



Mohammed Choudhury
State Superintendent of Schools

July 29, 2022

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[REDACTED]
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Ms. Diane McGowan
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RE: [REDACTED]
Reference: #22- 176

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 June 2, 2022, the MSDE received a complaint from Mr. [REDACTED] and Mrs. [REDACTED], hereafter “the complainants,” on behalf of their daughter, 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.

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██████████
Ms. Sonya McElroy
Ms. Diane McGowan
July 29, 2022
Page 2

The MSDE investigated the following allegations:

1. The AACPS did not follow proper procedures when disciplinarily removing the student from school between June 4, 2021, to June 15, 2021, in accordance with 34 CFR §§300.530 – 300.536, COMAR 13A.08.03, and COMAR 13A.05.01.10.
2. The AACPS did not follow proper procedures when determining the student’s educational placement for the 2021- 2022 school year, in accordance with 34 CFR §§300.114 - .116 and .321.

BACKGROUND:

The student is twelve years old and is identified as a student with multiple disabilities: specific learning disability and other health impairment under the IDEA. She attends ██████████ ██████████ 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 prior to June 4, 2021, required that she receive special education services inside the general education classroom for 8 hours weekly, special education services outside the general education classroom for 3 hours 45 minutes weekly, and counseling services outside the general education classroom for two 30 minutes sessions monthly.
2. On June 4, 2021, and June 10, 2021, school staff sent the parents correspondence informing them that the student was suspended from ██████████ School for less than ten days, Friday, June 4, 2021, through Tuesday, June 14, 2021, the behavior incident, “Attacks by Student, Category II,” took place on Monday, June 4, 2021.
3. There is documentation that during the disciplinary removal, the student was provided educational services with virtual learning.
4. On June 22, 2021, the parents were notified by the AACPS Regional Assistant Superintendent of the ██████████, ██████████, Ed.D., that the suspension that resulted from the incident on June 4, 2021, was being removed from the student’s record. Dr. ██████████ stated, “I have determined, after reviewing the facts, that a step was missing regarding expected procedures followed by the school. As a result of my investigation of this incident, I am going to reverse the school’s decision and remove the suspension from the student’s record.”

4. On July 14, 2021, the AACPS Assistant Superintendent for ██████████, ██████████ sent a letter to the parents stating the following:

“Based on information provided to my office, your child will be placed at ██████████ School as an administrative transfer for the 2021- 2022 school year. The reason for the transfer is due to adjustment concerns.”

Both ██████████ School and ██████████ School are comprehensive public ██████████ schools.

5. There is no documentation that the AACPS proposed a change in the student’s placement.

CONCLUSIONS:

ALLEGATION #1: Disciplinary Removal

IDEA and COMAR provide specific protections to students with disabilities who are removed from school in excess of ten school days in a school year (34 CFR §300.530 and COMAR 13A.08.03.08). Therefore, based on the Findings of Facts #1- #4, the disciplinary protections do not apply, in accordance with 34 CFR §§300.530 – 300.536, COMAR 13A.08.03, and COMAR 13A.05.01.10. This office does not find that a violation occurred with respect to allegation #1.

ALLEGATION #2: Determining The Student’s Placement

Based on the Finding of Fact #5- #7, the MSDE finds that the AACPS followed proper procedures when determining the student’s educational placement during the 2021- 2022 school year, in accordance with 34 CFR §§300.114 - .116 and .321. Therefore, this office does not find that a violation occurred with respect to allegation #2.

TIMELINE:

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 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

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[REDACTED]
Ms. Sonya McElroy
Ms. Diane McGowan
July 29, 2022
Page 4

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. 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:sd

c:

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