in response to the provision of his reading intervention.
9. At the IEP meeting, the team reviewed the IDEA eligibility determination worksheet, which indicated that the student did not demonstrate a 25% or greater delay in age-appropriate skills development, and that he did not demonstrate atypical development or behavior. However, the worksheet does not indicate whether the student has a diagnosed physical or mental condition which could result in a Developmental Delay.
10. The audio recording of the IEP team meeting reflects that the team determined that the student did not meet the criteria for identification of a student with a disability related to a Developmental Delay, because he "did not demonstrate a 25% or greater delay in the assessed areas, and did not have diagnosed physical or medical condition that would put him at risk for Developmental Delay."
11. However, the documentation of the IEP team meeting states that the team determined that the student did not meet the criteria for identification of a student with a disability related to a Developmental Delay because "he is performing on grade level and making progress given the interventions and supports provided."

XXX

Mr. Nicholas Shockney

May 10, 2019

Page 4

CONCLUSIONS:

Based on the Findings of Facts #1 - #11, the MSDE finds that the CCPS did ensure that the evaluation was sufficiently comprehensive to identify all suspected areas of a disability, in accordance with 34 CFR §§300.304 - .306, .323 and COMAR 13A.05.01. Therefore, this office does not find that a violation occurred with respect to the allegation.

However, based on the Findings of Facts #5, #6, and #9 - #11, the MSDE finds that the complainant was not provided with proper written notice of the basis for the team's decisions, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the CCPS to provide documentation by the end of the 2018 - 2019 school year that the complainant has been provided with proper written notice of the decisions made at the December 2018 and February 2019 IEP team meetings.

School-Based

The MSDE requires the CCPS to provide documentation by the start of the 2019 - 2020 school year of the steps taken to ensure that the violation does not recur at XXXXXXXXXXXXXXXX School. The steps should include a description of how the CCPS will monitor to ensure the effectiveness of the steps taken.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

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.

XXX

Mr. Nicholas Shockney

May 10, 2019

Page 5

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. 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/Special Education Services

MEF/ac

c: Stephen H. Guthrie
Wayne Whalen
XXXXXXXXXX
Dori Wilson
Anita Mandis
Albert Chichester
Nancy Birenbaum