



July 27, 2023



Ms. Sonya McElroy
Ms. Diane McGowan
Co-Directors of Special Education
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland 21401

RE: [REDACTED]
Reference: #23- 254

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.

ALLEGATION:

On June 6, 2023, MSDE received a complaint from Mr. [REDACTED] and Ms. [REDACTED] hereafter, “the complainants,” on behalf of their son, the above-referenced student. In that correspondence, the complainants 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.

MSDE investigated the allegation that the AACPS has not ensured that the student has been consistently provided their accommodations, as required by the Individualized Education Program (IEP), since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

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

FINDINGS OF FACTS:

1. The student’s IEP, developed on August 23, 2022, requires that the student be provided with the following accommodations and instructional and assessment accessibility features: the student reads content aloud to himself; text-to-speech for mathematics, science, and government assessments; separate or alternate locations; frequent breaks; reduced distractions to self; reduced distractions to

others; assistive technology; calculation device; monitor test response; word prediction external device; and extended time (1.5x). The IEP further requires that the student be provided with the following supplementary aids and services: daily model and encouragement of the use of compensatory speech strategies (i.e., increased volume, slower rate of speech, and pacing); daily use of manipulatives; daily check for understanding; daily monitoring of independent work; daily repetition of directions; daily use of organizational aids; daily provision of a copy of student/teacher notes, daily provision of assistance with organization, daily break down of assignments into smaller units; daily deletion of extraneous information on assignments and assessments when possible; daily modified content, daily simplified sentence structure, vocabulary, and graphics on assignments and assessments; daily adult support; daily encouragement of the student to ask for assistance when needed; daily frequent eye contact/proximity control; daily use of a help card; daily preferential seating; daily adjustments to sensory input (i.e., light, sound); daily use of noise reduction headphones; daily use of a visual schedule; as needed occupational therapy consult; periodic assistive technology consult; as needed adult support and monitoring during an emergency evacuation; fifteen minutes per month speech/language pathologist consult.

2. The student's IEP, developed on March 30, 2023, requires that the student be provided with the following accommodations and instructional and assessment accessibility features: text-to-speech, human reader for selected sections; small group; separate or alternate location; frequent breaks; reduced distractions to self, reduced distractions to others, assistive technology, calculation device, monitor test response; word prediction external device; extended time (1.5x). The IEP further requires that the student be provided with the following supplementary aids and services: daily use of highlighters; daily use of manipulatives; periodic use of organizational aids; daily checks for understanding; daily student repeat and/or paraphrase information; daily limited amount of copying from the board; daily monitoring of independent work; periodic provision of alternate ways for the student to demonstrate learning; as needed provision to the student with copy of student/teacher notes; as needed use of word bank to reinforce vocabulary and/or when extended writing is required; as needed provision near point copies of word written on the board; daily break down of assignments into smaller units; daily chunking of texts; daily deletion of extraneous information on assignments and assessments when possible; daily adult support; daily encouragement to the student to ask for assistance when needed; as needed encouragement/reinforcement of appropriate behavior in academic and non-academic settings; as needed home school communication; daily reinforce positive behavior through non-verbal/verbal communication; daily preferential seating; as needed occupational therapy consult; as needed assistive technology consult; and periodic speech/language pathologist consult.
3. While there is documentation that the student was provided with a word bank on November 9, 2022, guided notes for a lesson on the seasons, adult proximity control, and prompts to stay on task from May 19, 2023, to June 9, 2023, there is no documentation that the student was provided with all accommodations consistently for the 2022- 2023 school year.

CONCLUSIONS:

Based upon the Findings of Facts #1 - #3, MSDE finds that the AACPS has not ensured that the student has been consistently provided their accommodations, as required by the Individualized Education Program (IEP), since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

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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, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.¹ 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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student Specific

MSDE requires the ACPS to provide documentation by October 1, 2023, that the student is being consistently provided with the accommodations required by his IEP and that the IEP team has convened and determined whether the violation related to the lack of the provision of consistent accommodations 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 remedies 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.


School Based

MSDE requires the AACPS to provide documentation by November 1, 2023, of the steps taken to ensure that the violations regarding the lack of the provision of accommodations do not recur at [REDACTED] School. Those steps must include staff development, as well as tools created to document and monitor the implementation of special education instruction and supports. A monitoring report of students with IEPs reflecting the implementation of special education accommodations and supplementary aids and services must be submitted to MSDE by November 1, 2023, January 31, March 31, and May 31. Full compliance is required.

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

¹ 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.

² 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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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, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC: sd

c: Mark Bedell

Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Sarah Denney
Paige Bradford
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