




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

June 25, 2021




Ms. Diane McGowan
Co-Director of Special Education
Specially Designed Instruction/Compliance
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland 21401

RE: 
Reference: #21-093

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 April 27, 2021, the MSDE received a complaint from Mr.  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 student’s Individualized Education Program (IEP) has addressed the student’s identified needs in the areas of reading and math since April 27, 2020, in accordance with 34 CFR §§300.101 and .324.
2. The AACPS has not ensured that the student has been provided with a reading intervention, adult support, a self-management checklist, and text-to-speech accommodations as required by the IEP, since April 27, 2020, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is twelve (12) years old and is identified as a student with Multiple Disabilities, including an Other Health Impairment (OHI), related to Attention Deficit Hyperactivity Disorder (ADHD) and a Specific Learning Disability (SLD), under the IDEA. He has an IEP that requires the provision of special education instruction and related services.

The student attended [REDACTED] until the March 2020 closure of school buildings and initiation of virtual learning due to the COVID-19 pandemic. At the start of the 2020 - 2021 school year, the student matriculated to [REDACTED] and continued virtual learning.

FINDINGS OF FACTS:

April 2020 IEP Team Meeting

1. The student's IEP reflects that the student has identified needs in the areas of reading comprehension and fluency, and math problem solving, and requires the provision of special education instruction and related services. The present level of performance in reading reflects that the student has a "difficult time responding to comprehension questions accurately, and that his fluency is inconsistent." The present level of performance in math reflects that the student has difficulty "identifying the correct order of operation in multi-step problems independently."
2. The student's annual math goal states that "given five grade level multi-step mixed operation word problems with teacher modeling, the [student] will identify the operations needed to correctly solve each step with 80% accuracy."
3. The student's annual reading comprehension goal states that, "when given chunked, grade level text, the [student] will correctly answer questions to identify the relationship between characters, places, problems, events, fact, and solutions, with 80% accuracy."
4. The student's reading fluency goal states that "during a second read of independent level text, and frequent feedback, the [student] will improve his fluency rate to read 80 words per minute across 4 out of 5 trials."
5. The IEP requires that, on a daily basis, the student be provided with adult support during science, social studies, and foreign language classes, text-to-speech as an accommodation for math, science, and government, the provision of a research-based reading intervention as an supplementary aid, and a daily self-management checklist to assist the student with his organizational skills. However, the IEP does not reflect how the self-management checklist and the reading intervention were to be provided to the student.
6. On April 30, 2020, the IEP team met to revise the student's IEP for virtual instruction due to the Covid-19 pandemic. The complainant requested that the team consider adding a

math fluency goal. However, the student's teachers reported that there is not "enough data to support a need for math fluency and the [student] does not demonstrate a weakness in that area," and there is no data in the education record identifying needs in this area.

7. At the April 20, 2020 IEP team meeting, the complainant expressed concern about the student not having a "dedicated aide" during instruction. The school staff indicated that there is no data to support the need for a dedicated aide because the student demonstrates success in small groups, and has classes with additional staff members that provided adult support for students.
8. The "learning logs" maintained by the student's teacher from April 17, 2020 to the end of the 2019 – 2020 school year reflect that text-to speech was utilized by the student during instruction. However, there is no documentation indicating that the student was provided with a reading intervention and self-management checklist, from April 17, 2020 to the end of the 2019 - 2020 school year, as required by the IEP.
9. The progress reported on the student's reading comprehension, fluency, and math goal, in April 2020 and June 2020, reflect that the student was making sufficient progress to achieve the goals.

October 2020 IEP Team Meeting

10. On October 5, 2020, the IEP team convened to review the student's progress. The IEP meeting summary reflects that the team reported to the complainant that adult support was being provided in science, social studies, and Spanish classes. The student's teacher also reported that she would work with the student to "organize an online calendar with his assignments in all classes to assist him with organization in lieu of his agenda book." However, there is no documentation that a self-management checklist was provided daily, as required by the IEP.
11. There is documentation that the school staff had created a "calendar/check-in" chart for the student to assist him with organizing his classes and completing his assignments by the due dates. However, the school staff report that the calendar was "overwhelming" for [the student] to utilize, therefore, they completed "verbal check-ins" with the student, where he would share his Google classroom screen to check for upcoming assignments. However, there is no documentation that "verbal-check-ins" between the student and school staff took place.
12. The student's 2020 - 2021 class schedule reflects that, in science, social studies, and Spanish classes, he participated in small group sessions with at least two school staff members, and in his remaining classes, there were at least two school staff members to

provide support to the student. The schedule also reflects that the student was to be provided with “READ 180”¹ once each week, although the IEP requires it daily.

13. At the October 5, 2020 IEP team meeting, the complainant inquired about the reading intervention being implemented with the student. In response, the school staff indicated that the school “will be using “READ 180 intervention which was in the process of being ordered,” and that the staff would need “2 - 3 weeks to complete training and set up the program.” The IEP meeting summary further reflected that the complainant is “aware that the student is not in a reading intervention and understands that he will start once staff has been trained, and that due to a lack of availability of the intervention, the student is currently not receiving his reading intervention as provided by the IEP.”

November 2020 IEP Team Meeting

14. On November 2, 2020, the IEP team convened to review the student’s progress. The student’s teacher reviewed the student’s grades and indicated that he will be “introduced to the “READ 180” intervention which starts on November 4, 2020, and that she would work with him once each week but would determine the need for any additional services.” The IEP was not revised at this time.
15. The progress reported on the student’s reading comprehension, fluency, and math goal, in November 2020, reflects that the student was making sufficient progress to achieve the goals.

December 2020 IEP Team Meeting

16. On December 16, 2020, the IEP team met again to review the student’s progress. The meeting summary reflects that the complainant inquired about additional reading interventions for the student, and the team indicated that the school was implementing the “i-Ready” reading and math instructional program as “mandated homework” for all students in the general education setting. The team determined that the student’s IEP services remained appropriate.

January 2021 IEP Team Meeting

17. On January 7, 2021, the IEP team convened to review data and to discuss reevaluation for the student. The IEP team reviewed the student’s independent psychological report provided by the complainant. The team indicated that the scores on the report were comparable to the student’s AACPS evaluation assessment result in August 2019, and that the student was reading on a third grade level. The team determined that the student required updated assessments and the complainant provided consent for assessments on January 21, 2021. The student’s IEP was revised to reflect the provision of a reading

¹ READ 180 is an intervention program designed to improve reading comprehension, academic vocabulary, and writing skills (www.hmhco.com/programs/read-180-universal)

intervention, “as determined by the team,” and adult support to assist with “content instruction in his class,” as the student was determined to be reading below grade level.

18. The progress reported on the student’s reading comprehension, fluency, and math goal, on January 29, 2021, reflect that the student was making sufficient progress to achieve the goals.
19. The student’s teacher reports that the student had difficulties using text-to-speech technology, and that he demonstrated success during assessments when the technology was substituted with the use of other supports such as a human reader. The progress reports document that the student has been using an “online line reader which seems to increase his word count, and that the student agrees that this has helped him stay focused on the reading.”

April 2021 IEP Team Meeting

20. On April 20, 2021, the IEP team convened to review assessment data. The team discussed that the student’s standard score in basic reading was in the “low average” range, reading comprehension was in the “low average” range, reading fluency was in the “low” range, math calculation was in the “low” range, and math reasoning was in the “low” range. Based on this review of the data, the team determined that the student continues to meet the criteria for identification as a student with Multiple Disabilities including OHI and SLD, in the areas of reading, written expression, and math.

May 2021 IEP Team Meeting

21. On May 17, 2021, the IEP team convened to review and revise the student’s IEP. The IEP team determined that, based on the student’s progress, he qualified for Extended School Year (ESY) services to address reading, written expression, and math. The student’s annual goals were also revised in reading comprehension, fluency, math, learned behavior, written expression and mechanics based on his reported progress. The team determined that the student required services in a “co-taught setting for science and social studies, and required self-contained instruction in math and English,” that those services could not be provided in the student’s current school, and that a change in education placement was required. The team recommended that the student be offered a placement at a school that would be able to implement his IEP, as appropriate.

CONCLUSIONS:

Allegation #1: An IEP that Addresses the Student’s Reading and Math Needs

Based on the Findings of Facts #1 - #4, #6, #9, and #15 - #21, the MSDE finds that the IEP has addressed the student’s identified needs in the areas of reading and math since April 27, 2020, in accordance with 34 CFR §§300.101 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #2: Provision of Supplementary Aids

Reading Intervention

Based on the Findings of Facts #5, #8, #12 - #14, and #16, the MSDE finds that the documentation reflects that the student has not been provided with the reading intervention, as required by the IEP, since April 27, 2020, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with regard to this aspect of the allegation.

Adult Support

Based on the Findings of Facts #5, #7, #10, #12, and #17, the MSDE finds that there is documentation that the student was provided with adult support, as required by the IEP, since May 27, 2020, 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.

Self-Management Checklist

Based on the Findings of Facts #5, #7, #8, #10, #11, the MSDE finds that the IEP is not written in a manner that contains a clear statement how the support of a self-management checklist was to be provided to the student, in accordance with 34 CFR §300.320. Therefore, this office finds that the AACPS has not ensured that it has been provided as intended by the IEP team, in accordance with 34 CFR §§300.101 and .323, and that a violation occurred with respect to this aspect of the allegation.

Text-to-Speech

Based on the Findings of Facts #5, #8, #18, and #19, the MSDE finds that that there is documentation that the student has been provided with a text-to-speech accommodation from May 27, 2021 to the end of the 2019 – 2020 school year, in accordance with 34 CFR §§300.101 and .323. However, based on Finding of Fact #19, the MSDE finds that, while the student was provided with other supports to replace text-to-speech technology, he was not provided with the accommodation as described in the IEP. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation during the 2020 – 2021 school year.

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.

The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.² 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 Procedure.

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 Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³ Dr. Birenbaum can be reached at (410) 767-7770 or by email at Nancy.birenbaum@maryland.gov.

Student-Specific

The MSDE requires the AACPS to provide documentation that the IEP team has reviewed and revised the student's IEP to ensure that it reflects the supplementary aids and supports to be provided to the student, as appropriate, and to provide documentation of the provision of those services.

The MSDE also requires the AACPS to provide documentation that the IEP team has determined the amount and nature of compensatory services or other remedy to redress the violations identified in this Letter of Findings.

School-Based

The MSDE requires the AACPS to provide documentation of the steps taken to ensure that the violations do not recur at [REDACTED] and [REDACTED]
[REDACTED]

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.

² 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.

³ 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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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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■
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