



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

November 30, 2018

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

RE: XXXXX
Reference: #19-043

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/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 October 1, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her 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 did not ensure that the student was consistently provided with a one-to-one (1:1) assistant between October 1, 2017 and the end of the 2017-2018 school year, as required by the Individualized Education Program (IEP), in accordance with 34 CFR §§300.101 and .323.
2. The AACPS did not ensure that the IEP addressed the student’s academic and social/emotional needs since October 1, 2017, in accordance with 34 CFR §§300.320 and .324.

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3. The AACPS did not follow proper procedures to ensure that concurrent Home and Hospital Teaching (HHT) services were provided to the student between October 1, 2017 and the end of the 2017-2018 school year, in accordance with COMAR 13A.03.05.03 and 13A.05.01.10.
4. The AACPS did not follow proper procedures to ensure the parent's participation at the IEP team meetings held between October 1, 2017 and the end of the 2017-2018 school year, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D(4)(a).
5. The AACPS did not ensure that the student has been provided with the amount of reading intervention services required by the IEP, between October 1, 2017 and the end of the 2017-2018 school year, in accordance with 34 CFR §§300.301 and .323.

BACKGROUND:

The student is seven (7) years old and is identified as a student with an Other Health Impairment under the IDEA. He attends XXXXXXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The IEP in effect on October 1, 2017, requires that the student be provided with adult support for self-care activities, and to assist with stairs, curbs, emergency evacuation, and uneven surfaces due to impaired balance and a lack of safety awareness.
2. The IEP identifies needs in the areas of reading, math, written expression, learning behaviors, gross and fine motor skills, and expressive and receptive language. The IEP has goals and supplementary aids and services in each of the identified areas.
3. The progress reported on the annual IEP goals, in November 2017 and January 2018, reflect that the student made sufficient progress towards achievement of the IEP annual goals with the provision of required supports.
4. On February 6, 2018, the IEP team met and determined that the student required updated assessments in the areas of adaptive physical education, physical therapy, academics, and speech and language, as part of his triennial reevaluation under the IDEA. The complainant provided consent for assessments at the meeting.
5. On February 12, 2018, the IEP team considered information that the complainant provided to support her application for concurrent HHT services and the student was approved for services by the Office of HHT that same day. However, the team did not determine the concurrent HHT services to be provided. The complainant participated in the IEP meeting.

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6. On February 27, 2018, the IEP team convened for an annual review of the student's IEP. The team revised the description of the adult support to include safety awareness, repetition of directions, frequent redirection of attention to tasks, and scribe for writing assignments across all academic subjects throughout the school day. The complainant also expressed concern about the student's eloping behavior displayed at home, and that she was concerned that the behavior would be displayed while attending school. However, the school staff reported that such behavior had not been displayed by the student while in school, but included in the IEP the prevention of elopement as an intervention provided by the student's adult support.
7. There is documentation that on March 1, 2018, a home and hospital teacher was assigned to provide the student with concurrent HHT services, and that she contacted the complainant on March 5, 2018 to arrange for the provision of services. The documentation also reflects that the complainant was to contact the home teacher at a later date to develop a schedule for the concurrent HHT services, but a schedule was never developed, and subsequent attempts by the home and hospital teacher to contact the complainant were unsuccessful.
8. There is documentation that the school-based members of the team attempted to hold an IEP team meeting, with the complainant, to review assessment results on April 3, 10, and 17, 2018. There is also documentation that the school-based members of the team informed the complainant that they would proceed with the IEP meeting on April 17, 2018 if she was unable to attend following the "third attempt" at scheduling an IEP team meeting. However, there is no documentation that the school staff made efforts to find a mutually convenient date for the complainant to participate in the IEP team meeting.
9. On April 17, 2018, the IEP team convened for a reevaluation meeting. The school-based members of the team reported that they attempted to contact the complainant by phone during the team meeting, but was unsuccessful, and therefore, held the meeting without the participation of the complainant. The summary reflects that the school-based members of the IEP team determined that the student continued to meet the criteria for special education services, and that the current IEP would continue to be implemented.
10. On June 5, 2018, the IEP team convened, with the complainant, to review and revise the student's IEP, as appropriate. The team determined that the student would receive 2.5 hours of reading each week, in a separate special education classroom.
11. The progress reported on the annual IEP goals, in April 2018, and June 2018, reflect that the student attended school and made sufficient progress towards achievement of the annual IEP goals with the provision of required supports, with the exception of his phonological awareness goal.

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12. On June 14, 2018, the IEP team convened again, with the complainant, to review assessments and progress. The team revised the goals and objectives in phonological awareness and again, revised the description of the adult support to include support in academic content classes and learning behaviors both in and out of the general education classroom.
13. There is documentation that, from October 1, 2017 through the end of the 2017-2018 school year, the student was provided with adult support in all areas required by the IEP.
14. On October 30, 2018, the IEP team, including the complainant, convened to review and revise the student's IEP, as appropriate. The team determined that no revisions were necessary on his academic, speech/language, and fine motor skill goals because the student was making sufficient progress to achieve the goals with the provision of required supports. The team determined that a home/school communication log would be utilized to provide the complainant with any updates related to the student's behavior.
15. The IEP has not required the student's participation in a reading intervention program.

CONCLUSIONS:

Allegation #1: Adult Support

Based on the Findings of Facts #1, 3, 6, and #11 - #13, the MSDE finds that there is documentation that the student was provided with additional adult support from October 1, 2017 through the end of the 2017-2018 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Allegation #2: IEP That Addressed the Student's Academic and Social/Emotional Needs

Based on the Findings of Facts #1 - #14, the MSDE finds that the AACPS has ensured that the IEP addressed the student's academic and social/emotional needs since October 1, 2017, in accordance with 34 CFR §§300.320 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #3: Concurrent HHT Services

Based on the Findings of Facts #5, #7, #11 and #12, the MSDE finds that the AACPS did not ensure that concurrent HHT services were available within ten (10) school calendar days following the receipt of the February 12, 2018 verification of the need for services. Further, the IEP team did not determine the concurrent HHT services to be provided, in accordance with COMAR 13A.03.05.03 and 13A.05.01.10. Therefore, this office find that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Findings of Facts #9, #10, and #12, the MSDE finds that the student received continuing instruction in the school-based program. Therefore, no further student-specific corrective action is required.

Allegation #4: Parent Participation in IEP Team Meetings

Based on those Findings of Facts #4 - #6, #9, #10, and #12, the MSDE finds that there is no documentation that the school staff took appropriate steps to ensure parent participation in the April 17, 2018 IEP team meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D(4)(a). Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Finding of Fact #10, the MSDE finds that the IEP team determined that the student would continue to receive special education services and held a subsequent IEP team meeting with the complainant present, to review and revise the IEP, as appropriate. Therefore, no further student specific corrective action is required.

Allegation #5: Provision of a Reading Intervention

In this case, the complainant asserts that the student did not receive the required amount of reading intervention reflected in the IEP.

Based on the Finding of Fact #15, the MSDE finds that the student's IEP does not require the provision of a reading intervention program, in accordance with 34 CFR §§300.301 and .323. Therefore, this office does not find that a violation identified do not occurred with respect to the allegation.

CORRECTIVE ACTION/TIMELINE:

The MSDE requires the AACPS to provide documentation by February 28, 2019 of the steps taken to ensure that the violations identified do not recur at XXXXXXXXXXXXXXXXXXXX School.

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.

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.

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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:ac

c: George Arlotto
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