

July 17, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Debra Metheny
Director of Special Education
Allegany County Public Schools
108 Washington Street
Cumberland, Maryland 21502

RE: [REDACTED]
Reference: #24-240

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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.

ALLEGATION:

On June 7, 2024, MSDE received a complaint from [REDACTED], hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Allegany County Public Schools (ACPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student. MSDE investigated the allegation that the ACPS has not developed an Individualized Education Program (IEP) that addresses the student’s behavioral needs since March 2024, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is 21 years old and is identified as a student with Multiple Disabilities (Intellectual Disability, Speech-Language Impairment, Visual Impairment, and Other Health Impairment under the IDEA. He attends the [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The student’s IEP developed on September 12, 2023, reflects the areas impacted by the student’s disability as: academic-communication, math problem solving, and reading comprehension; health-orientation and mobility, and vision; and physical-fine motor.

In addition, the IEP reflects that the student participates in alternate state assessments and follows alternate academic achievement standards. It reflects that the student will receive a Maryland High School Certificate of Program Completion.

2. The September 12, 2023, IEP requires the student to be provided with 28 hours and 30 minutes weekly of specialized instruction outside of the general education classroom at a private separate day school, one hour a month of occupational therapy outside of the general education classroom, one hour a month of vision therapy outside of the general education classroom, 30 minutes a month of orientation and mobility outside of the general education classroom, and two hours per month of speech-language services outside of the general education classroom as a related service.
3. The September 12, 2023, IEP requires the student to be provided with instructional support, program modifications, social/behavioral support, physical/environmental support, and support from both school personnel and parents to access a modified general education curriculum. The IEP further reflects that the student requires close adult support (hereafter, an Instructional Aide (IA)) daily due to medical, safety, and academic needs throughout the day.
4. On February 28, 2024, the IA went on medical leave.
5. There is documentation that the student received adult support from an IA as required by the IEP from February 29, 2024, to March 7, 2024, which was the student's last day present in the school building.
6. There is no documentation of the student's behavior declining upon receiving a new IA.
7. On March 5, 2024, the IEP team convened to review assessments, determine continued eligibility, and review/revise the IEP as needed. The prior written notice (PWN) generated after the meeting reflects that the IEP team determined "the student continues to meet Individuals with Disabilities Education Act (IDEA) guidelines as a student with multiple handicaps and continues to warrant a more structured, supportive, and therapeutic learning environment." The complainant was not in attendance; however, permission was granted for the IEP team to proceed without him.
8. On March 8, 2024, a member of the school team called the complainant to address his concerns regarding a new IA assigned to the student. The school team member offered to have an in-person meeting with the complainant and the new IA. The complainant shared that he would let the school know the following week if the student would return to school.
9. On March 14, 2024, and April 4, 2024, the school provided the complainant with an "unexcused absence letter".

10. On April 9, 2024, a member of the school team called the complainant to discuss the student returning to school. The staff member “assured a trained staff will be with [the student] and will provide services.” It is noted that the complainant shared that he would call the school back by the end of the week to let the school know what the family decided.
11. On May 6, 2024, the school provided the parent with an “unexcused letter” stating the student was absent for 40 days.
12. On May 9, 2024, a Service Coordinator for the complainant emailed an ACPS IEP team member to inquire if the student could continue to work with his initial IA as it takes the student some time to build a trusting relationship with new people and that is a difficult transition for the student. The email also reflects the complainant was informed that he would be informed upon the return of the initial IA as they want the student to return to school but are nervous if he receives a new IA. They are also concerned that if the student saw his previous IA with another student that would trigger behaviors.
13. On May 10, 2024, the ACPS IEP team member responded that he understood the complainants wanted the student to work with the initial IA; however, “1:1 is a service and not a specific person,” and the initial IA was “placed in a different capacity per a school personnel decision.” The email reflects that the ACPS IEP team member shared that “they wanted the student back in school and offered to have an IEP meeting if the complainant would like.”
14. On June 3, 2024, the school provided the parent with an “unexcused letter” stating the student had been absent for 60 days.
15. On June 18, 2024, the student received his Certificate of Program Completion from ACPS.

CONCLUSION:

ALLEGATION

IEP THAT ADDRESSES BEHAVIORAL NEEDS

In this complaint, the complaint alleges that the student’s behavior started to decline at home due to his initial IA being on leave, however, there is no documentation to support a decline in the student’s behavior in the school setting during the seven days the student was without his initial IA.

Based upon the Findings of Fact #1 through #13, MSDE finds that the ACPS developed an IEP that addressed the student’s needs since March 2024, in accordance with 34 CFR §300.324. Therefore, this office finds a violation did not occur concerning the 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

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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: Jeffrey Blank, Superintendent, ACPS
██████████, Principal, ██████████, ACPS
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Stephanie James, Complaint Investigator, Dispute Resolution, MSDE