



January 14, 2021

[REDACTED]
[REDACTED]
[REDACTED]

Mr. Troy Keller
Director of Special Education
Elementary Instruction, Compliance
Frederick County Public Schools
191 South East Street
Frederick, Maryland 21701

RE: [REDACTED]
Reference: #22-058

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 November 16, 2021, the MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Frederick County Public Schools (FCPS) 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 FCPS did not follow proper procedures when conducting an evaluation of the student since April 2021, in accordance with 34 CFR §§300.301, and .304 - .306.

BACKGROUND:

The student is four (4) years old, is identified as a student with a Developmental Delay under the IDEA, and has an IEP that requires the provision of special education instruction and related services. The student is currently parentally-placed at [REDACTED], a private preschool program in Frederick County.

The MSDE investigated the allegation that the FCPS did not follow proper procedures when conducting an evaluation of the student since April 2021, in accordance with 34 CFR §§300.301, and .304 - .306.

FINDINGS OF FACTS:

1. On May 5, 2021, the [REDACTED] Elementary Individualized Education Program (IEP) team convened in response to a referral made by the complaint for the student to be evaluated under the IDEA. The referral reflects concerns in the areas of social and emotional behavior. The IEP team reviewed the student's occupational therapy report and independent neuropsychological assessment, which states that "the student's cognitive profile and behavior presentation is highly consistent with criteria for a diagnosis of Autism Spectrum Disorder." The team recommended additional assessments in the areas of early development, speech and language, cognitive development, occupational therapy, and teacher observations to determine the educational impact on the student. The documentation reflects that the complainant provided consent for the assessments on May 11, 2021.
2. On June 16, 2021, the IEP team reconvened to review the student's assessment results and to determine eligibility under the IDEA. The IEP prior written notice reflects that, based on a review of the data in the assessments, rating scales, observation reports, and FCPS eligibility worksheets, the team determined that the student met the criteria as a student with a disability under the IDEA, consistent with a Developmental Delay. The IEP team agreed to reconvene to develop the student's initial IEP.
3. There is documentation that an IEP team meeting was scheduled to reconvene on July 16, 2021 to develop the student's initial IEP. However, the documentation also reflects that the complainant contacted the school staff on July 13, 2021 to postpone the IEP team meeting until August 2021, in order for the student's doctor to attend the meeting.
4. On August 11, 2021, the IEP team convened to develop the student's initial IEP. Based on the review of the data from the determination meeting held on June 16, 2021, the team recommended specialized instruction for the student in an inclusive pre-kindergarten program within the FCPS. However, the complainant indicated that she believed the student required full-time special education service hours in a preschool placement outside of FCPS district. The school staff responded that, based on the assessment data and the IEP recommended services, goals, and supports, an inclusive program in FCPS was the appropriate placement in which the student's IEP could be implemented. The complainant disagreed with the decision of the school-based members of the team and did not provide consent for the initiation of special education services for the student.

CONCLUSION:

Based on the Findings of Facts #, #1 - #4, the MSDE finds that the FCPS followed proper procedures when conducting an evaluation of the student that began in April 2021, in accordance with 34 CFR §§300.301, and .304 - .306. Therefore, this office does not find that a violation occurred with respect to the allegation.

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 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: Mike Markoe
Troy Keller
[REDACTED]
Brian Morrison
Albert Chichester