



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

April 23, 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

Mr. Philip A. Lynch
Montgomery County Public Schools
Director of Special Education Services
850 Hungerford Drive, Room 230
Rockville, Maryland 20850

RE: XXXXX
Reference: # 19-118

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. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public Schools (HCPS) and the Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student. The MSDE investigated the allegation that the HCPS and the MCPS did not follow proper procedures to ensure that the student was evaluated and identified as a student with a disability since September 2018, in accordance with 34 CFR §§300.111 and .301-.311 and COMAR 13A.05.01.06.

BACKGROUND:

The student is six (6) years old and attended XXXXXXXXXXXXXXXXXXXXXXXXXX in the HCPS from September 5, 2017 through December 14, 2018.

The student currently attends XXXXXXXXXXXXXXXXXXXX in MCPS since December 14, 2018, as a result of the family's move to Montgomery County. The student has a 504 Plan and has not been identified as a student requiring special education services under the IDEA.

FINDINGS OF FACTS:

Prior to February 22, 2018

1. At the age of four (4) years old, the student was identified with a Developmental Disability under the IDEA, while living in the Prince George's County. The student had an Individualized Education Program (IEP), dated April 6, 2016 for support in pre-academic skills, pragmatic language, and personal-social skills. On February 15, 2017, the student was dismissed from receiving specialized instruction by the Prince George's County Public Schools.

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2. On May 16, 2017, a HCPS registration form completed by the complainant indicated that the student previously received special education services, and was no longer a student with an IEP. On May 17, 2017, the complainant signed a request for the student's educational record to be released from the PGCPSS. The student attended the HCPS from September 5, 2017 through December 14, 2018 for pre-kindergarten and kindergarten.
3. The student's pre-kindergarten report card indicated that the student was working independently in all of the subject areas. The student's teacher reported that the student "made great progress this school year and was promoted to the kindergarten." On the student's first kindergarten report card, the teacher reported that the student "had made so much progress in the first quarter and was showing great things in math."
4. There is no documentation that the public agency had knowledge that the student was a student with a disability or that the complainant informed the public agency that she suspected the student had a disability.

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5. On December 17, 2018, the complainant enrolled the student into XXXXXXXXXXXX School, in the MCPS. On December 20, 2018, there is documentation of its receipt of the student's educational record from the previous school.

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6. On January 8, 2019, the complainant completed a Child Find referral indicating that “the student struggles with reading and understanding words and requested that she get placed back on an IEP.”
7. On January 10, 2019, the IEP team met to consider the complainant’s request to have the school system provide the student with an IEP. The IEP team reviewed a classroom observation, the complainant’s input and the student’s current academic and social performance. The IEP team determined that the data did not indicate that the student had a disability that required specialized instruction. The IEP team requested more time to allow for the student to adjust to the new school environment and agreed to provide additional reading support, two (2) times per week in response to the complainant’s concerns about the student’s reading skills.
8. On February 14, 2019, the IEP team met at the request of the complainant and proposed to assess the student in the areas of psychological, educational, speech/language, occupational and physical therapies based on the concerns of the complainant about the student’s academic, language and motor skills. The complainant reported that the student is exhibiting emotional concerns at home. A progress report indicated that the student was proficient in all of the kindergarten skills and was reading on a third grade instructional level.
9. On March 29, 2019, the IEP team met, reviewed formal and informal assessments and determined that the student was not eligible to receive specialized instruction as a student with an educational disability under the IDEA.

CONCLUSIONS:

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Based on the Findings of Facts #1 - #4, the MSDE finds that the documentation does not support the allegation that the HCPS suspected or was informed that the student was a student with a disability, in accordance with 34 CFR §§300.111 and .301-.311 and COMAR 13A.05.01.06. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

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Based on the Findings of Facts #5 - #9, the MSDE finds that the MCPS followed proper procedures when evaluating the student and that she does not have a disability requiring special education services under the IDEA, in accordance with 34 CFR §§300.111 and .301-.311 and COMAR 13A.05.01.06. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

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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 Appropriate Public Education 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/sf

c:

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