



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

March 12, 2019

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Dr. Terrell Savage
Executive Director
Special Education & Student Services
Department of Special Services
Howard County Public Schools
The Old Cedar Lane Building
5451 Beaverkill Road
Columbia, MD 21044

RE: XXXXX
Reference: #19-089

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 January 11, 2019, the MSDE received correspondence from Ms. XXXXXXXXXX, hereafter, “the complainant,” on behalf of her son. In the correspondence, the complainant alleged that the Howard County Public Schools (HCPS) did not follow proper procedures in the identification and evaluation of the student to determine if the student requires special education services under Individuals with Disabilities Education Act (IDEA), in accordance with 34 CFR §§300.111, and .301-.311.

BACKGROUND:

The student is fifteen (15) years old and is not identified as a student with a disability under the IDEA.

FINDINGS OF FACTS:

1. On November 2, 2018, the Individualized Education Program (IEP) team met to review a referral made by the complainant due to her concerns about the student's lack of written expression skills, his poor math skills, lack of attention and focus, and his memory difficulties.
2. At the November 2, 2018 IEP team meeting, the student's teachers reported that the student does not attend class or school consistently and is therefore unable to keep pace with instruction. The student received failing grades in all content areas except United States history, where he was given an incomplete grade due to missing assignments. The teachers reported that when the student attends school he often does not comply with teacher directions and school rules, and does not make up missed work. The student's attendance record indicates that he missed nineteen (19) days of school since November 27, 2018. Since the 2018-2019 school year started, the student has missed between forty-three percent (43%) and seventy-seven percent (77%) of his classes.
3. The complainant reported that the student is diagnosed with Attention Deficit with Hyperactivity Disorder (ADHD), Combined Type, and has a Specific Learning Disability. The complainant provided the IEP team with a private psychological evaluation conducted at XXXXXXXXXXXXXXXXXXXXXXXX for the IEP team's review.
4. The psychological assessment from XXXXXXXXXXXXXXXXXXXXXXXX was reviewed by the IEP team and indicated scores in the "low" range for cognitive proficiency, working memory, processing speed, numerical operations, and solving math problems. The report concluded that the student has a diagnosis of a Specific Learning Disability with an impairment in mathematics and ADHD, Combined Type.
5. When the IEP team reviewed the assessment criteria for validity, it was missing teacher input. The IEP team determined that because of the student's significant absenteeism rate, valid results would not be possible to obtain because there was not a teacher who had sufficient interaction with him to provide this data. The IEP team considered contacting the student's teachers from the previous school year to provide input, however, the student did not attend school during the last quarter of the 2017-2018 school year.
6. The school psychologist reported that the student's assessment results did not support the presence of inattention or hyperactivity across home and school settings. The IEP team considered the student's eligibility for special education services as a student with an Other Health Impairment and decided that there is insufficient data to support identification with a disability under the IDEA.

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7. The IEP team also considered the student's eligibility for special education services as a student with a Specific Learning Disability. Based on the data, the IEP team determined that the student could not be identified as a student with a disability because he had not received appropriate instruction in math as a result of missing almost two years of instruction due to a lack of attendance.
8. The IEP team determined that the student needs to attend school consistently and that an evaluation will be conducted under Section 504 of the Rehabilitation Act of 1973 to determine whether there are strategies to assist him with attending school consistently within the general education program.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts #1 - #8, the MSDE finds that the HCPS has ensured that the IEP team has considered all of the evaluation data, including the results of the private assessment, public agency's data, and the complainant's concerns, when identifying and evaluating the student's academic needs.

Based upon this review, the MSDE finds that the data is consistent with the IEP team's decisions, in accordance with 34 CFR §§300.301 - .305 and COMAR 13A.05.01.04. Therefore, this office does not find a violation occurred with respect to this 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.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The complainant and the school system 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 and Appropriate Public Education for the student, including issues subject to this State complaint investigation, consistent with the IDEA.

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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:sf

c: Michael J. Martirano
Terri Savage
Kathy Stump
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Anita Mandis
Dori Wilson
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