



Mohammed Choudhury
State Superintendent of Schools

July 29, 2022

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RE: [REDACTED]
Reference: #22- 178

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 6, 2022, the 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.

The MSDE investigated the following allegations:

1. The AACPS has not ensured that the student's science long-term substitute teacher has access to the student's individualized Education Program (IEP) and, as a result, has not ensured that the student's IEP was implemented in that class starting from April 20, 2022, in accordance with 34 CFR §§300.101 and .323.
2. The AACPS has not ensured that the student has been consistently provided with the special education supports as required by the IEP since the start of the 2021-22 school year, in accordance with 34 CFR §§300.101 and .323. Specifically, the following was alleged:
 - a. The student was not consistently provided with home communication;
 - b. The student was not consistently provided with pre-teaching of vocabulary words;
 - c. The student was not consistently provided with an interpreter, closed-captioning, and note-taking; and
 - d. The student was not consistently provided with check-ins for understanding to ensure that he has heard and understood orally presented information.

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, developed on January 14, 2022, requires the student to be provided with supplementary aids, services, program modifications, and supports including:
 - daily home-school communication;
 - including closed-captioning of multimedia passages;
 - a human signer for test directions, notes, and outlines; and
 - daily check-ins for understanding.
2. The AACPS acknowledges that there is no documentation that demonstrates the student's science long-term substitute teacher had access to or knowledge of the student's IEP.

3. The AACPS acknowledges that there is no documentation that the student has been provided with the special education supports as required by the IEP since the start of the 2021-2022 school year.

CONCLUSIONS:

ALLEGATION #1: Substitute's Access to the Student's IEP

Based upon the Finding of Fact #3, the MSDE finds that the AACPS did not ensure that the student's science long-term substitute teacher had access to the student's IEP and, as a result, did not ensure that the student's IEP was implemented in that class starting from April 20, 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to allegation #1.

ALLEGATION #2: Provision of Supplementary Aids, Services, Program Modifications, and Supports

Based upon the Findings of Fact #1- #2, the MSDE finds that the AACPS did not ensure that the student was provided with supplementary aids, services, program modifications, and supports required by the IEP from, the start of the 2021- 2022 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to allegation #2.

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.¹ This office will follow up with the public agency to ensure that it

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.

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██████████
Ms. Sonya McElroy
Ms. Diane McGowan
July 29, 2022
Page 4

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

The MSDE requires the AACPS to provide documentation by October 1, 2022, that the student's IEP is accessible to each service provider who is responsible for implementing it and that the student is being provided with the supplementary aids, services, program modifications, and supports, including:

- home-school communication;
- including closed-captioning of multimedia passages;
- a human signer for test directions, notes, and outlines; and
- daily check-ins for understanding.

The MSDE requires the AACPS to provide documentation that the IEP team has convened and determined whether the violation related to the lack of supplementary aids, services, program modifications, and supports 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.

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 AACPS to provide documentation of the steps taken to ensure that the violation does not recur at ██████████ School. Those steps must include staff development, as well as tools created to document and monitor the provision of IEPs to staff members, IEP supports, and services to students with disabilities attending ██████████

² 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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██████████
Ms. Sonya McElroy
Ms. Diane McGowan
July 29, 2022
Page 5

██████████ School. The MSDE further requires the submission of three months of the completed monitoring tool for a random sample of students.

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, 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: Mark Bedell
Jennifer Brown
██████████
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Sarah Denney