



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

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October 13, 2017

Nicole Joseph, Esq.
Disability Rights Maryland
1500 Union Avenue, Suite 2000
Baltimore, Maryland 21211

Ms. Bobbi Pedrick
Director of Special Education
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland 21401

RE: XXXXX
School Students
Reference: #18-014

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention 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 17, 2017, the MSDE received a complaint from Nicole Joseph, Esq., Disability Rights Maryland, hereafter, “the complainant,” on behalf of the above-referenced students. In that correspondence, the complainant alleged that the Anne Arundel County Public Schools (AACPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the students.

The MSDE investigated the allegations listed below.

1. The AACPS did not ensure that proper procedures were followed when physical restraint was used during the 2016-2017 school year, in accordance with COMAR 13A.08.04.
2. The AACPS did not ensure that each student’s Individualized Education Program (IEP) addresses the student’s academic and social, emotional, and behavioral needs during the 2016-2017 school year, in accordance with 34 CFR §300.324.

3. The AACPS did not follow proper procedures when providing students with Home and Hospital Teaching (HHT) services during the 2016-2017 school year, in accordance with COMAR 13A.03.05.03.

SUMMARY OF FINDINGS AND CONCLUSIONS:

The AACPS staff acknowledge that violations occurred with respect to the allegations and the school system has developed a plan to ensure future compliance with the requirements. The MSDE concurs with the AACPS's conclusion and appreciates the school system's responsiveness.

CORRECTIVE ACTIONS/TIMELINES:

Student-Based

The MSDE requires the AACPS to provide documentation by February 1, 2018, that all of the students who attended the XXXXXXXXXXXXXXXXXXXXXXXX during the 2016 – 2017 school year have been identified, and that for each student, the IEP team has convened and taken the following actions:

- a. Reviewed and revised the IEP, as appropriate, to ensure that the IEP addresses the student's current social, emotional and behavioral needs. This must include a review of any Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP), if applicable, to ensure that the student's individual needs in these areas are appropriately addressed;
- b. Determined whether the violations identified in this investigation had a negative impact on the student's ability to benefit from the education program; and
- c. If the IEP team determines that there was a negative impact, the team has determined the amount and nature of compensatory services or other remedy to redress the violations identified in this investigation, and developed a plan for the provision of the compensatory services within one (1) year of the date of this Letter of Findings.

School-Based

The AACPS has submitted a plan to ensure the future compliance of the XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX staff with the following:

- a. Ensuring that proper procedures are followed when using physical restraint;
- b. Ensuring that proper procedures are followed when providing Home and Hospital Teaching (HHT) services; and

- c. Ensuring the development of an IEP that addresses each student's individual social, emotional, and behavioral needs. This includes, as appropriate, conducting FBAs and developing BIPs, implementing a system of positive behavioral interventions and supports in the classroom, and ensuring that the IEP team reviews the IEP if there is a lack of expected progress towards achievement of the annual IEP goals.

The AACPS plan includes regular monitoring of the effectiveness of the steps taken to ensure compliance through the 2017 – 2018 school year. The MSDE requires the AACPS to provide documentation of the results of each monitoring activity as it is taken by the school system.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

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.

Please be advised that the AACPS and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact or conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings. If additional information is provided, it will be reviewed and the MSDE will determine if a reconsideration of the conclusions is necessary.

Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, set forth additional findings and conclusions, or enter new findings and conclusions. Pending the decision on a request for reconsideration, the school system must implement any corrective actions within the timelines reported in this Letter of Findings.

Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The students' parents 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 (FAPE) for the student, including issues subject to this State complaint investigation, consistent

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with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or due process.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Special Education/Early Intervention Services

MEF/ksa

c: George Arlotto
Alison Barmat
XXXXXX
Dori Wilson
Anita Mandis
Nancy Birenbaum