



Mohammed Choudhury  
State Superintendent of Schools

May 20, 2022

[REDACTED]  
[REDACTED]  
[REDACTED]

Bobbi Pedrick  
Diane McGowan  
Co-Directors of Special Education  
1450 Furnace Avenue  
Glen Burnie, MD 21060

RE: [REDACTED]  
Reference: #22-120

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 March 21, 2022, the MSDE received a complaint from Ms. [REDACTED], 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 followed proper procedures when conducting a reevaluation of the student since January 2022, in accordance with 34 CFR §§300.303-.306.
2. The AACPS did not provide proper written notice of the Individualized Education Program (IEP) team decisions from the IEP team meetings on January 14, 2022 and March 25, 2022, in accordance with 34 CFR §300.503.

3. The AACPS did not ensure that an IEP team meeting convened on March 25, 2022, included the required participants, in accordance with 34 CFR §300.321.
4. The AACPS has not ensured that the student has been provided with “Teacher of the Deaf” services and testing accommodations as required by the IEP since November 2021, in accordance with 34 CFR §§300.101 and .323.
5. The AACPS did not follow proper procedures when revising the student’s IEP following the IEP team meeting convened on January 14, 2022, in accordance with 34 CFR §300.324.
6. The AACPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student’s educational record, in accordance with 34 CFR §300.613.
7. The AACPS did not ensure that the parent was provided with a copy of the draft IEP, the IEP team planned to discuss at the January 14, 2022, IEP team meeting at least five (5) business days before the scheduled meeting, in accordance with Md. Code Ann., Educ., § 8-405 (2010).

**BACKGROUND:**

The student is twelve (12) years old and is identified as a student with Deafness under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. The student’s IEP in effect at the start of the 2021-2022 school year required specialized instruction in the area of hearing for thirty minutes to address “carryover of self-advocacy goals and objectives” by a Teacher of the Deaf and Hard of Hearing twice monthly in the general education setting. The IEP includes an annual goal in the area of “hearing - self-advocacy” with four objectives including “will ask his teachers for repetition and/or clarification of directions when not understood.”
2. On January 14, 2022, the IEP team met to review and revise, as appropriate, the student’s IEP and consider the need for a reevaluation of the student.
3. The prior written notice generated following the January 14, 2022 IEP team meeting reflects that the IEP team agreed to update the student’s present levels of performance and revise the student’s self-advocacy goal. The prior written notice further reflects that the IEP team recommended that a reevaluation be conducted for the student and determined that assessments were needed in the areas of “Basic Reading Skills, Reading

Comprehension, Math Calculation, Math Reasoning, Written Expression, Reading Fluency, Math Fluency, Speech, Language (Receptive /Expressive), and Observation.”

4. The AACPS has acknowledged that “there is no documentation that the parent was provided with a draft copy of the IEP the team planned to discuss at the January 14, 2022, IEP team meeting.”
5. The IEP team convened on March 25, 2022 to review the student’s reevaluation information and determine continued eligibility. The prior written notice generated after that meeting reflects that the IEP team reviewed an “observation, informal observation by the Teacher of the Deaf and Hard of Hearing, academic assessment and communication assessment reports.” The IEP team determined the student meets the eligibility criteria for deafness but “does not require specialized instruction/special education services.” The complainant did not agree with the IEP team’s decision and “refused to make determinations after assessment results were reviewed.”
6. The IEP team signature page for the March 25, 2022 IEP team meeting reflects that the Parents, Administrator, Regular Educator, Special Educator, Speech and Language Pathologist, Teacher of the Deaf and Hard of Hearing, Special Education Department Chair, Special Education Resource Teacher, Speech and Language Program Manager, Principal, Auditory Rehabilitation Technician, and Interpreter were present at the student’s IEP meeting.
7. In an email dated March 29, 2022, to the AACPS staff, the complainant requested “all meeting minutes and documentation from the January IEP meeting.”
8. In an email dated March 30, 2022, the AACPS staff responded to the complainant providing the documents from the January IEP team meeting. In a follow up email, the AACPS staff invited the complainant to make an appointment to view the student’s education file. Additionally, the complainant was offered support from the “Partners for Success team” to assist with the review of the educational record.
9. There is documentation that Teacher of the Deaf services have been provided since the start of the 2021-2022 school year to address the student’s self-advocacy goals as required by the student’s IEP.
10. There is no documentation that the student was provided with testing accommodations as required by his IEP since November 2021.
11. There is no documentation, to date, that the IEP team has completed the evaluation of the student that was started on January 14, 2022.

**CONCLUSIONS:**

**ALLEGATON #1: RE-EVALUATION PROCEDURES**

Based on the Findings of Facts #2, #3, and #11, the MSDE finds that the AACPS has not followed proper procedures when conducting a reevaluation of the student since January 2022, in accordance with 34 CFR §§300.303-.306. Therefore, this office finds that a violation has occurred with respect to this allegation.

**ALLEGATON #2: PROPER WRITTEN NOTICE**

Based on the Findings of Facts #3 and #5, the MSDE finds that the AACPS has provided prior written notice of the IEP team decisions on January 14, 2022 and March 25, 2022, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation occurred with respect to this allegation.

**ALLEGATON #3: REQUIRED IEP TEAM PARTICIPANTS**

Based on the Findings of Fact #6, the MSDE finds that the AACPS ensured that the IEP team meeting convened on March 25, 2022, included the required participants, in accordance with 34 CFR §300.321. Therefore, this office does not find that a violation occurred with respect to this allegation.

**ALLEGATON #4: PROVISION OF TEACHER OF THE DEAF SERVICES AND TESTING ACCOMMODATIONS**

Based on the Findings of Fact #9, the MSDE finds that the AACPS ensured that the student was provided with Teacher of the Deaf services as required by the IEP since the beginning of school year 2021-2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has not occurred with respect to this aspect of the allegation.

Based on the Findings of Fact #10, the MSDE finds that the AACPS did not ensure that the student was provided with testing accommodations as required by the IEP since November 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

**ALLEGATON #5: REVISING THE STUDENT'S IEP**

Based on the Findings of Facts #1 and #3, the MSDE finds that the AACPS followed proper procedures when revising the student's IEP following the IEP team meeting convened on January 14, 2022, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this allegation.

**ALLEGATION #6: RECORD REQUEST**

Based on the Findings of Facts #7 and #8, the MSDE finds that the AACPS ensured that proper procedures were followed when responding to a request to inspect and review the student's educational record, in accordance with 34 CFR §300.613. Therefore, this office does not find that a violation occurred with respect to this allegation.

**ALLEGATION #7: PROVISION OF IEP MEETING DOCUMENTS**

Based on the Finding of Fact #4, the MSDE finds that the AACPS did not ensure that the parent was provided with a copy of the draft IEP that the IEP team planned to discuss at the January 14, 2022, IEP team meeting at least five (5) business days before the scheduled meeting, in accordance with Md. Code Ann., Educ., § 8-405 (2010). Therefore, this office finds that a violation has occurred with respect to this 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 non-compliance is corrected in a timely manner.<sup>1</sup> 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 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 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.

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<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 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.

### **Student-Specific**

The MSDE also requires the AACPS to provide documentation of the following actions:

- a. That it has convened an IEP team meeting to complete the student's reevaluation and made the necessary revisions to the student's IEP;
- b. That the student has been provided with testing accommodations as required by the IEP;
- c. That it has convened an IEP team meeting to determine whether the violations indicated in this letter of finding 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; and
- d. That it has developed a plan for the implementation of the services within one (1) year of the date of this Letter of Findings.

The AACPS must ensure that the parent is provided with written notice of the team's decisions. The parent 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 violations identified do not recur at [REDACTED] School. The documentation must include a description of how the AACPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not reoccur.

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.

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,

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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/tg

c: George Arlotto  
Bobbi Pedrick  
Diane McGowan  
Marcella Franczkowski  
Gerald Loiacono  
Diane Eisenstadt  
Tracy Givens