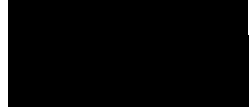




September 27, 2023



Ms. Diane McGowan  
Director, Specially Designed Instruction  
and Compliance  
Anne Arundel County Public Schools  
2644 Riva Road  
Annapolis, Maryland 21401

RE: [REDACTED]  
Reference: #24- 016

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.

**ALLEGATIONS:**

On August 2, 2023, MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of her son. In that correspondence, the complainant alleged that Anne Arundel County Public Schools (AACPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The AACPS did not ensure that the Individualized Education Program (IEP) team convened to review the student’s IEP before March 1, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
2. The AACPS did not follow proper procedures when conducting a reevaluation of the student since April 2023, in accordance with 34 CFR §§300.303- .306.
3. The AACPS did not ensure that the reevaluation of the student was completed within the required timelines, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06.
4. The AACPS did not ensure that the IEP team addressed the parent’s concerns, and requests for IEP team meetings, to address the student’s behavior since April 2023, in accordance with 34 CFR §300.324.

**BACKGROUND:**

The student is 8 years old and is currently identified as a student with Speech and Language Impairment under the IDEA. He attends [REDACTED] School. He has an IEP that requires the provision of related services only in the area of Articulation/ Phonology.

**FINDINGS OF FACTS:**

1. The student's IEP, in effect at the start of the 2022- 2023 school year, was developed on March 2, 2022, with a projected annual review date of March 2, 2023.
2. On March 15, 2023, the IEP team met to review and revise, as appropriate, the student's IEP and to discuss the need for additional assessments in response to the complainant's disagreement with the student's identified needs. The IEP team determined that the student requires support in the area of articulation/phonology to address speech sound errors. The IEP developed at the meeting reflects that the student requires supplementary aids and instructional supports to assist with his speech. The student also requires behavioral supports to reinforce positive behavior with the use of positive and/or concrete reinforcers, reinforcement of positive behavior through non- verbal and verbal communication, frequent changes in activity or opportunities for movement due to "difficulty remaining focused on adult directed activities", and adult proximity during tasks and large group activities due to "impulsive activity."
3. During the meeting, the complainant stated the student needed "additional support in place" in the area of speech and language. The written summary of the IEP meeting generated after the meeting reflects the complainant requested an additional meeting to discuss a referral for academic concerns.
4. An IEP meeting was scheduled for April 11, 2023, to discuss the need for assessments for the student; however, it was canceled by the complainant.
5. On April 19, 2023, the complainant provided consent for the student to be assessed in speech and language, academic, cognitive, behavioral, and social/emotional (attention) areas by the AACPS Diagnostic/Prescriptive Student Assessment Team (DP SAT).
6. On April 27, 2023, the complainant contacted school staff requesting an IEP meeting to discuss the student's need "for frequent breaks."
7. On May 3, 2023, the school staff responded to the complainant's request for an IEP meeting via email. The email correspondence denied the complainant the request for an IEP meeting due to the student having an IEP that only addresses his articulation, which does not require the need for frequent breaks. The student was granted the use of a "flash pass" by the administration and the request is outside of the "purpose and designation of the child's current IEP." The complainant was reminded the student was "due for academic testing" and the IEP team would then determine the need for frequent breaks as related to the results of the assessments.
8. On May 5, 2023, the complainant requested an IEP meeting via email to discuss behaviors the student was displaying due to being "bullied."

9. On May 8, 2023, the school staff responded to the complainant's request via email and declined an IEP meeting for the student as the requested topic is "unrelated to the student's articulation." The complainant was informed by the school staff that the team could meet with her regarding the topic of "bullying" in the "appropriate forum." The complainant was provided with the protocol to report "bullying," and school staff informed the complainant the school did speak with the student and student X about the reported incident. The complainant was informed that the school could not investigate the incident as it "occurred outside of school grounds."
10. On May 11, 2023, the complainant requested an IEP meeting to discuss the student's impulsive behaviors.
11. On May 12, 2023, the school staff proposed an IEP meeting date of June 12, 2023.
12. On June 12, 2023, the IEP team convened to review assessments completed by the DP SAT and determine continued eligibility. The prior written notice generated following this meeting reflects that the IEP team (including the DP SAT members) meeting reflects the school team determined that the student meets the eligibility criteria for Multiple Disabilities (Other Health Impairment and Speech and Language Impairment), and requires specialized instruction in the areas of Articulation, Reading, Written Expression, Math-Problem Solving, Learning Behaviors, and Social-Emotional.
13. The written summary of the IEP meeting held on June 12, 2023, reflects that the IEP team did not discuss the impulsive behavior of the student; however, the parent provided a written statement of her concerns including issues regarding frequent breaks and impulsive behaviors, which are listed in the student's current IEP. The IEP team did not, however, review or revise the student's IEP to reflect the results of the student's evaluation.
14. On September 7, 2023, the IEP team met to review and revise the IEP, as appropriate using the new data obtained from the recent assessments. There is no documentation, to date, that the IEP team has completed the review of the assessment data and considered revisions to the student's IEP.
15. In their response to the complaint, the AACPS acknowledges that it did not ensure that the reevaluation of the student was completed within the required timelines, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06.<sup>1</sup>
16. In their response to the complaint, the AACPS acknowledges they did not convene a meeting to discuss the complainant's concerns raised in April 2023, in accordance with 34 CFR §300.324.
17. In their response to the allegations, the AACPS has acknowledged that an annual review of the student's IEP was not conducted until March 15, 2023, and that a violation has occurred with respect to the allegation in accordance with 34 CFR §300.324.

## **CONCLUSIONS:**

### **ALLEGATION #1: COMPLETING AN ANNUAL REVIEW OF THE STUDENT'S IEP**

In order to provide a student with a Free Appropriate Public Education (FAPE), a public agency must ensure that the IEP team reviews the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved. The IEP team must also revise the IEP, as appropriate. (34 CFR §300.324).

---

<sup>1</sup> The parties agreed to the type of assessments needed in a phone call on April 18, 2023; however, this was not completed as part of an IEP team meeting.

Based on the Findings of Facts #1, #2, and #17, MSDE finds that the AACPS did not ensure that the IEP team convened to review the student's IEP before March 2, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based upon Findings of Fact #2, MSDE finds that the AACPS has convened an annual review IEP team meeting. No further corrective action warranted.

**ALLEGATION #2: PROPER PROCEDURES FOR CONDUCTING A REEVALUATION OF THE STUDENT**

When conducting a reevaluation of a student, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability (§ 300.304).

Based on the Findings of Facts #2, #3, #4, #5, #12, and #14, MSDE finds that notwithstanding the findings below in allegation #3, the AACPS ensured that an evaluation of the student was conducted in areas of need, and the results reviewed by the IEP team, since April 2023, in accordance with 34 CFR §§300.303- .306. Therefore, this office finds that a violation has not occurred.

**ALLEGATION #3: PROPER PROCEDURES FOR COMPLETING A REEVALUATION IN THE REQUIRED TIMELINE**

Based on the Findings of Facts #2, #3, #4, #5, #12, #14, and #15, MSDE finds that the AACPS did not ensure that the reevaluation of the student was completed within the required timelines, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred.

**ALLEGATION #4: ADDRESSING PARENT CONCERN**

Based on the Findings of Facts #6- #13, #16, MSDE finds that the AACPS did not ensure that the IEP team addressed the parent's concerns and requests for IEP team meetings to address the student's behavior and bullying allegations since April 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred.

**CORRECTIVE ACTIONS/TIMELINES:**

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>2</sup> This office will follow up with the public agency to ensure that it completes the required actions

---

<sup>2</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

consistent with MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks technical assistance, they should contact Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>3</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

### **Student-Specific**

MSDE requires the AACPS to provide documentation by November 1, 2023, of the following:

- a. That it has convened an IEP team meeting and completed the review of assessment data and reviewed and revised the student's IEP, as appropriate, consistent with the current data.
- b. That it has convened an IEP team meeting and determined the amount and nature of compensatory services or other remedy to redress the violations of failing to review and revise the student's IEP and incorporate the results of the re-evaluation data, and identified and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The AACPS must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

### **School-Based**

MSDE requires AACPS to provide [REDACTED] School staff with professional development to ensure the following:

- a. IDEA evaluations are completed and reviewed within required timelines;
- b. Ensure that the IEP team meets to reviews and revises, as appropriate, at least annually to determine whether the annual goals are being achieved;
- c. Addressing parent concerns in a timely fashion, including those about bullying and whether adjustments are needed to a student's IEP, whether the bullying takes place on or off campus; and
- d. Ensure that the violations do not recur and a description of the action to be taken to monitor to ensure the effectiveness of those steps.

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.

---

<sup>3</sup> MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

[REDACTED]  
Ms. Diane McGowan  
September 27, 2023  
Page 6

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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins  
Deputy Superintendent  
Office of the Deputy Superintendent of Teaching and Learning

DC/sj

c: Mark T. Bedell  
Sonya McElroy  
Diane McGowan  
Jennifer Brown  
[REDACTED]  
Gerald Loiacono  
Paige Bradford  
Nicole Elliott  
Diane Eisenstadt  
Stephanie James