

February 2, 2024

Redacted¹

Ms. Diane McGowan
Director, Specially Designed Instruction
and Compliance
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland 21401

RE: [REDACTED]
Reference: #24-091

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 November 3, 2023, MSDE received a complaint from 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's progress towards obtaining annual Individualized Education Program (IEP) goals was measured in the manner required by their IEP, since July 2023, in accordance with 34 CFR §§300.320 and .323.
2. The AACPS has not ensured that the student was provided with the support of a dedicated adult assistant and other behavioral supports, as required by their IEP, since July 2023, in accordance with 34 CFR §§300.101 and .323.

¹ At the complainant's request, their name and contact information will not be shared with the local education agency.

3. The AACPS has not ensured that the IEP developed for the student addresses their academic and behavioral needs, since July 2023, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is 11 years old and is identified as a student with Intellectual Disability under the IDEA. He was placed by AACPS at [REDACTED], a nonpublic special education program and has an IEP that requires the provision of special education services.

FINDINGS OF FACTS:

1. The student's IEP in July 2023, was created on July 10, 2023, the IEP reflects identified needs in the areas of math problem solving, math calculation, reading comprehension, reading phonics, expressive/receptive language, written language expression, self- management, and sensorimotor. The IEP requires goals aimed at addressing math calculation, reading phonics, expressive/receptive language, written language expression, self- management, and sensorimotor. The IEP reflects that the student participates in alternate state assessments and follows alternate academic achievement standards.
2. The July 10, 2023 IEP requires the student to be provided with 29 hours and 30 minutes weekly of specialized instruction outside of the general education classroom at a private day school and 30 minutes per week of speech and language services outside of the general education classroom as a related service.
3. The July 10, 2023 IEP's Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflects the student's challenges due to his disability, stating it significantly affects involvement in the general educational curriculum without accommodations and modifications to meaningfully access, engage, participate fully with and/or in grade level learning activities and to effectively communicate what he knows and/or has learned. The student takes in information and communicates what he can and has learned when he is able to use a variety of modalities to demonstrate and perform according to the grade level expectations of peers typical for his age and grade level. Without accommodations and modifications, he demonstrates difficulty taking in, using, recalling information, and/or applying his learning to build upon his existing/previous skill base as would be expected per the standards and expectations for those in the general education curriculum. The student is an English Learner and a native Spanish speaker.
4. The July 10, 2023 IEP reflects the student requires the following supplementary aids and supports to assist with his behavior daily: frequent opportunities for movement, access to manipulatives and sensory activities including, the use of a BIP, advance notice of schedule changes, crisis intervention, shared adult support to support transitions, academic tasks, behavior replacement/strategies, and behavior management as needed across settings. There is documentation that the student received these supports since July 2023, as required by the IEP.
5. The July 10, 2023 IEP requires the student to be provided with instructional supports, program modifications, social/behavioral supports, and support from both school personnel and parents to

access a modified general education curriculum. The IEP further reflects that the student requires daily adult support from the special education teacher or classroom staff to support transitions, academic tasks, and behavior management as needed across settings.

6. While the student's July 10, 2023 IEP requires him to be provided with daily adult support from the special education teacher or classroom staff, there is no documentation that the student requires the support of a dedicated adult assistant.
7. The July 10, 2023 IEP requires the implementation of a Behavior Intervention Plan (BIP). The March 4, 2022 BIP is reflected in this IEP, and it addresses behaviors of "attention seeking, tangible, and control."
8. The July 10, 2023 IEP's PLAAFP reflects that in the area of reading phonics, the student functions on a "kindergarten level." He displays strengths in identifying high frequency sight words; however, the student is not able to apply letter-sound knowledge to read CVC (consonant/vowel/consonant) words.
9. The July 10, 2023 IEP reflects the student's academic goal in the area of reading phonics. The goal states: "During structured individual and group reading activities and with prompting, redirection and appropriate wait-time, [the student] will use letter-sound knowledge to read CVC words." However, this goal does not align with grade-level Maryland College and Career Ready Standards (MCCRS) or Essential Elements.
10. The report of the student's progress dated October 2023, for the student's annual reading phonics goal reflects that the student did not make sufficient progress to meet the goal. The progress report reflects that the goal was measured in the manner required by the IEP.
11. The July 10, 2023 IEP's PLAAFP does not reflect the student's current instructional grade level of performance in the area of written language expression; however, it reflects the student requires picture-supplemented word bank, large-print templates, sentence frames with words strategically omitted.
12. The July 10, 2023 IEP reflects the student's academic goal in the area of written language expression. The goal states: "During structured individual and group writing activities, with prompting, redirection and appropriate wait-time [the student] will produce written products by choosing a word(s) to complete a sentence that responds to the explicitly stated question or to describe a picture or scenario from the curriculum." However, this goal does not align with grade-level MCCRS or Essential Elements.
13. The report of the student's progress dated October 2023, for the student's annual written expression goal reflects that the student achieved the goal. The progress report reflects that the goal was measured in the manner required by the IEP.
14. The July 10, 2023 IEP's PLAAFP reflects that in the area of math calculations, the student functions on a "pre-kindergarten level." He needs support in consistently identifying numbers 11 through 20.

15. The July 10, 2023 IEP reflects the student's academic goal in the area of math calculation. The goal states: "During structured individual and group math activities and with prompting, redirection and appropriate wait-time, [the student] will demonstrate understanding of the relationship between numbers and quantities to 20 (connect counting to cardinality)." However, this goal is not aligned with grade-level MCCRS or Essential Elements.
16. The report of the student's progress dated October 2023, for the student's annual math calculation goal reflects that the student made sufficient progress to meet the goal. The progress report reflects that the goal was measured in the manner required by the IEP.
17. The July 10, 2023 IEP's PLAAFP reflects that in the area of self-management, the student performs "significantly below age and grade-level expectations." The student displays behaviors of aggression, hitting, kicking, spitting, biting, and grabbing towards others. These behaviors arise when the student struggles to control impulsivity, particularly when unable to obtain desired items or for reasons unknown. Additionally, the student exhibits self-injurious behaviors, such as hitting head, heels, and hands on the floor, walls, and furniture, which are suggested to occur out of frustration, for attention-seeking, or for reasons that are not immediately discernible.
18. The July 10, 2023 IEP reflects the student's academic goal in the area of self-management. The goal states: "With adult support, visuals and prompting, [the student] will demonstrate appropriate and safe behaviors for learning and interacting with peers and adults in all school activities by following school rules and expectations."
19. The report of the student's progress dated October 2023, for the student's annual self-management goal reflects that the student made sufficient progress to meet the goal. The progress report reflects that the goal was measured in the manner required by the IEP.
20. On January 2, 2024, the IEP team met to update the annual IEP for the student. The IEP team completed the Appendix A and determined the student continues to meet eligibility criteria to participate in the Alternate Framework. The IEP team developed present levels of performance in the areas of behavior, expressive/receptive language, written expression, and math calculation. Additionally, the IEP team identified new areas of need, incorporating reading comprehension, reading vocabulary, math problem solving, and fine/visual motor skills into the student's present levels of performance.
21. During the January 2, 2024 meeting, the IEP team updated the student's BIP to provide positive behavioral interventions and supports and other strategies to address his behaviors in attention seeking, tangible, and control. The IEP team reviewed available data and determined the student no longer requires the use of physical restraint.
22. The January 2, 2024 IEP team determined that the student requires specific supplementary aids, services, and program modifications for instructional support. These include a picture schedule, providing alternative methods for the student to demonstrate learning, repetition of directions, monitoring independent work, allowing the use of organizational aids, modified content, modified assignments, pictures to support reading passages, and the use of a timer between transitions.

There is documentation that the student received the required support since January 2, 2024, as required by the IEP.

23. The January 2, 2024 IEP team determined that the student requires various supplementary aids, services, and program modifications for behavioral support. These include implementing a BIP to promote replacement behaviors and coping strategies. Other support measures involve advance preparation for schedule changes, adult support, checking for understanding, encouraging the student to ask for assistance when needed, maintaining frequent eye contact/proximity control, establishing a home-school communication system, providing frequent reminders of rules, utilizing positive and concrete reinforcers, reinforcing appropriate behavior in both academic and non-academic settings, crisis intervention, access to Social Stories and/or their integration into the schedule/routine, visual supports, and the provision of clear, concise directions/directives. Manipulatives and sensory activities are provided to promote listening and focusing skills. There is documentation that the student is receiving the required supports since January 2, 2024, as required by the IEP.
24. The January 2, 2024 IEP's PLAAFP reflects in the area of written expression, the student's instructional grade level of performance is at a "kindergarten level." The student is able to fill in the blank when a question or scenario is presented to him. He shows a higher level of accuracy when the picture support is presented with the word.
25. The January 2, 2024 IEP includes the student's written expression goal. The goal states: "By December 2024, [the student] will consistently demonstrate the ability to write known words, including their name and four reading vocabulary words, in 4 out of 5 trials as measured by classroom data collection." However, this goal does not align with grade-level MCCRS or Essential Elements.
26. The January 2, 2024 IEP's PLAAFP reflects in the area of math problem solving, the student's instructional grade level of performance is at a "kindergarten level."
27. The January 2, 2024 IEP includes the student's math problem solving goal. The goal states: "By December 2024, given tasks bins of filling an order with picture cards of items, Eduin will use 1:1 correspondence to fill an order of 2 different items with 1:1 correspondence by counting up to 10 like items in 3 out of 5 trials with no more than 2 verbal and 2 gestural prompts, as measured by classroom data collection." However, this goal does not align with grade-level MCCRS or Essential Elements.
28. The January 2, 2024 IEP's PLAAFP reflects in the area of math calculation, the student's instructional grade level of performance is at a "kindergarten level." The student has not shown consistency in identifying numbers 1 to 20.
29. The January 2, 2024 IEP includes the student's math problem solving goal. The goal states: "By December 2024, given numbers from 1 to 20, [the student] will consistently demonstrate the ability to identify numbers from 1 to 20 in sequential order, achieving a success rate of 90% in 4 out of 5

trials, as measured by classroom data collection.” However, this goal does not align with grade-level MCCRS or Essential Elements.

30. The report of the student's progress dated January 5, 2024, reflected that all IEP goals were a “newly introduced skill and progress was not measurable at that time.” The IEP was created on January 2, 2024 and progress was not measurable.
31. There is documentation that the student was provided special education instruction and supports to provide him access to the general education curriculum since July 2023, as required by the IEP.

CONCLUSIONS:

ALLEGATION # 1

REPORTING OF PROGRESS

Based Findings of Facts #10, #13, #16, #19, MSDE finds the AACPS has ensured that the student's progress towards obtaining annual IEP goals was measured in the manner required by their IEP, since July 2023, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation did not occur with respect to this allegation.

ALLEGATION #2

PROVISION OF DEDICATED ADULT SUPPORT AND BEHAVIORAL SUPPORT

Based Findings of Facts #6, MSDE finds that the AACPS was not required to provide the student with the support of a dedicated adult assistant, as required by their IEP, since July 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this allegation.

Based Findings of Facts #4-#7, #21, #23, and #31 MSDE finds the AACPS has ensured that the student was provided with behavioral supports, as required by their IEP, since July 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this allegation.

ALLEGATION #3

IEP ADDRESSES STUDENT’S ACADEMIC AND BEHAVIORAL NEEDS

Based on Findings of Facts #1- #29, MSDE finds the AACPS has not ensured that the IEP developed for the student addresses their academic and behavioral needs, since July 2023, 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, MSDE

requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.² This office will follow up with the public agency to ensure that it completes the required actions consistent with 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 Sarah Denney, Complaint Investigator, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³ Ms. Denney can be reached at (410) 767-7770 or by email at sarah.denney@maryland.gov.

Student Specific

By April 1, 2024, AACPS must review and revise the student's IEP to ensure that the student's goals include grade level goals that are aligned with the essential elements of the MCCRS.

The IEP team must also determine whether the violations identified in this Letter of Findings regarding the inclusion of grade level aligned goals had a negative impact on the student's ability to benefit from the education program. If the IEP team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within one 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.

Similarly Situated Students

MSDE requires the AACPS to provide documentation by May 1, 2024, of the steps taken to ensure that all other AACPS students attending the Chimes School have IEPs that include grade level goals that are aligned with the essential elements of the MCCRS.

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

² 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, 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.

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/sj

c: Mark T. Bedel, Superintendent, AACPS
Sonya McElroy, Co-irector, Birth-5 Programs, Special Services and
Nonpublic Placement, AACPS
Jennifer Brown, Program Manager, Compliance and Legal Issues, AACPS
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