

April 2, 2025



Ms. Sonya McElroy
Ms. Diane McGowan
Co-Directors of Special Education
Anne Arundel County Public Schools
1450 Furnace Avenue
Glen Burnie, Maryland 21060

RE: [REDACTED]
Reference: #25-253

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.

ALLEGATION:

On February 7, 2025, MSDE received a complaint from [REDACTED], hereafter, “the complainants,” 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) concerning the above-referenced student.

MSDE investigated the allegation that 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) obtained at public expense, provided in December 2024, in accordance with 34 CFR § 300.502.

BACKGROUND:

The student is 11 years old and is identified as a student with Multiple Disabilities under the IDEA. The student attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On July 25, 2024, and July 30, 2024, the student received a psychological evaluation conducted by [REDACTED] ([REDACTED]). The evaluation report reflects that “[the student] was referred for an evaluation after [the complainants] requested an Independent Education Evaluation (IEE).

[The student] was evaluated by his school team in February 2024. [The complainants] disagreed with the outcome of the evaluation and wanted another viewpoint on his current functioning, most notably, his social-emotional functioning.” The report reflects “[the student] struggled with control of his attention and behavior, as well as aspects of executive functioning that were consistent with his already diagnosed ADHD, predominantly inattentive presentation.” “An unspecified anxiety disorder was identified due to his history of elevated anxiety that likely contributed to avoidance of challenging or overwhelming tasks [and it was noted that the student] struggled with peer relationships and conflict resolution. Factors of his articulation disorder, impulsivity, emotional dysregulation and a potentially fragile self-esteem and self-consciousness might have been contributing to his social interactions.” The report provided the diagnoses of “Frontal lobe and executive function deficit, ADHD, predominantly inattentive presentation, developmental coordination disorder, dysgraphia, and anxiety disorder, unspecified.” The report reflected concerns around the student’s “speech production and the social-emotional implications of his communication challenges” required that a speech-language assessment be conducted. The speech-language evaluator “indicated that [the student’s] speech sound disorder, anxiety, and ADHD likely make it difficult for [the student] to participate effectively in the classroom and in social environments. The therapist considered [the student] at higher risk of bullying by his peers. Additionally, [the speech-language evaluator’s] impression was that ADHD might also make [the student’s] self-monitoring of speech sound errors challenging.

The assessments administered to the student included the Woodcock Johnson Tests of Cognitive Abilities, Fourth Edition (WJ-IV Cog); Wechsler Individual Achievement Test, Fourth Edition (WIAT-4); the Feifer Assessment of Writing (FAW); the Conners Continuous Performance Test, Third Edition (CPT-3); the Conners Fourth Edition (Conners-4)(parent/teacher); Behavior Assessment System for Children, Third Edition (BASC-3)(parent/teacher/self-report); the Multidimensional Anxiety Scale for Children, Second Edition (MASC-2)(parent/self-report); and the Children’s Depression Inventory, Second Edition (CDI-2)(parent/self-report). The assessment report reflects results from the Conner-4 Rating Scales “suggest a very high probability of having ADHD within the school setting, but a low probability within the home setting.” Results from the Behavior Assessment System for Children, Third Edition (BASC-3) rating scales reflects that “there was a large discrepancy of observed behaviors between [the student’s] mother and teachers...[the student’s] teachers indicate significant ADHD symptoms as well as feelings of unhappiness, sadness, and withdrawal behaviors [and] his special education teacher’s endorsements were more significant when considering internalizing behaviors.” Results from the Multidimensional Anxiety Scale for Children, Second Edition (MASC-2) “yielded a T-score of 41 according to [the complainant] and a T-score of 59 according to self-report... suggesting few symptoms of anxiety currently.” The assessment was administered during the summer when the student “was not in the classroom managing school and his learning difference [but] his responses might be more elevated if done while academic stress is high.” The student’s “behavior and frustration are related to his academic performance and frustration. While not significant, [the student’s] responses were slightly elevated for having physical symptoms such as feeling jumpy, having chest pain, and trouble catching his breath. He acknowledged that he tends to avoid harm and prefers to stay away from things that upset him,

which makes sense considering his history of elopement during challenges while at school.” Results from the Children’s Depression Inventory, Second Edition (CDI-2) reflected that the student’s scores were in “the average range according to both [the student] and his mother suggesting that he presents with few depressive symptoms currently.”

The report concluded that “after a month of middle school, teachers are not reporting behavioral concerns. It is possible that [the student’s] task avoidance (elopement) and academic frustration were performance based and a result of his graphomotor weaknesses and his lack of independence with fine motor skills during elementary school. With adequate support and accommodations, [the student] has demonstrated appropriate and functional responses to his challenges in his new setting. Results of this assessment do not support a serious emotional condition.”

2. On September 12, 2024, the IEP team convened to review “MSDE findings/compensatory services.” The prior written notice (PWN) generated after the meeting reflects the IEP team reviewed “session data for [occupational therapy] OT, speech, and psychological services; progress reports; and historical grades” in making its determinations. It was reported that “the [REDACTED] school team who worked with [the student] and the OT who collaborated with prior OTs determined that there was no adverse impact on [the student’s] progress due to behavior” and the student’s behavior intervention plan (BIP) was implemented with fidelity. It was noted that the complainant did not agree with the team’s decision regarding the adverse impact on the student’s progress. The IEP team rejected “the option to provide compensatory services in occupational therapy, speech therapy, and psychological services” because none of these services were missed due to behavioral impact. The PWN reflects that the student’s progress reports demonstrate that he made sufficient progress in these areas “and behavior did not impact progress in these areas.”
3. On September 13, 2024, the complainant emailed AACPS staff sharing that she did not agree with the school-based team’s determination that “the lack of BIP implementation and data tracking wasn’t impactful in [the student’s] level of services and progress.” In the email, the complainant expressed that the school-based team “changed [the student’s] classification code due to an ‘increase of instances [of behavior]’ but this determination did not include data collected “just beyond the window of data that was submitted.” The complainant shared that the team did not discuss instances of behavior that “occurred outside his IEP hours,” “behavioral grades,” or “areas of the BIP, which would include instances during transitional times and changes in routine with the impact of those.” It was noted that “children who score elevated in hyperactivity likely struggle with behavioral regulation and are overactive, impulsive, and disruptive.”
4. On November 7, 2024, the IEP team reconvened to review the IEE and develop a reevaluation plan. The PWN generated after the meeting reflects the IEP team reviewed “the outside evaluation...the data for different assessed areas...[and] information gathered during the first period of sixth grade was included under the present levels for behavior to document that [the student] has not had any incidents of elopement this school year.” The PWN reflects that the IEP team determined that due to the student “not having any incidences of elopement this school year and doing well with behaviors, it was discussed as an option to have more of a check in basis for [the student] for certain class periods for adult support.” This would include classes such as “band, PE, dance, and at lunch.” It was noted that the complainants disagreed with this decision.

The PWN reflects that the school team agreed with the “current clinical diagnoses of [SLD] in writing...Developmental Coordination Disorder...unspecified, anxiety disorder; speech sound disorder; and attention deficit hyperactivity disorder (ADHD), predominantly inactive presentation.” The team also agreed with “some specific recommendations” contained in the report, “discussed which recommendations” were already incorporated into the student’s IEP and which recommendations that the team and the complainant “determined were not appropriate.” The student “is receiving services under the educational disability of Multiple Disabilities for [SLD and ED]” and continues to be eligible for services under that disability code. The complainant shared that she “disagreed with the team’s decision last year to find [the student] eligible for services under the educational disability of [ED].” The IEP team revised the present levels of performance data for reading, math, writing, cognitive/intellectual, social/emotional, and behavior in the IEP. The team decided to schedule a continuation meeting to allow time to discuss the need to reevaluate the student. The complainant shared that she wanted a Functional Behavior Assessment (FBA) conducted for the student and she does not think the student needs a BIP.

5. There is documentation that a “Team Consideration of External Report” was generated for the student. The document reflects that the team received the external psychological report on October 9, 2024, and met to review it on November 7, 2024. The qualified professionals interpreting the results of the external report included the school psychologist, special education teacher, and occupational therapist. The document reflects the parent’s stated reason for submitting the report was the complainant “disagreed with the last AACPS evaluation that found [the student] eligible under [ED]. An IEE was completed [by the [REDACTED] School].”
6. The IEP in effect for the student in December 2024 is dated November 7, 2024. The IEP reflects the student’s primary disability as “Multiple Disabilities: Emotional Disability [ED], Specific Learning Disability [SLD].”
7. On December 13, 2024, the IEP team reconvened to conduct reevaluation planning for the student. The PWN generated after the meeting reflects the school-based team proposed that an FBA was not needed at this time, the student currently has a BIP, and “there are no other relevant behaviors that the school team is seeing that are significantly impeding [the student’s] performance which would require an updated FBA to be completed.” It was reported that the student achieved his behavior goal for the first marking period and the team would continue to monitor the goal and the need for a BIP would be reconsidered. The complainant shared that she “believes a lot of the behaviors are related to [the student’s] Dysgraphia.” The school-based team reported that the student was not presenting any new behaviors that are not reflected in the BIP or would warrant an updated assessment.
8. On February 7, 2025, the IEP team reconvened for a periodic review. The PWN generated after the meeting reflects that the IEP team’s “consideration of the data included in the IEE from the [REDACTED] School, also indicates that ‘the student’ presents as a student with behavioral and emotional dysregulation. This is consistent with the previous determination of eligibility.” The PWN reflects that after the IEP team reviewed the IEE on November 7, 2024, the complainant shared with AACPS staff that she wanted to “revisit the conversation with a subsequent meeting.” The complainant stated that she felt that the student’s “fifth-grade teachers were biased against [the student] when they

completed the rating scales” and asked the [REDACTED] team if they agreed. The complainant expressed that “the IEE findings are supposed to replace any AACPS evaluation, [and] the school team should be basing decisions on [the] outside report because [it was completed] because [the complainant] did not agree with AACPS testing and [the student’s] eligibility as a child with [ED].” The student’s father “agreed with the school psychologist to consult with the [IEE] evaluator to help clarify about the statement that ‘the results of the assessment do not support a serious emotional condition’ based on the data that was reported on the assessment.” The student’s mother requested to ‘reach out to the evaluator independently of AACPS and get back to AACPS about what the evaluator shared with her.’ The complainant later agreed to allow the school psychologist to consult with the IEE evaluator in this regard “as long as she was able to be present for the conversation.” The complainants requested “the school team to consider removing the educational disability of an [ED] based on the statement in the IEE that the results of the assessment did not support a serious emotional condition. The school team [reported that] based on the data reported on, both from the AACPS assessment and the IEE, [the student] will continue to receive services under an [ED and SLD].”

DISCUSSION AND CONCLUSION:

If a parent of a student with a disability obtains an IEE at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of free appropriate public education (FAPE) to the student (34 CFR § 300.502). However, consideration by the IEP team does not necessarily mean that the IEP team must agree with all the findings and recommendations of the IEE.

In this case, the IEP team considered the results of the IEE at multiple meetings. The complainant provided the results of the IEE to the school-based team on October 9, 2024. The IEP team met to review the IEE on November 7, 2024. The “Team Consideration of External Report” reflects that the qualified professionals who were present to interpret the results of the external report included the school psychologist, special education teacher, and occupational therapist. At the meeting, after reviewing the assessment results the IEP team determined that the student would continue to receive services under the eligibility of Multiple Disabilities (ED and SLD). It was documented in the PWN from that meeting that the complainant disagreed with the school-based team’s decision. On February 7, 2025, the IEP team reconvened again to review the IEE assessment results at the complainant’s request. After reviewing the assessment results, the IEP team determined that the student continued to meet the same eligibility codes.

Based on Findings of Fact #1 through #8, MSDE finds that the AACPS did ensure proper procedures were followed when the IEP team considered the results of an IEE obtained at public expense, provided in December 2024, in accordance with 34 CFR § 300. 502. Therefore, MSDE finds no 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

[REDACTED]
Ms. Sonya McElroy
Ms. Diane McGowan
April 2, 2025
Page 6

compelling reason for why the documentation was not made available during the investigation. Request for reconsideration should be submitted 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 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
Early Intervention and Special Education Services

ALH/ebh

c: Mark T. Bedel, Superintendent, AACPS
Jennifer Brown, Program Manager of Compliance and Legal Issues, AACPS
Ruth Avizad, Manager, Special Education Compliance, AACPS
[REDACTED], Principal, [REDACTED] School, AACPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE