



Mohammed Choudhury
State Superintendent of Schools

August 16, 2022

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Sonia McElroy
Ms. Diane McGowan
Co-Directors of Specialized Instruction
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, MD 21401

RE: [REDACTED]
Reference: #22-181

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 June 7, 2022¹, the MSDE received a complaint from Mr. [REDACTED], hereafter, “the complainant,” on behalf of 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 allegation that the AACPS has not ensured that the student has consistently been provided with the special education instruction and supports required by the individualized Education Program (IEP) since the start of the 2021-2022 school year², in accordance with 34 CFR §§300.101 and .323.

¹ On the same day, the MSDE received notification that the complainant had also filed a due process complaint with the Maryland Office of Administrative Hearings. The MSDE held this investigation in abeyance until June 17, 2022, when it was notified that the parent had withdrawn the due process complaint.

² During the course of the investigation, it was determined that an initial IEP was developed for the student starting on February 28, 2022. The investigation will only include the time period where the student was eligible under the IDEA.

BACKGROUND:

The student is fifteen (15) years old and attends [REDACTED] School. He is identified as a student with Multiple Disabilities under the IDEA and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student's IEP, developed on February 28, 2022, requires that the student be provided with specialized instruction and supports including checks for understanding, reminders to turn in assignments, copies of teacher notes, "chunking" of lengthy assignments, assistance with organization, strategies to initiate and sustain attention, encouragement to ask for assistance, encouragement to participate in small groups, and preferential seating.
2. On April 28, 2022, the IEP team met to consider the supports necessary during home and hospital instruction following the verification of need provided by the parent for the student. The IEP team determined that the student would continue to receive the supports required by his February 28, 2022, IEP.
3. There is some documentation that the staff at the student's school developed a plan to implement the student's supplementary aids and services as required by the IEP, and that the staff were in regular contact with the complainant regarding the supports. However, there is no documentation that the specialized instruction and supports required by the student's IEP were consistently provided to him from February 28, 2022 to the end of the 2021-2022 school year.

DISCUSSION/CONCLUSIONS:

Based on Findings of Facts #1 to #3, the MSDE finds that there is no documentation that the student was consistently provided with the instruction and supports required by his IEP, since February 28, 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

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

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The MSDE has established reasonable time frames 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 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.⁴ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

The MSDE requires the AACPS to provide documentation by October 1, 2022, that the student is being provided with the specialized instruction and supports required by his IEP.

The MSDE further requires the AACPS to provide documentation by October 1, 2022, that the IEP team has convened and determined whether the violation had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

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

School-Based

The MSDE requires the AACPS to provide documentation by October 1, 2022, of the steps taken to ensure that the violation does not recur at ██████████ School. Specifically, ██████████ School must develop a plan to ensure that there is documentation that students are receiving the supports and services required by their IEPs, and monitor the implementation.

³ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct 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, 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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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:gl

c: Mark Bedell
Jennifer Brown
Alison Barmat
Diane Eisenstadt
Gerald Loiacono