



November 18, 2022

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #23-058

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 October 5, 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.

Based on your correspondence, the MSDE is investigating the following allegations:

1. The AACPS did not ensure that the student’s Individualized Education Program (IEP) contained annual goals designed to meet the student’s identified needs from September 22, 2021, to November 17, 2021, in accordance with 34 CFR §300.320.¹
2. The AACPS did not provide a written invitation to the IEP team meeting held on November 17, 2021, that contained information about the dismissal of IEP services in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D (20-063).
3. The AACPS has not followed proper procedures in identifying and evaluating the student to determine if he requires special education services under IDEA, in accordance with 34 CFR §§300.111, and .301-.311.

¹ As of November 17, 2021, the student was no longer eligible as a student with a disability under the IDEA.

4. The AACPS did not follow proper procedures when responding to a request for an IEP team meeting on June 7, 2022, in accordance with 34 CFR §300.503.

BACKGROUND:

The student is ten (10) years old and is identified as a student with Autism under the IDEA. He attends [REDACTED] School and had an IEP that required the provision of special education instruction and related services. He was dismissed from special education services on November 17, 2021.

ALLEGATION #1: Annual Goals

FINDINGS OF FACTS:

1. The student's IEP, developed on September 22, 2021, reflects learning behaviors and articulation as areas that impact the student's academic achievement and/or functional performance.
2. The student's IEP, developed on September 22, 2021, reflects measurable goals in the areas of learning behaviors and articulation.

CONCLUSIONS:

Based upon the Findings of Facts #1 and #2, the MSDE finds that the AACPS did ensure that the student's IEP contained annual goals designed to meet the student's identified needs from September 22, 2021, to November 17, 2021, in accordance with 34 CFR §300.320.² Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #2: Invitation to IEP Team Meeting

FINDINGS OF FACTS:

3. There is documentation of a written invitation to the IEP team meeting held on November 17, 2021, dated November 3, 2021, that reflects that the purpose of the meeting was to review the reevaluation information and determine continued eligibility.
4. The Prior Written Notice (PWN) generated after the November 17, 2021, IEP team meeting reflects the IEP team's decision to dismiss the student from IEP services.

CONCLUSIONS:

Based upon the Findings of Facts #3 and #4, the MSDE finds that the AACPS did provide a written invitation to the IEP team meeting held on November 17, 2021, that contained information about the dismissal of IEP services in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D (20-063). Therefore, this office does not find that a violation occurred with respect to this allegation.

² As of November 17, 2021, the student was no longer eligible as a student with a disability under the IDEA.

ALLEGATION #3: Identification and Evaluation of Student

FINDINGS OF FACTS:

5. The PWN generated after the September 29, 2021, IEP team meeting reflects the IEP team's decision that updated assessments were warranted at the time to determine appropriate present levels of performance as well as to determine the presence of an educational disability.
6. The Student Evaluation Plan developed on September 29, 2021, indicates that intellectual/cognitive and social/ emotional behavioral, developmental assessments would be conducted by the school psychologist, academic assessments would be conducted by the special educator, and communication assessments would be conducted by the speech and language pathologist.
7. The Psychological Assessment report that was completed on November 10, 2021, reflects that the student did not have an emotional condition or characteristics of an intellectual disability.
8. The Academic Assessment report that was completed on October 20, 2021, reflects that the student was given the Woodcock Johnson IV (WJIV). The student scored in the average or high average range for all of the subtests that were administered.
9. The Record of Observation– Math report that was completed on November 16, 2021, reflects that there were no specific learning deficits exhibited by the student. The student exhibited typical behaviors and was able to complete grade-level tasks independently.
10. The Communication Assessment report that was completed on November 9, 2021, reflects that the student scored in the average or high average range for the tests that were administered, with the exception of following directions, which was an area of weakness.
11. The Comprehensive Evaluation Review report that was completed, reviewed, and agreed upon by the IEP Team on November 17, 2021, reflects that the student does not have a specific learning disability and that he no longer meets eligibility requirements for special education services and will be dismissed from all services.
12. The PWN generated after the September 14, 2022, IEP team meeting reflects a parental request for an Independent Educational Evaluation (IEE) as well as a referral for an initial IEP evaluation.
13. There is documentation dated September 19, 2022, from the AACPS system to the complainant indicating the AACPS agreement to pay for an IEE.

CONCLUSIONS:

Based upon the Findings of Facts #5- #13, the MSDE finds that the AACPS did follow proper procedures in identifying and evaluating the student to determine if he requires special education services under IDEA, in accordance with 34 CFR §§300.111, and .301-.311. Therefore, this office does not find that a violation has occurred with respect to this allegation.

Ms. Sonia McElroy
Ms. Diane McGowan
November 18, 2022
Page 4

ALLEGATION #4: Request for an IEP Team Meeting

FINDINGS OF FACTS:

14. On June 7, 2022, the complainant emailed the AACPS staff requesting “an IEP evaluation for the next school year.” On the same date, the AACPS responded to the complaint stating that a “team meeting could be scheduled for the beginning of the year to review the evaluation process again.”
15. On June 9, 2022, the complainant emailed the AACPS staff, stating that they “can plan to meet at the beginning of next year.”
16. There is documentation that an IEP team meeting took place on September 14, 2022.

CONCLUSIONS:

Based upon the Findings of Facts #14- #16, the MSDE finds that the AACPS did follow proper procedures when responding to a request for an IEP team meeting on June 7, 2022, in accordance with 34 CFR §§300.503. Therefore, this office does not find that a violation occurred with respect to this allegation.

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 (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
Gerald Loiacono

Alison Barmat
Sarah Denney

Diane Eisenstadt