


March 21, 2025





Ms. Diane McGowan
Co-Director Special Education
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland 21401

Re: 
Reference: #25-234

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report on the final results of the investigation.

ALLEGATIONS:

On January 23, 2025, MSDE received a complaint from  and , hereafter, "the complainants," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Anne Arundel County Public School (AACPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements concerning the above-referenced student.

MSDE investigated the following allegations:

1. The AACPS did not follow proper procedures when identifying the student to determine if he is a student with a disability requiring special education and related services since January 26, 2024, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06.
2. The AACPS did not ensure proper procedures were followed when the Individualized Education Program (IEP) team considered the results of an independent educational evaluation (IEE), granted on April 4, 2024, in accordance with 34 CFR § 300.502.
3. The AACPS did not ensure that the IEP team considered the parent information and concerns at the IEP meeting in September 2024, in accordance with 34 CFR § 300.324.
4. The AACPS did not ensure that accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meetings, since February 2024, were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.03.
5. The AACPS did not provide the complainants with a timely written invitation to IEP team meetings since February 2024, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07D.

BACKGROUND:

The student is 13 years old and attends [REDACTED] School. He is not currently identified as a student with a disability under the IDEA.

ALLEGATION #1

IDENTIFICATION PROCEDURES

FINDINGS OF FACT:

1. On January 26, 2024, the complainants provided a letter to AACPS requesting for the student to be assessed for an IEP. The letter reflects the complainants' requested assessments to include at minimum: social/emotional, academic, recreational therapy, behavioral, occupational therapy, sensory integration, speech, psycho-educational, and adaptive physical education.
2. On January 26, 2024, the AACPS emailed the complainants. The email was in response to a conversation between the school-based staff and one of the complainants. The email reflects a meeting is scheduled for February 29, 2024, at 11 am. The email further reflects the following documents were attached: meeting notice, parent questionnaire, procedural safeguards document, and Guide to Habilitative Services.
3. On February 22, 2024, the school-based staff emailed the following to the complainants: notice of documents provided for parent review, and referral process for the student.
4. The prior written notice (PWN) developed on February 29, 2024, reflects the IEP team convened to review available, current screening information and determine if an initial assessment is needed. The PWN also reflects the following:
 - The complainants were provided with the procedural safeguards documents, a verbal and written explanation of the parent's rights and responsibilities in the IEP team process, and verbal and written information about access to habilitative services, including a copy of the Maryland Insurance Administrations' Parents' Guide to Habilitative Services
 - The complainants asked the school-based team if they "had received the outside diagnosis and their letter requesting assessments." The complainants also acknowledged the student's success in school but emphasized the importance of his social and emotional well-being in his education. They shared concerns related to behaviors at home and expressed concerns about whether the current level of support is sufficient.
 - The school-based team acknowledged the student's external diagnoses of ADHD and anxiety but determined assessments were not required, as the student was performing at grade level without academic or behavioral deficits requiring specialized instruction or related services. The school-based team shared that the 504 accommodations allowed the student to access the curriculum.

CONCLUSION:

The "child find" requirements of the IDEA impose an affirmative obligation on the school system to identify, locate, and evaluate all students residing within its jurisdiction who have disabilities and need special education and related services or who are suspected of having disabilities and needing special education and related services. It is the intent of State and federal law that interventions and strategies be implemented to meet the needs of students within the regular school program, as appropriate, before referring students for special education services. However, the public agency must ensure that this process does not delay or deny a student's access to special education services under the IDEA (34 CFR §300.111).

Upon receipt of a request for evaluation under the IDEA, the public agency may implement interventions within the regular school program, but the evaluation must also occur as soon as possible following the referral and within timelines required by State law (*Letter to Anonymous*, 21 IDELR 998, United States Department of Education Office of Special Education Programs, 1994). When a student is referred for evaluation to determine eligibility under the IDEA, in accordance with State regulations, an IEP team must meet to review existing data, information from the parent, instructional interventions and strategies, current classroom-based assessments, and observations by teachers and related service providers (COMAR 13A.05.01.06).

Based on the review, the IEP team must determine whether additional data is needed to determine if the student is suspected of being a student with a disability. The IEP team must complete the evaluation process within sixty (60) days of parental consent for assessments and no more than ninety (90) days from receipt of a written referral (COMAR 13A.05.01.06).

Based on Findings of Fact #1 through #4, MSDE finds that the AACPS did follow proper procedures when identifying the student to determine if he is a student with a disability requiring special education and related services since January 26, 2024, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06. Therefore, MSDE does not find a violation.

ALLEGATION #2 and #3

PROPER PROCEDURES WHEN RESPONDING TO A REQUEST FOR AN INDEPENDENT EDUCATIONAL EVALUATION (IEE) AND CONSIDERATION OF INFORMATION FROM THE PARENT

FINDINGS OF FACT:

5. On April 4, 2024, the AACPS compliance office responded to the complainant's request for an IEE made on March 13, 2024. The response letter reflects that the AACPS approved the request for a comprehensive academic and psychological IEE.
6. The PWN developed on September 3, 2024, reflects the IEP team convened to determine whether the student has an educational disability and requires specialized instruction. The IEP team reviewed the IEE report, school-based data, including assessments, grades, and teacher reports were reviewed. The IEP team determined that the student does not meet the eligibility criteria for Autism and does not require specialized instruction. The IEP team accepted the IEE report's results, they disagreed with its recommendations.

The PWN also reflects the complainants believe the student's three-grade delay in reading comprehension impacts his education and requires special education services. They disagree there is no educational impact.

The IEP team proposed and agreed the student should continue in the social skills group from the previous school year.

CONCLUSIONS:

Proper procedures when responding to an IEE

Based on Finding of Fact #5, MSDE finds that the AACPS did ensure proper procedures were followed when the IEP team considered the results of an IEE, granted on April 4, 2024, in accordance with 34 CFR § 300.502. Therefore, MSDE does not find a violation.

Consideration of information from the parent

Based on Finding of Fact #6, the MSDE finds that the AACPS did ensure that the IEP team considered the parent information and concerns at the IEP meeting in September 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE does not find a violation.

ALLEGATION #4 and #5

PROVISION OF DOCUMENTS BEFORE an IEP TEAM MEETING AND PROVISION OF IEP TEAM MEETING NOTICE

FINDINGS OF FACT:

7. On August 26, 2024, the AACPS emailed the complainants, proposing to convene an IEP team meeting for the purpose of reviewing the psychological assessment. The email reflects a proposal to convene on September 3, 2024. The email also reflects an inquiry if the complainants wanted to waive the ten-day notice.

On August 26, 2024, the complainants emailed the school-based staff and informed the school-based staff that the ten-day notice could be waived to review the IEE.

8. On August 27, 2024, the school-based staff emailed the meeting notice to the complainants.

On August 27, 2024, the complainants emailed the school-based staff returning the meeting notice and waiver. The complainants also requested a copy of any documents that the school-based team plans to discuss.

9. There is no documentation that the AACPS staff provided the complainants with a copy of the IEE in preparation for the IEP team meeting on September 3, 2024.

CONCLUSION:

Provision of IEP Documents Before an IEP Team Meeting

Based on Findings of Fact #3, MSDE finds that the AACPS, did ensure that accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the IEP team

meeting, on February 29, 2024, were provided at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03. Therefore, MSDE does not find a violation.

Based on Findings of Fact #7 through #9 MSDE finds that the AACPS did not ensure that accessible copies of each assessment, report, data chart, draft IEP, or other documents the IEP team planned to discuss at the IEP team meeting, on September 3, 2024, were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.03. Therefore, MSDE finds a violation.

Notwithstanding the violation, based on Finding of Fact #6, MSDE finds that the complainants, participated in the IEP team meeting on September 3, 2024. Therefore, no student-based corrective action is required.

Provision of IEP Team Meeting Notice

Based on Findings of Fact #2 through #4, MSDE finds that the AACPS, did provide the complainants with a timely written invitation to the IEP team meeting on February 29, 2024, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07D. Therefore, MSDE does not find a violation.

Based on Findings of Fact #7 through #9, MSDE finds that although the AACPS did not provide the complainants with a written invitation ten days before the IEP team meeting on September 3, 2024. The AACPS scheduled the meeting in collaboration with the complainants, and the complainants waived the ten-day notice requirement in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07D. Therefore, MSDE does not find a violation.

TIMELINES:

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 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. Request for reconsideration should be sent directly to Tracy Givens, Section Chief, Dispute Resolution at Tracy.Givens@maryland.gov. 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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/ra

c: Dr. Mark T. Bedell, Superintendent, AACPS
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