




Mohammed Choudhury  
State Superintendent of Schools

April 1, 2022



Ms. Bobbi Pedrick  
Co-Director of Special Education  
Birth to Five; Special Services & Non-Public  
Anne Arundel County Public Schools  
1450 Furnace Avenue  
Glen Burnie, Maryland 21060


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: #22-091

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 February 1, 2022, the MSDE received a complaint from Ms.  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 has not ensured that the student has been provided with unshared adult support as required by the Individualized Education Program (IEP) since the start of the 2021 - 2022 school year, in accordance with 34 CFR §§300.101 and .323.
2. The AACPS has not ensured that the student’s health services needs have been identified and addressed since the start of the 2021 - 2022 school year, in accordance with 34 CFR §§300.101, .320, and .324.

### **BACKGROUND:**

The student is eight (8) years old and is identified as a student with Autism under the IDEA. The student has an IEP that requires the provision of special education instruction and related services, and attends [REDACTED] a public, separate day school.

### **FINDINGS OF FACTS:**

1. The student's IEP, dated June 17, 2021, reflects that he is "diagnosed with pica, therefore, [the student] must be monitored/blocked from mouthing and eating inedible objects, daily: [the student] has been observed eating and/or attempting to mouth play-doh, paper and other objects and therefore should be monitored closely."
2. On June 17, 2021, the IEP team convened to consider positive behavior supports for the student prior to the start of the 2021 - 2022 school year. The team reviewed the student's most recent Functional Behavioral Assessment (FBA) and determined that the student required a Behavior Intervention Plan (BIP) to address targeted behaviors of "elopement, aggression, and self-injurious behaviors, such as hand, fist, and head banging." The complainant also raised concerns that the BIP did not address the student's pica behavior which continued to be a concern at home and at his previous placement. The school staff reported that while collecting FBA data, the student "only noted six attempts of this behavior and although this behavior is not tracked through the BIP, it continues to be addressed as documented in the IEP with supplementary aids."
3. The IEP in effect at the start of the 2021 - 2022 school year reflects that the student requires a "public separate day school in a classroom with a smaller teacher-to-student ratio than that which is provided in the general education setting." The IEP indicates that the "student requires close adult proximity due to safety concerns regarding eating of non-edibles (pica) and elopement. The adult support should be unshared during the times they are working with the student. The student may have various staff trained to work with him throughout the day. This support is required to be provided to the student on a daily basis."
4. The IEP also reflects that the student has learned behavior needs in the area of toileting. The present level of performance reflects that the student "requires assistance with toileting. The student is able to void in the toilet but must be monitored while in the bathroom due to safety. The student requires more assistance with bowel movements as he does not always void in the toilet. The student requires an adult to change and clean him during this time. The student also has been observed putting his hands in the toilet bowl. The student requires assistance with proper handwashing." The IEP includes specialized instruction, supplementary aids, and annual goals to assist the student with improving his skills in this area.

5. The reports of the student's annual academic and behavior IEP goals, dated November 12, 2021 and January 28, 2022, reflects that the student was making sufficient progress to achieve the goals within one year.
6. On December 22, 2021, the IEP team convened for a review of the student's IEP. The IEP prior written notice reflects that the team discussed the unshared adult support accommodation for the student. The complainant expressed concern about the student not having an unshared aide with him when he was observed by her in the classroom prior to the December 22, 2021 IEP team meeting. The school staff reported that the student is "not provided an unshared aide throughout the entire day, but rather a dedicated staff during instructional blocks that works with the student through these times and that the school staff backed off to allow him to continue to practice this independence, and by removing staff from his immediate proximity, there has been an increase in independence. The goal of an unshared aide or one-to-one is to always fade that aide out so that [the student] can become as independent as possible." The school staff further reported that the student is "never alone, and always has someone with eyes on him, ready to assist if needed, and that all classroom staff have been trained by the [behavior specialist] and can independently work with [the student] on a rotational basis. However, the one-to-one unshared aide was not beneficial as [the student] continued to make progress and foster his independence, and this decrease of an unshared aide was a direct result of the progress [the student] has been making."
7. On January 18, 2022, the IEP team convened to review and revise the student's IEP, as appropriate. The parent provided the IEP team with a letter from the student's physician indicating that the student was diagnosed with several disabilities, including pica. The complainant again raised concern about the provision of the student's unshared aide, indicating that she "did not believe the support was being provided as written, and that the way the [support] has been presented seems very deceptive." While a school staff member reported that the student did attempt to put a "glue stick in his mouth one time, but this was easily redirected", other school staff reported that the student has "not been observed attempting any pica. In addition, as [the student] has begun to show independence, the support has been faded to reinforce [the student's] independence."
8. Based on this review, the adult support accommodation was revised to reflect that "[the student] requires close adult proximity due to safety concerns regarding eating of non-edibles (pica) and elopement."
9. There is no documentation indicating that the student has been provided with adult support as required by the IEP since January 18, 2022.

## **CONCLUSIONS:**

### **Allegation #1: Provision of Adult Support**

Based on the Findings of Facts #1 - #8, the MSDE finds that, although there is documentation that the student has been provided with adult support from the start of the 2021 - 2022 school year to January 18, 2022, the documentation also reflects that at times, the support was decreased as the student demonstrated more independence with tasks, however, the IEP does not indicate that the support is to be decreased as a result of the student's independence, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred for this time period.

Further, based on the Finding of Fact #9, the MSDE finds that there is no documentation that the student has been provided with adult support as required by the IEP since January 18, 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation for this time period.

Notwithstanding the violation, based on the Findings of Facts #1 - #8, the MSDE finds that the documentation supports that the student has made significant progress with his annual academic, behavior, and health goals through January 28, 2022. Therefore, this office finds that the violation has not negatively impacted the student's ability to benefit from the education program and does not require student-specific corrective action with respect to this aspect of the allegation for this time period.

### **Allegation #2: An IEP that Addresses the Student's Health Needs**

Based on the Findings of Facts #1 - #8, the MSDE finds that the student's IEP has addressed his health service needs since the start of the 2021 - 2022 school year, in accordance with 34 CFR §§300.101, .320, and .324. Therefore, this office does not find 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.

The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>1</sup> This office will follow up with the public agency to ensure that it

---

<sup>1</sup> 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

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.<sup>2</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

### **Student-Specific**

The MSDE requires the AACPS to provide documentation by May 15, 2022 that the student is being provided with the adult support, consistent with his IEP.

The IEP team must also convene by May 15, 2022 to determine whether the violation related to the lack of the provision of the adult support since January 28, 2022 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 a year of the date of this Letter of Findings.

The AACPS must ensure that the complainant is provided with written notice of the team's decisions. The complainant 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 of the steps taken to ensure that the violation does not recur at [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.

---

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.

<sup>2</sup> 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.

■  
Ms. Bobbi Pedrick  
Ms. Diane McGowan  
April 1, 2022  
Page 6

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  
Alison Barmatt  
■  
Brian Morrison  
Gerald Loiacono  
Albert Chichester