



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

February 6, 2020

Dr. Danielle Ellis
Educational Consultant/Family Advocate
8334 Kippis Road
Millersville, Maryland 21108

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

RE: XXXXX
Reference: #20-069

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.

ALLEGATIONS:

On December 11, 2019, the MSDE received a complaint from Dr. Danielle Ellis hereafter, “the complainant,” on behalf of Mr. XXXXXXXX and Mrs. XXXXXXXX and their son, the above-referenced student. 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 above-referenced student.

This office investigated the following allegations:

1. The AACPS has not ensured that the Individualized Education Program (IEP) addresses the student’s academic and behavioral needs that result from the student’s disability to enable the student to be involved in and make progress in the general education curriculum as required, since September 2019, in accordance with 34 CFR §§300.101, .103, .320, .323, .and COMAR 13A.05.09.

The AACPS has not ensured that the special education teacher has provided the student with special education instruction since September 2019, as required by the IEP, in accordance with 34 CFR §§300.101 and 323.

2. The AACPS has not ensured that the reports of the student's progress towards of the achievement annual IEP goals are consistent with the data, since September 2019, in accordance with 34 CFR §§300.101, .323 and .324.
3. The AACPS did not follow proper procedures when determining the student's educational placement on October 29, 2019, in accordance with 34 CFR §§300.114 - .116 and .321.

BACKGROUND:

The student is eight (8) years old and is identified as a student with Multiple Disabilities as the result of Autism and an Other Health Impairment due to an Attention Deficit with Hyperactivity Disorder (ADHD). The student attends XXXX Elementary School and has an IEP that requires the provision of special education and related services.

FINDINGS OF FACTS:

September 2019 IEP

1. The IEP in effect since September 2019 was developed on May 14, 2019 and identifies "learning behaviors" as the areas affected by the student's disability. The IEP documents that there has been a gradual decrease in the student's ability to follow directions in large and small groups resulting in an increase of the student's refusal to work. The IEP also reflects that the student completes class assignments at home.
2. The IEP documents that the student "has loud vocalizations such as, growling, moaning, pointing and flicking his fingers near the faces of others, pinching and poking adults, and yelling when he becomes frustrated." The IEP documents that during the 3rd quarter of the 2018-2019 school year, the student did not complete any written assignments inside the classroom, refusing to participate in class activities. The IEP also reflects that "the student did not follow routine activities, refused to take his medication, refused to transition to lunch, recess, and related arts classes, often requiring to be escorted out of the classroom by staff."
3. The IEP also reflects that the student has been provided with positive attention, immediate feedback and sensory and visual supports, which all proved unsuccessful. The IEP states that the token system, the Chromebook, and the opportunity to select work and supplies showed limited success but the student has responded positively to a standing desk. The IEP states that the student will produce limited written responses when given the opportunity to complete preferred activities first. The IEP also states that during the 1st and 2nd quarters, of the 2018-2019 school year the student worked exclusively in the resource room one to one with the special education teacher to complete assignments.

4. The IEP reflects that a Functional Behavior Assessment (FBA) was conducted on June 11, 2019. The FBA identifies a lack of responding to adult questions, refusal to complete work, resistance to follow lesson routines, defensive behaviors, including loud vocalizations, yelling at peers to not look at him, telling adults to leave him alone, sticking out his tongue and holding up his fists as the target behaviors. The FBA reflects that the behaviors identified occur when there is a transition, written or oral work is expected, peer verbal interaction, and adult initiation of conversation. The FBA reflects that 5 interventions were attempted with 1 intervention, access to headphones, being effective. The FBA also reflects that the frequency of the behaviors occur on average of 4 incidences every 10 minutes.
5. The IEP also reflects the student has a Behavior Intervention Plan (BIP) that was revised on June 11, 2019. The replacement behaviors described in the BIP are for the student to be able to use a “break system” or coping strategy and appropriately request space, a break, or help on academic tasks. The BIP reflects the preventative measures including developing trusting relationships with the student, minimizing stimuli within his learning environment, creating private space, reducing visual distractions, offering choices, building behavioral momentum by presenting easier tasks first, minimizing positive and negative attention and feedback, providing access to non-contingent breaks, providing breaks that do not have to be earned, allowing a system for taking a break from work, and providing him with access to a break area with reminders to use previously taught coping and calming strategies. The BIP reflects teaching strategies to include teaching the student how to access visuals with calming and coping strategies such as listening to music, accessing sensory supports, and breathing exercises, and accessing breaks and returning from breaks without disruption. The BIP also identifies that the student will be taught how to use a discrete token economy and a tiered reinforcement system of preferred reinforcers. The BIP identifies reactive measures to include reminders, planned ignoring, and wait time.
6. The IEP requires the following supplementary aids, services, program modifications and supports:

Instructional Supports

Check for understanding, monitor independent work, provision of a model when new material is being presented, allow wait time for responses, and alter and or modify assignments to encourage the student to complete at least 80% of his work in the classroom setting, provide alternative ways for the student to demonstrate learning, use of a timer to promote initiation and completion of assignments, allow additional time to complete assignments, allow the student to make choices for rewards prior to working on the assignment, and provide student or teacher notes.

Social/Behavior Supports

Encourage the student to ask for assistance when needed, provide manipulatives and or sensory activities to promote listening and focusing skills, frequent reminders of the rules, encourage and reinforce appropriate behavior in academic and non-academic settings, provide a token system during special area subjects, provide choices of work to be completed and supplies to be used.

Physical/Environmental Supports

Provision of preferential seating and locker location to allow for additional space around and near the student to promote fewer altercations with peers, additional adult support to encourage the student to begin and persist to complete assignments, home/school communication system, and a program specialist to analyze behavioral data, model strategies, and provide trainings for the school staff on the IEP and BIP.

7. The IEP contains a goal for the student to be able to manage externalizing behaviors by indicating verbally or nonverbally his feelings and utilizing taught solutions with 3 out of 4 targeted trials, using data sheets to evaluate the achievement. The objectives reflect that the student will indicate verbally or nonverbally to an adult, feelings of frustration, being overwhelmed or annoyed, or being anxious, the student will also identify possible solutions to decrease the negative feelings, and the student will request and utilize a taught strategy to cope with negative feelings.
8. The IEP also contains a goal for the student to be able to follow directions and demonstrate appropriate behavior in the classroom setting with verbal prompting given 3 consecutive opportunities, using data sheets and work samples. The objectives state that the student will follow directions with no more than 1 inappropriate verbalization, begin to work at his desk or with a small group within 5 minutes, complete a task with 2 verbal prompts, and decline assistance appropriately.
9. The IEP also contains a goal for the student to participate by joining a group and demonstrate appropriate turn taking skills, given 3 consecutive opportunities, using an observation record data sheet as the evaluation method. The objectives reflect that the student will join a group on the carpet or at the table, and use appropriate turn-taking in a group by taking 1 to 2 turns.
10. The IEP requires 2.5 hours in the general education classroom per week and outside the general education classroom to address learning behaviors and social and emotional skills by the special education teacher, the instructional specialist and 15 minutes per week to address social and emotional goals and needs by the school psychologist. A program specialist consultation 1 time per week to include data analysis review, modeling of strategies, training on implementation of the BIP, and ongoing staff development in the area of behavior reduction

11. The report card for the 2018-2019 school year indicated that the student received failing grades in all academic subjects for the 3rd and 4th quarters. The IEP included goals for the student to improve his behavior to increase his access to instruction in order to improve his academic performance. However, the IEP did not include goals that are aligned to academic content standards of grade level enrollment to in order to measure the student's growth in the academic areas impacted by his interfering behavior.¹
12. The special education teacher's 2019-2020 school year schedule documents that she is with the student for 20 minutes during daily arrival, in math, writing, and reading classes, 30 minutes each. The teaching assistant's schedule indicates that she spends the day with the student, with the exception of her duty-free lunch time. The Autism program specialist's log documents the weekly interventions and consultative services provided to the student and staff.

October 29, 2019 and November 5, 2019 IEP Team Meeting

13. On October 29, 2019, the IEP team convened to review and revise the student's BIP, IEP and consider conducting the student's reevaluation.
14. At the October 29, 2019 IEP team meeting, the parents expressed concerns about whether the student's educational needs were being met in his current placement. The IEP meeting report reflects that the parents wanted the IEP team to consider "a private school for students with high functioning Autism."
15. At the IEP team meeting held on October 29, 2019, an FBA was initially recommended to identify the functions of new behaviors the student was exhibiting since the start of his 3rd grade year, including "elopement and aggression towards peers and adults." The IEP team requested an updated BIP to reflect current successful strategies and remove ineffective strategies. The IEP team also discussed that the AACPS staff has not had the opportunity to conduct a psychological assessment since the previous psychological assessments were privately done.
16. At the IEP team meeting, the discussion continued regarding whether to conduct a more comprehensive reevaluation to include cognitive, social, emotional, behavioral and academic functioning for the student at this time, given the student's reevaluation is due in May 2020, in response to the parents request for the IEP team to consider a change of the student's placement.

¹ See *Improving Outcomes for Students with Disabilities, Technical Assistance Bulletin*, 19-01, January 2019
<http://marylandpublicschools.org/programs/Documents/Special-Ed/TAB/19-01-ImprovingOutcomesforSWD.pdf>

17. The October 29, 2019 IEP team meeting report reflects that the parents were in disagreement with the decision to conduct the reevaluation due to their disagreement with the student's continued placement at XXXXXX Elementary School. The IEP team meeting report reflects that "the parents did not provide consent and that consent would be based on the IEP team's approval of an alternative placement for the student." The IEP team decided to continue the meeting on another date.
18. On November 5, 2019, the IEP team reconvened and again recommended that additional assessment data be obtained. At that time, the parents reiterated their request for a change in educational placement based on their belief that the student was not making progress in the current placement based on the current data.
19. The IEP team documented its rejection of the parents' request based on the school staff's report that the first marking period data of the 2019-2020 school year reflected that the student was making sufficient progress in the current placement. However, the progress report issued on November 8, 2019 states that the student was not making sufficient progress, which is consistent with the behavioral data collected.
20. The November 8, 2019 IEP progress reports document that the student:
 - Is not able to apply learned coping strategies with consistency and continues to require significant adult prompting,
 - Is not able to manage his externalizing behaviors throughout the day despite close adult supervision and substantial modifications to instruction and the learning environment, he continues to engage in verbal and physical aggression, inappropriate comments, inappropriate language, elopement, and work refusal,
 - Is not evidencing overall progress; however, the report states the student has made strides with decreasing challenging behaviors and increasing the use of taught coping strategies,
 - Has shown some evidence of using coping strategies and techniques including the initial use of scented markers, fidgets, frequent movement breaks, countdown timers, and environmental accommodations to prevent overstimulation and non-preferred interactions, including transitioning early to lunch and sitting outside the cafeteria when finished,
 - Is managing externalizing behaviors on 12/30 targeted trials (40%) and applied a learned coping strategy when prompted on 19/30 targeted trials (63%),
 - Continues to threaten adults and continues to need a high level of support and prompting to follow directions, join groups, complete assignments, take turns and demonstrate appropriate behavior.

December 20, 2019 IEP Team Meeting

21. The IEP team convened on December 20, 2019 to review the results of a reevaluation. At the meeting, the parents informed the IEP team that the student's behavioral and sensory needs cannot be met in the public school setting based on the fact that the student requires ABA² therapy everyday throughout the school day. The parents also stated their concerns about the student's handwriting including the letter size and spacing and the writing output.
22. The classroom teacher reported that completing academic tasks for the student is a non-preferred activity. She reported that the student has difficulty maintaining his attention to instruction, missing the content, skills, and strategies. The teacher reported that when the teacher checks with the student for understanding, the student is unable to complete the assignment without a high level of support, modifications and verbal prompting to guide him to the answers. She reported that on graded assignments, visual and graphic modifications are made along with indirect prompting, such as "how do you begin, what do you do next, and where can you find the answer?" The teacher reported that the student's monotone voice when reading aloud, his rapid reading, lack of application of decoding strategies, lack of recognition of punctuation and lack of reflection on context clues significantly impacts his reading comprehension in all content areas. The student is reading at the end of the 2nd grade level, received 64% on a county-based assessment in math, and 31% on a county-based writing assessment. The teacher reported that before beginning an assignment, the student is presented with a preferred task and reinforcer and requires adult support to complete the assignment. The teacher also reported that without support, the student will write incorrect answers, off topic answers or draw self-selected illustrations.
23. The occupational therapist reported that printing is a non-preferred activity for the student. She reported that the student is able to print most of his letters and numbers in a readable manner; however, he does not consistently generalize these skills into his daily activities. The occupational therapist reported that the student's productivity increases when using a "first/then" approach to tasks.
24. The psychologist reported that the student is demonstrating "overall Average cognitive functioning," however, with verbal and nonverbal communication and social interactions, the student engages in repetitive activities and has certain restrictive interests, and struggles with attention, self-regulation and behavioral rigidity across settings. She reported that the student evidenced difficulty engaging appropriately in social interactions as well as displaying significant hyperactivity and motor movement, and struggles with sustaining attention, often becoming agitated and defiant when attempts are made to redirect him. The school psychologist reported on recommendations that included consistency, structure, incorporating topics of interest, frequent reminders to offset impulsivity, social, emotional skills development, counseling and participation in a social skills group.

² Applied Behavioral Analysis (ABA) is a therapy based on the science of learning and behavior
<https://www.autismspeaks.org/applied-behavior-analysis-aba-0>.

25. The school psychologist also reported on the results of an FBA conducted as part of the reevaluation for the student. The report reflected that when the student is given a non-preferred directive or academic demand, is required to transition to a non-preferred task or activity or experiences a transition in the schedule, is given an imposed consequence, a preferred item or tangible is removed, or when a negative interaction with a peer or adult occurs, the student demonstrates noncompliance and or disruptive behaviors in order to escape the situation. The FBA reflects the environmental factors that impact the student including difficulty with executive functioning skills, regulating sensory input and maintaining awareness of surroundings, difficulty navigating and responding to peer conflict and difficulty adjusting to classroom routines and social expectations within the school setting.
26. The reevaluation review did not include the results of the pragmatic language and assistive technology assessments.
27. The IEP team completed the reevaluation review and determined that the student continues to meet the eligibility requirement as a student with Autism that significantly affects verbal and nonverbal communication and social interactions resulting in an adverse effect on the student's educational performance and requires special education and related services.
28. The IEP team agreed to reconvene on January 14, 2020 to review and revise the IEP after considering the remaining assessments and classroom data.

January 14, 2020 IEP Team Meeting

29. On January 14, 2020, the parents informed the IEP team that "the family is in crisis due to the student's behavior" and requested an alternative placement for the student to be able to succeed. The parents reported that they see a pattern of increased anxiety, agitation and aggression during the winter months which has significantly impacted the student's ability to adequately maintain previously developed relationships with adults and peers.
30. The IEP revised on January 14, 2020, identifies the areas affected by the disability as reading, written expression, math, learning behaviors, sensorimotor, and social and emotional skills. The IEP documented that the student's intellectual ability is in the "Average to Above-Average" range. The IEP also documented that the student has difficulty recognizing and responding to other people's feelings, reading non-verbal cues such as facial and body language and that he has difficulty with unwritten society rules, and has sensory needs which may cause him to seek out or avoid sensations or lead to sensory overload. The IEP reflected additional challenges for the student including flexible thinking, changes in routine, attending to non-preferred tasks and demonstrating previously learned skills. The IEP states that the student's behaviors impact his ability to follow directions, complete assignments, and participate meaningfully in class and group activities.

31. The IEP also documented that the student reads at the end of the 2nd grade level but will rush to complete reading and comprehension tasks, rarely pausing to reflect punctuation or the meaning of the context cues and does not show appropriate phrasing because of the fast pace of his reading. The teacher reported on the results of a benchmark assessment which indicated that the student struggled to determine the meaning of words and phrases as they are used in a text and distinguishing literal from non-literal language. The teacher also reported that the student struggles when answering questions to demonstrate understanding of an informational text and explain how their actions contribute to the sequence of events.
32. The IEP documented that the student writes on a 2nd grade level and has difficulty expressing his thoughts and ideas in writing. His written responses include basic information but he does not provide text support, additional details, elaborations and some written responses are off topic. The teacher reported results of the benchmark assessment on which the student struggled to choose words and phrases for effect, convey ideas clearly, and demonstrate command of the conventions of standard English grammar, usage, capitalization, punctuation, and spelling when writing independently. The teacher reported that writing is non-preferred activity for the student.
33. The IEP also documented that the student is calculating math on a 2nd grade level. The student inconsistently calculates addition and subtraction accurately. The teacher reports that the student's attention to task is impacting his accuracy and his ability to learn new and more efficient calculation and problem solving strategies. The report indicated that the student did not demonstrate his ability to identify the value of coins, differentiate the difference between the minute and hour hand on an analogue clock, and differentiate between place values in a whole number. The IEP documented that the teacher reported on a recent benchmark assessment in math which indicated the student struggled with multiplication and division, using strategies, and properties of operations to add, multiply, subtract and divide.
34. The IEP documented that the teacher also reported that the student is demonstrating behaviors below age level expectations. She reported that the student displays very rigid behaviors, calls classmates inappropriate names when unprovoked, makes disruptive noises, and leaves his assigned seat and or areas without permission. The student often displays atypical reaction to adults and peers when he perceives their behaviors unexpected. The teacher reported that the student is easily angered, annoyed, or upset by adults and peers doing something he does not like. When upset, the student will yell, whine, throw items, and strike others. The teacher also indicated that these behaviors are disruptive to the learning environment for the student and his peers.
35. The IEP documented that when the student is provided with the supports, accommodations, and modifications, the student is able to access curriculum and perform in classroom activities as same age peers. The results of an informal assessment indicates that the student is likely to demonstrate some pervasive social problems across multiple settings, he has visual processing vulnerabilities including an overall negative response to specific visual stimuli, difficulties with auditory processing, including avoiding auditory stimuli, he may make noises to drown out other noises he hears, and retreat from noisy environments. The teacher reported that the student has

- tactile defensiveness and may over respond to tactile stimulation. The IEP documented that the student has problems with conceptualizing, planning, and organizing movements to complete unfamiliar tasks which results in the student frequently changing his body position and increasing his ability to self-regulate his behaviors. The student refuses to go into the gym while the cafeteria does not prove to be too noisy for the student.
36. The IEP documented that the student would benefit from using modified paper, copies of the teacher's notes, having an adult check the agenda book for accuracy and thoroughness, reduced writing demands, and provision of alternative ways for the student to demonstrate learning.
 37. The IEP documented that the student's social and emotional instructional grade level performance is below age and grade level expectations. The student demonstrates inattention, hyperactivity, defiance, aggressive behaviors, atypical behaviors, social withdrawal, behavioral rigidity, poor social skills, and limited functional communication. The teacher reports that the student's behaviors are having an adverse effect on the other student's learning. She reports that the student is often restless, overactive, and has difficulty controlling his impulses. He has displayed aggressive behaviors and is argumentative, defiant, and threatening to others. The teacher also reported that the student sometimes seems disconnected from his surrounding and is generally withdrawn, has difficulty making friends and is unwilling to join group activities. The teacher reported that he has difficulty adapting to changing situations and takes longer to recover from situations than his peers, he demonstrates unusually poor expressive and receptive communication skills and does not independently seek out information or inquire about others thoughts, feelings or interests. The teacher reported the student has difficulty speaking respectfully to others and making suggestions in a socially acceptable way and that the student is unable to build and maintain new friendships, does not show interest in others' ideas, loses control when angry, is easily distracted, has trouble staying seated, is overly active, and has poor self-control.
 38. The IEP was revised to include instructional supports such as limiting the amount of copying from the board, use of a word bank during extended writing tasks, organizational aids including graphic organizers, scaffolding, anchor charts, framed problem solving steps and models, accompany oral instructions with visual models, diagrams, and demonstrations during instruction, and provide a sequenced illustrated strategy for problem solving, and hands-on concrete experiences and manipulatives when teaching abstract concepts, and monitor and check throughout procedures or tasks to ensure the student understands relationships between concepts and generalizations of rules and procedures.
 39. The IEP was revised to include program modifications such as modifying assignments to have one or two items per page so that the student sees only one or two items at a time and take time to explain charts, graphs, and or tables, and highlight or underline important information on a page. The IEP was revised to include frequent changes in activities to allow for opportunity for movement and frequent reminders of expected behaviors and classroom routines.

40. The IEP reflects that it was also revised to include consultations with the occupational therapist, school psychologist and an Autism program specialist for training, monitoring progress, implementation of strategies and materials and performance data. The IEP documents the student's eligibility for Extended Year Services (ESY) in math and reading during the summer of 2020.
41. The IEP documented the addition of reading decoding and comprehension goals, math calculation, operations and algebraic thinking goals. The IEP documents the addition of math classroom instruction for 30 minutes per day, reading instruction inside a special education classroom for 30 minutes per day, and psychological services for 1 hour and 20 minutes per month to address the student's social, emotional and behavioral needs. The IEP reflects transportation services to be provided to the student.
42. The IEP documented potential harmful effects on the student based on the decision to provide the student with special education instruction outside of the general education environment.
43. On January 14, 2020, the IEP team determined that the IEP cannot be implemented in the current placement and that a referral would be made to AACPS Central office for consideration of a more restrictive environment.

DISCUSSION/CONCLUSIONS:

Allegation #1 IEP Addresses Academic, and Behavioral Needs

Based on the Findings of Facts #1 - #9, #11, #13, #21, #23 - #25, #27, #28, #30 - #41, the MSDE finds that the IEP has included goals and services to address the student's behavioral needs, that the IEP team obtained updated data and continuously reviewed his progress, and made revisions to address lack of progress, in accordance with 34 CFR §300.324. Therefore, this office does not find a violation with respect to this aspect of the allegation.

However, based on the Findings of Facts #11 and #16, the MSDE finds that the IEP did not include a goal aligned with grade level standards in order to measure the student's skills growth in the academic areas impacted by his interfering behavior, in accordance with 34 CFR §300.320, until January 14, 2020. Therefore, this office finds a violation with respect to this aspect of the allegation.

Notwithstanding the violation, based on the Findings of Facts #16, #30 - #33, the MSDE finds that the violation did not negatively impact the student's ability to benefit from the education program because any lack of skills growth was the result of the student's interfering behavior, which the IEP team has been meeting and obtaining data to address.

Allegation #2 Provision of Special Education Instruction by the Special Education Teacher

Based on the Findings of Facts #10, #12 and #22, the MSDE finds that the AACPS did ensure that the student was consistently provided with the specialized instruction required by the IEP, in accordance with 34 CFR §300.101 and .320. Therefore, the MSDE finds no violation occurred with respect to this allegation.

Allegation #3 IEP Progress Reports Consistent with Data

Based on the Findings of Facts #20, the MSDE finds that the progress reports issued on November 8, 2019 reflected the student's lack of sufficient progress towards achievement of the annual goals, consistent with the data, in accordance with 34 CFR §300.324.

However, based on the Finding of Fact #19, the MSDE finds that the school staff's report at the November 5, 2019 IEP team meeting, that the student was making sufficient progress in the current educational placement was not consistent with the data, in accordance with 34 CFR §300.324. Therefore, this office finds a violation with respect to the allegation.

Allegation #4 Procedures Determining Educational Placement

Based on the Findings of Facts #14 - #20, the MSDE finds that, because the IEP team's rejection of the request for a change in educational placement was not consistent with the data, the AACPS did not ensure that the IEP team followed proper procedures when making the educational placement decision, in accordance with 34 CFR §§300.114 - .116, and .324. Therefore, this office finds a violation with respect to the allegation.

CORRECTIVE ACTION/TIMEFRAMES:

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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

The MSDE has established reasonable timeframes below to ensure that noncompliance is corrected in a timely manner.³ This office will follow up with the public agency to ensure that it completes the required actions consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the timeframes below may not be met, or if either party requires technical assistance they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.⁴ Dr. Birenbaum can be reached at (410) 767-7770.

Student Specific:

The MSDE requires the AACPS to provide documentation by April 1, 2020 that the IEP team has determined the student's educational placement consistent with the data, and has determined the compensatory services or other remedy for the delay in obtaining the placement.

School-Based:

The MSDE requires the AACPS to provide documentation by the end of the 2019-2020 school year of the following actions taken at XXXXXXXX XXXX School:

- a. That IEPs are developed that include a goal aligned with grade level standards to measure each student's skills growth in the academic areas impacted by interfering behavior; and
- b. That IEP team decisions are consistent with the data.

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.

³ The United States Department of Education, Office of Special Education Programs (OSEP) requires that the public agency correct noncompliance in a timely manner, which is as soon as possible, within one (1) year from the date of identification of the noncompliance, unless providing additional time is appropriate, such as for example when it is appropriate to provide compensatory services to a student over a period of more than one (1) year. If noncompliance is not corrected in a timely manner, the 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.

⁴ The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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Ms. Bobbi Pedrick
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Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The complainant maintains 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: XXXXX
 XXXXX
 George Arlotto
 Alison Barmat
 Ruth Avizad
 XXXXX
 Dori Wilson
 Anita Mandis
 Sharon Floyd