



200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

January 29, 2018

XXX
XXX
XXX

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

RE: XXXXX
Reference: #18-046

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.

ALLEGATION:

On November 30, 2017, the MSDE received a complaint from Mr. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of his 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.

The MSDE investigated the following allegations:

1. The AACPS has not ensured that the Individualized Education Program (IEP) includes measurable annual goals to address the student’s identified needs in the area of math, since June 2017, in accordance with 34 CFR §§300.101, .320 and .324;
2. The AACPS has not provided access to the student’s educational record in response to a request for documentation relating to the reports of the student’s progress towards mastery of the annual IEP goals for the first (1st) quarter of the 2017 - 2018 school year, in accordance with 34 CFR §300.613; and

XXX

Ms. Bobbi Pedrick

January 29, 2018

Page 2

3. The AACPS has not ensured that the IEP includes appropriate services to address the student's pragmatic language needs, since June 2017, in accordance with 34 CFR §§300.101, .320 and .324.

BACKGROUND:

The student is 13 years old and is identified as a student with an Other Health Impairment under the IDEA due to an Attention Deficit Hyperactivity Disorder-Combined Type, Developmental Coordination Disorder (Dysgraphia), Anxiety Disorder, and a Pervasive Developmental Disorder. He attends XXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1

DEVELOPMENT OF MEASURABLE ANNUAL GOALS IN MATH

FINDINGS OF FACTS:

1. The IEP developed on June 5, 2017, identifies that the student has needs in the area of math and documents math as an area that impacts the student's academic and/or functional performance.
2. The annual math goal in the June 2017 IEP states as follows: "Given grade-level content, [the student] will select and apply mathematical operations in a variety of contexts." The goal includes the following three (3) objectives:
 - "[The student] will solve real-world and mathematical problems by identifying the operations(s) needed to solve the problem."
 - "[The student] will describe the process (es) used to solve problems in both written and verbal form."
 - "[The student] will follow the steps to solve real-world and mathematical problems."
3. The mastery of the goal requires the student's achievement with 80% accuracy in four (4) out of five (5) trials, based on classroom assessments, work samples, and quarterly assessments.
4. The IEP math goal does not indicate the timeframe in which the goal is to be achieved.
5. On October 18, 2017, the IEP team documented that the annual IEP math goal was not measurable. The IEP team agreed to review all math data and, based upon the data, develop an appropriate measurable annual math goal that is aligned with the State's academic content standards in math. The IEP team also agreed to amend the IEP to include the new math goal without convening an IEP meeting.

6. On November 11, 2017, the school staff developed a report of the student's progress towards mastery of the math goal. The progress report documents the student's progress as follows:
 - The student "is making progress in applying mathematical operations to real world scenarios and situations. During the first marking period, [the student] was able to solve real-world and mathematical problems by identifying the correct operation needed to solve the problem on 9 out of 11 targeted trials (82%)."
 - The student "was able to follow the correct sequence of steps to solve mathematical and real-world problems (i.e. earnings, purchases, deposits, deductions, adding and subtracting integers) on 5 out of 5 targeted trails (100%)."
 - The student "was able to describe the process used to solve problems in written form 4.5/5 targeted trails (90%)."
7. There is documentation that the school system staff and the complainant exchanged numerous emails, in November 2017 and throughout December 2017, that reflect attempts to develop an appropriate measurable annual math goal. However, the emails also document that the parties have not been successful in their efforts to reach an agreement.
8. There is also documentation that the school staff have been unsuccessful in their attempts, since December 2017, to schedule a mutually convenient IEP team meeting with the complainant in order to address the development of an appropriate measurable annual math goal.
9. To date, there is no documentation that the IEP math goal has been amended or revised.

CONCLUSION:

Based on the Findings of Facts #1 - #4, #6, and #9, the MSDE finds that the IEP math goal in effect since June 2017 is not measurable because it does not identify a timeframe within which the student is expected to master the math IEP goal, in accordance with 34 CFR §§300.101 and .320. Based on the Findings of Facts #5, #7, and #8, the MSDE finds that although the AACPS has attempted to revise the goal in a mutually agreeable manner since November 2017, those efforts have been unsuccessful. Therefore, the MSDE finds that a violation occurred since the start of the 2017 – 2018 school year.

ALLEGATION #2

ACCESS TO THE STUDENT'S EDUCATIONAL RECORD

FINDINGS OF FACTS:

10. On November 9, 2017, the complainant sent an email to the school staff requesting documentation to support the 1st quarter IEP goal progress reports.

XXX

Ms. Bobbi Pedrick

January 29, 2018

Page 4

11. On November 13, 2017, the complainant requested, by email, the school system staff to provide the requested documentation in “both hardcopy and electronic” formats.
12. On November 16, 2017, the complainant visited the student’s school for the purpose of observing his classes during American Education Week.
13. Also on November 16, 2017, the principal responded, by email, to the complainant’s request for documentation. The principal explained that, although he may have received similar documentation in the past, “traditionally the supporting documentation [for IEP goal progress reports] is not sent home.” The principal informed the complainant that “All supporting documents are available for your review at the school by contacting [a specific school staff individual] if you wish to personally review them.”
14. On November 17, 2017, the complainant sent another email requesting documentation in support of the IEP goals progress reports, “in both hard and soft copy (electronic) formats.” The complainant explained that it would be “a real imposition and burden on his schedule” to meet with the school system staff. He asked that the school system provide “justification” for its decision not to provide copies of the requested documentation.
15. On November 21, 2017, the complainant sent an email to the specific school staff identified by the principal in his November 16, 2017 email, renewing his request for documentation to support the 1st quarter IEP goal progress reports. The complainant noted that during the previous school year, the school staff provided him with copies of similar documentation based on an agreement with the IEP team. However, there is no documentation that the IEP team decided that this is required. While, the IEP requires a “home-school communication system,” it does not require the complainant to be provided with copies of the student’s educational record.
16. On December 1, 2017, the complainant sent another email requesting that the school system staff reconsider his request for copies of supporting documentation. The complainant expressed concern that the school system’s denial of his request for copies of documentation “limits” his ability to have meaningful participation in the IEP process.
17. On January 12, 2018, the parent sent another email requesting documentation to support the 1st quarter IEP goal progress reports. In this email, he also requested documentation to support the 2nd quarter IEP goal progress reports.
18. On January 16, 2018, the school staff responded, by email, to the complainant. Again, the school staff informed the complainant that, while “not entitled to copies,” he is “entitled to access” the student’s educational record. The school staff also informed the complainant, again, that the requested documentation is available for review at the school should he wish to review it.

19. The parties report that on January 18, 2018, the complainant met with the school staff for the purpose of reviewing the results of reading assessments.

DISCUSSION/CONCLUSION:

The IDEA requires that each public agency permit parents to inspect and review any educational records regarding their children that are “collected, maintained, or used by the agency,” consistent with the requirements of the Family Educational Rights and Privacy Act (FERPA). This does not include the right to copies of the records unless failure to provide copies would effectively prevent the parent from exercising the right to inspect and review the records (34 CFR §99.10, and 34 CFR §300.613).

In this case, the complainant alleges that the AACPS has not provided him with access to the educational record because it has refused to provide him with copies of requested documents, and because he has visited the school several times and has not been provided with the opportunity to inspect the documents that he requested.

Based on the Findings of Facts #10, #11, and #13 - #18, the MSDE finds that the documentation does not support the assertion that, without being provided with copies of the requested documents, the complainant is prevented from reviewing and inspecting them at the school.

Based on the Findings of Facts #12 and #19, the MSDE further finds that, although the complainant has visited the school several times, it has not been for the purpose of reviewing the documents requested, and there is no documentation that the complainant has requested an appointment at the school to review the requested documents, as required. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #3 IEP ADDRESSING PRAGMATIC LANGUAGE NEEDS

FINDINGS OF FACTS:

20. On June 5, 2017, the IEP team convened to complete the annual review of the student’s educational program.
21. The IEP in effect prior to June 5, 2017 was developed in June 2016 (June 2016 IEP). The June 2016 IEP documents that the student has “some difficulty” making pragmatic judgments. It specifically states that the student has difficulty requesting and providing information, politely interrupting a conversation, requesting clarification and permission, and stating solutions to problems, as well as explaining a response or providing additional information when prompted. The June 2016 IEP documents that the student’s pragmatic language skills impact his academic achievement or functional performance. To address

- the identified needs, the June 2016 IEP included three (3) pragmatic language goals, as well as the supplementary support of periodic consults by a speech/language pathologist (SLP). It also required a SLP to provide speech/language therapy once each month in the general education classroom, and three (3) times each month in a separate special education classroom, to support the student's "pragmatic language skills."
22. At the June 5, 2017 IEP team meeting, the team discussed the student's pragmatic language skills. The team documented that the student follows all rules of conversation, makes eye contact and takes turns during conversation, and uses appropriate facial expressions and body language. The IEP team also documented that the student "engages easily in conversation about a variety of topics and maintains conversations," and that he uses appropriate language when interacting with peers in class and at lunch.
 23. The IEP team also discussed that the student had achieved mastery of all three (3) of the pragmatic language goals in the most recent IEP, and that, although he consistently articulated how to respond to certain situations in the speech/ language therapy sessions, he did not "always" demonstrate the learned response skills in "real time."
 24. The IEP team has determined that the student's pragmatic language skills no longer impact his academic achievement or functional performance, and decided that the student's pragmatic language skills will be reinforced through his participation in social skills groups that are provided to improve the student's social/emotional skills.
 25. There is documentation of the student's participation in ten (10) social skills groups between September and December 2017. The documentation reflects that lessons in the social skills groups have included practice in using pragmatic language skills, as well instruction specifically in relationship building, turn taking, peer interactions, and managing conflict.
 26. There is documentation of ongoing email exchanges between the complainant and the school psychologist, from September 2017 to January 2018, that document the student's participation, and reports of the student's continued progress, in the social skills groups.
 27. On January 12, 2018, the complainant sent an email to the school psychologist inquiring about the student's practice of pragmatic language skills. In his response on the same date, the school psychologist explained that, through the social skills training groups, the student practices previously learned pragmatic language skills during the supports worked on each session to reinforce "learned strategies, initiating and maintaining conversation and topics, turn taking, sharing, active listening, acceptance, managing conflict, and relationship building." The school psychologist also noted that the student was doing "a nice job" in all areas.

CONCLUSION:

In this case, the complainant alleges that the student requires specific goals and services to improve his pragmatic language skills.

Based on the Findings of Facts #20 - #27, the MSDE finds that the documentation does not support the allegation. Therefore, this office does not find that a violation occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the AACPS to provide documentation by March 1, 2018, that it has given the complainant three dates and times from which to choose for an IEP team meeting, and that an IEP team meeting has been held. If the complainant is unable to attend the IEP team meeting on any of the dates/times offered, the AACPS is required to offer to include the complainant through alternative means, such as through teleconference.

The MSDE requires the AACPS to provide documentation by March 15, 2018 that the math goal has been revised to ensure that it is measurable and that the IEP team has determined the compensatory services to be provided to remediate the violation identified through this investigation.

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 both the complainant and the AACPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of facts 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 and conclusions contained in this letter should be addressed to this office in writing. 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.

XXX

Ms. Bobbi Pedrick

January 29, 2018

Page 8

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 Special Education/Early Intervention Services

MEF/ksa

c: George Arlotto
Alison Barmat
XXXXXXXXXXXXXX
Dori Wilson
Anita Mandis
K. Sabrina Austin
Nancy Birenbaum