



August 21, 2023



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

RE:
Reference: #23-267

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 22, 2023, the MSDE received a complaint from Ms. hereafter, “the complainant,” on behalf of 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. MSDE investigated the following allegations:

1. The AACPS has not ensured that the student has been consistently provided with the speech/language services 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.
2. The AACPS did not ensure that the IEP team considered the parent information and concerns at the IEP meetings held in November 2022 and March 2023, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is ten years old and attends Elementary School. He is identified as a student with Autism under the IDEA and has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The IEP in effect at the beginning of the 2022-2023 school year, developed on June 16, 2022, reflects areas affected by the disability: Reading - Comprehension, Math Problem Solving, Written Expression, Math Calculation, Fine/Visual Motor, Expressive/Receptive Language, and Pragmatic Language. The IEP

- requires speech and language therapy services as a related service, twice each week for thirty minutes per session.
2. During the 2022-2023 school year, the student received virtual speech/language services. To receive these virtual services a temporary support assistant (TSA) transitioned the student to a location outside of the classroom to receive speech/language services. The TSA remained with the student while services were provided, supported the implementation of the services, and transitioned the student back to class at the end of the session.
 3. The speech services log reflects the student missed 23 speech sessions as a result of not having a TSA to support the student during virtual speech/language therapy sessions.
 4. The IEP team met on November 17, 2022, to review/revise the IEP and to determine the student's eligibility for extended school year (ESY) services. The prior written notice generated following the meeting reflects that the IEP team proposed and agreed that "missed service hours due to staffing issues will be recovered" for speech/language services. The IEP team also addressed parent concerns regarding: the written expression goal, impact of adult support, relationship between lack of progress on IEP goals, and retention, the impact of alternative curriculum classroom versus the general education classroom, observation of the student by the private provider, and make-up speech services.
 5. The speech service log reflects that the Speech Language Pathologist (SLP) provided the student make-up services starting on January 12, 2023. The student received eleven make-up sessions from January 12, 2023, through March 2023.
 6. On March 20, 2023, the IEP team met to complete an annual review of the student's IEP. The IEP developed on March 20, 2023, reflects areas affected by the disability Reading - Comprehension, Math Problem Solving, Written Expression, Fine/Visual Motor, and Expressive/Receptive Language. The IEP requires that the student receive speech/language therapy as a related service, twice a week for thirty minutes per session.
 7. During the IEP team meeting convened on March 20, 2023, the parents shared the following input and concerns with the IEP team:
 - a. The parent informed the team that the family reads shorter texts at home as the student is more receptive to shorter stories. They noticed reading assignments are very lengthy, the student likes to draw, and the student does better when responding to specific questions. The parents like the way the SLP stretches out a question to prompt the student for an answer.
 - b. The parents shared concerns regarding how the student responds when he doesn't want adult support. In response the team stated that the student is provided with a break and time to process information. Staff checks in with the student proper to resume the task.
 - c. The parents shared concerns regarding the amount of time the student works with the Special Educator and his use of a calculator. In response, the team stated that the student works with the Special Educator daily for 30 minutes outside of the classroom for Reading support and two hours of pull out sessions per week for math. The student also works with the Special Educator, in the general education setting for math, science, and social studies. The Special Educator confirmed the student has access to a calculator for classroom work and statewide/district assessments, and he always attempts to do his work.
 - d. The parents shared concerns with the manipulatives used by staff to support the student. In response, the IEP team provided the parents with a link with Partners for Learning for Common Core Academic Vocabulary. The team also provided an example of a math problem and how the problem is taught to the student.

- e. The parents shared concerns regarding the student "shutting down". In response, the student's Special Educator stated that the student does not "shut down" and usually attempts work and repeats directions provided.
 - f. The parents asked for confirmation that the student's private occupational therapist would be allowed to observe the student. The IEP team confirmed that the observations would be completed.
 - g. The parents shared additional concerns related to the student's setting for speech/language services and the services missed earlier in the school year. In response, the IEP team explained that the student's contractual provider would be consulting with an AACPS speech/language pathologist.
 - h. The parents shared concerns related to the student's disability and his participation in the general education setting, particularly his ability to complete assignments and his rate of progression. In response, the IEP team described the student's involvement in the fourth grade curriculum, specifically that it is a challenge for him, but that he is able to complete and turn in assigned work. The IEP team recommended that the student receive extended school year services to ensure that the student does not regress during breaks.
 - i. The parents shared concerns related to the student's need for an amplification device. The IEP team informed the parent that the student speaks very softly at school and, at times, whispers his responses. The SLP shared that because services are provided virtually the student has a microphone which allows her to hear him. Additionally, the SLP shared she models appropriate volume, and they will work more on this during their sessions.
 - j. During the IEP team meeting, the parent proposed that a Functional Behavior Assessment (FBA) be completed for the student. The IEP team informed the parents that an FBA will not be conducted since the student does not require a Behavioral Intervention Plan (BIP). Regarding the parent's concerns about not interacting with his peers, parents were informed that the FBA is typically for students whose behaviors are negative and are impacting their academics. The team acknowledges that the student may need a behavior goal when he gets older. Additionally, the Special Educator shared that the in-class observation of the student was only for 30 minutes and may not be a true reflection of the student's day. The Special Educator reported the student interacts with peers, but he may not communicate with his peers. The Special Educator said that it may be difficult for the student to carry over peer engagement to the classroom. The SLP shared she is working with the student to engage more with peers, the student requires prompting and it may be overwhelming for the student to interact with his peers and working on conversational goals in speech.
8. On June 6, 2023, and June 9, 2023, the SLP met with the complainant to discuss compensatory services. The prior written notice provided to the parents following the meeting reflects that the student missed twenty-two sessions of SLP services during the 2022-2023 school year "due [to] no available staff to pull students for virtual speech therapy services[.] 11 of the 22 sessions were made up." The SLP proposed that the student would receive six additional sessions of compensatory speech/language services "to future integrate the AAC device into sessions".
 9. On June 12, 2023, the complainant emailed the AACPS stating that: "[the student] has goals that were not met and/or showed no progress on top of the missing speech visits and we just wanted to know, what resources do you suggest given the limited time that we have to prepare [the student] for the new school year?" The complainant requested a copy of the student's SLP service logs.
 10. On June 12, 2023, the SLP emailed the complainant and informed her that "we continue our normal services, and compensatory services are then discussed at the end of the school year. Since those services are offered based on students' progress toward his/her IEP [and] we need the data to decide what is appropriate. Please let me know if you want to do another call regarding compensatory

services and how you want to move forward with proposed services. This is an open discussion so please let me know your thoughts.” The SLP provided a copy of the SLP logs to the complainant, and asked if the complainant would like to schedule a meeting to discuss the logs.

11. There is no documentation, to date, that the IEP team has convened to discuss the proposal of compensatory services to remediate the missed speech and language services.

ALLEGATION #1: PROVISION OF SPEECH AND LANGUAGE SERVICES

Based on the Finding of Facts #1 to #11, MSDE finds that the AACPS has not ensured that the student has been consistently provided with the speech/language services 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.

Additionally, based on the Finding of Facts #5 and #8 to #11, MSDE notes that while the AACPS has taken steps to partially remediate the violation by making up some of the missed services, this process has not been completed. Therefore, additional corrective action is necessary to remediate the violation.

ALLEGATION #2: CONSIDERATION OF PARENT INFORMATION AND CONCERNS AT THE IEP MEETINGS HELD IN NOVEMBER 2022 AND MARCH 2023

Based on the Finding of Facts #2, and #10, MSDE finds that the AACPS considered information from the parent and responded to parent concerns during IEP team meetings in March 2022, and November 2023 in accordance with 34 CFR §300.324. Therefore, this office does not find 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.

The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner. 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. Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific:

MSDE requires the AACPS to provide documentation by October 15, 2023, that the IEP team has convened and determined the compensatory services, or other remedy to redress the lack of provision of related services to the student. The IEP team must also develop a plan for the provision of those services within one year of the date of this Letter of Findings. AACPS must ensure that the complainant is provided with written notice of the team’s decisions.

Ms. Diane McGowan

August 21, 2023

Page 5

School-Based:

MSDE requires the AACPS to provide documentation by November 1, 2023, that it has identified all students with disabilities under IDEA attending the student's school who did not receive the speech and language services required by their IEPs during the 2022-2023 school year. For those students identified, the AACPS must ensure that if these services were not made up, an IEP team convenes and determines the amount and nature of compensatory services or other remedy to be provided to the student for the loss of services and develops a plan for the provision of those services within one year of the date of this Letter of Findings. If a student transfers to another school system prior to the completion of the provision of the remedy, the AACPS must coordinate with the public agency responsible for the education of the student in order to ensure that the remedy is provided.

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,

Dr. Deann Collins

Deputy Superintendent

Division of Early Intervention/Special Education Services

c: Mark T Bedell
Ruth Avizad
[REDACTED]
Alison Barmat
Gerald Loiacono
Rabiatu Akinlolu
Diane Eisenstadt
Paige Bradford
Nicol Elliott