



August 8, 2022

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #22- 187

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 9, 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 ensured that the Individualized Education Program (IEP) contains appropriate measurable goals and a statement of the student’s present levels of academic achievement and functional performance since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.320.
2. The AACPS did not provide the parent with access to the student’s education record prior to the May 24, 2022, IEP team meeting, in accordance with 34 CFR §§300.501 and .613.

[REDACTED]
Ms. Sonia McElroy
Ms. Diane McGowan
August 8, 2022
Page 2

3. The AACPS did not ensure that accessible copies of each document the IEP team planned to discuss at the IEP team meetings on May 24, 2022, were provided at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03B(9); (20-063)(20-008).
4. The AACPS has not ensured that the IEP team addressed the parent's concerns regarding the student's social-emotional needs since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324.

BACKGROUND:

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

ALLEGATION #1: AN IEP THAT CONTAINS APPROPRIATE PRESENT LEVELS AND MEASURABLE GOALS

Findings of Facts:

1. The student's IEP, developed on December 11, 2020, includes Present Levels of Academic Achievement and Functional Performance indicating that the student's expressive and receptive language and sensorimotor skills are areas that impact his academic achievement and/ or functional performance. The student had one goal for expressive language and one goal for receptive language. The IEP team determined that an annual IEP goal was not necessary for the student to address his sensorimotor skills and determined that the area of need could be addressed through "multiple and frequent movement breaks or self-regulation and sustained attention to the task."
2. Progress reports completed for the student on The student was marked as making quarterly progress on the expressive language goal on January 29, 2021, April 14, 2021, June 18, 2021, and November 12, 2021, indicate that the student was marked as making sufficient progress on his the expressive language goal annual IEP goal. While the progress reports completed for the student indicate that he was making progress towards his receptive language goal on January 29, 2021, April 14, 2021, and June 18, 2021, the November 12, 2021, progress report indicates that the student was not making sufficient progress towards that annual IEP goal at that time.
3. The student's IEP, developed on November 30, 2021, includes Present Levels of Academic Achievement and Functional Performance indicating that the student's expressive language and sensorimotor skills are areas that impact his academic achievement and/ or functional performance. The student struggled when he was presented one picture and needed to state a category and when asked to describe the parts of an object. The student also

struggled to answer inferential questions, guess an item based on a description, listen for specific details, and sort pictures by feature. The expressive language goal to address the area of need was “using a visual aide, the student will describe items by 3-5 attributes not based on a picture”, the receptive language goal to address the area of need was “with access to a visual aid, the student will listen to a description of an item (using 3-5 attributes) and label who or what was being described.” The student’s sensorimotor needs required the student have frequent movement breaks, repetition of directions and checks for understanding. The sensorimotor areas of need were addressed with accommodations, supplementary aids, services, and goals. Progress reports completed for the student on January 28, 2022, and May 24, 2022, indicate that the student was marked as making sufficient progress on each of his annual IEP goals.

Conclusion:

Based on the Findings of Facts #1 to #3, the MSDE finds that the AACPS has ensured that the IEP developed for the student contained appropriate measurable goals and a statement of the student’s present levels of academic achievement and functional performance in each area of need since the start of the 2021- 2022 school year, in accordance with 24 CFR §300.320. Therefore, this office finds that no violation occurred with respect to this allegation.

Allegation #2: ACCESS TO THE STUDENT’S EDUCATIONAL RECORDS

Findings of Facts:

4. On June 1, 2022, the parents sent an email to AACPS staff requesting access to the student’s speech logs. There is no documentation of any other requests for access to the student’s educational records at any other time during the 2021- 2022 school year.
5. On June 2, 2022, the AACPS staff denied the parent’s request for access to the student speech logs stating, “student logs are not to be copied and/ or distributed.” However, on June 7, 2022, the parents were permitted to view the speech logs.

Conclusion:

Based on the Findings of Facts #4 and #5, the MSDE finds that there was no documentation of a request to access to the student’s record prior to June 1, 2022. The initial AACPS response on June 2, 2022, was improper, however, on June 7, 2022, the AACPS followed appropriate procedures when responding to the request to access the student’s educational records in accordance with 34 CFR §§300.501 and .613. Therefore, this office finds that no violation occurred with respect to this allegation.

ALLEGATION #3: PROVISION OF DOCUMENTATION PRIOR TO THE IEP MEETING

Findings of Facts:

6. On May 18, 2022, the AACPS staff provided the parents with copies of an academic, psychological, and speech/language assessment completed for the student to be reviewed by the IEP team at a meeting planned for May 24, 2022.
7. On May 24, 2022, the IEP team met for the student to review the academic, psychological, and speech/language assessments completed for the student.

Conclusion:

Based on Findings of Facts #6 and #7, the MSDE finds that the AACPS did not ensure that accessible copies of the documents that the IEP team planned to discuss at the IEP team meeting on May 24, 2022, were provided at least five business days before the scheduled meeting in accordance with COMAR 13A.05.01.03B(9) . Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #4: ADDRESSING THE STUDENT'S SOCIAL/ EMOTIONAL NEEDS

Finding of Fact:

8. During an IEP team meeting on March 24, 2022, the parents raised concerns regarding the student's social and emotional skills. While the PWN generated following the IEP team meeting described the parent's concerns, it does not reflect a response from the IEP team to those concerns.

Conclusion:

Based on Finding of Fact #8, the MSDE finds that the AACPS has not ensured that the IEP developed for the student addresses the student's social/emotional needs or the parent's concerns regarding the student's social/emotional needs, since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation 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.

Ms. Sonia McElroy
Ms. Diane McGowan
August 8, 2022
Page 5

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 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 it has convened an IEP team meeting to consider the parents' concerns regarding the student's social/emotional needs. As the student has since been dismissed from special education, the team will need to consider the student's eligibility for special education and related services based on the information provided by the family, information obtained from the student's performance since his dismissal from special education, and any additional information the team determines necessary at the time of the meeting.

The MSDE further requires the AACPS to provide documentation by October 1, 2022, that the IEP team has convened and determined whether the violation related to the lack of addressing the student's social emotional needs 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.

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 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. Sonia McElroy
Ms. Diane McGowan
August 8, 2022
Page 6

School Based

The MSDE requires AACPS to provide documentation of the steps taken to ensure that the violation does not recur at ██████████ specifically responding properly to a parental request for records and to ensure that the PWN properly documents parental concerns and the IEP team response to those concerns. Those steps must include staff development including tools to aid in the provision of documents five days prior to IEP meetings at ██████████

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 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
██████████
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Sarah Denney