

July 30, 2024

Ms. Andrea LeWinter, Esquire  
Law Office of Nicole Joseph  
10421 Stevenson Road #443  
Stevenson, Maryland 21153

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

RE: [REDACTED]  
Reference: #24-257

Dear Parties:

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

**ALLEGATIONS:**

On May 31, 2024, MSDE received a complaint from Ms. Andrea LeWinter 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 the provision of reports of the student's progress towards achievement of the annual Individualized Education Program (IEP) goals, was based on the data collection method required by the IEP, since February 28, 2024, in accordance with 34 CFR §§ 300.101 and 323.
2. The AACPS has not ensured that the student is being provided with the special education classroom instruction, supplementary aids and services, related services, and transportation required by the IEP, since February 28, 2024, in accordance with 34 CFR §§ 300.101 and .323.

**BACKGROUND:**

The student is nine years old and is identified as a student with Multiple Disabilities (MD) under the IDEA. She attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

## **FINDINGS OF FACT:**

1. The IEP in effect on February 28, 2024, was developed on January 17, 2024, and amended on February 7, 2024, and February 28, 2024. The IEP requires eight hours per week of specialized instruction inside the general education setting.

The IEP requires supplementary aids, services, program modifications and supports:

- Daily – allow use of manipulatives, frequent and/or immediate feedback, monitor independent work, check for understanding, repetition of directions, use of word bank to reinforce vocabulary and/or when extended writing is required, picture schedule, reminders to wear her glasses during reading assignments, allow use of organizational aids, limit amount to be copied from board, opportunities for pre-teaching or re-teaching, have [Student] repeat/paraphrase information in her own words, pre-teaching of vocabulary in short and precise words, breakdown assignments into smaller units, use pictures to support reading passages whenever possible, frequent breaks for sensory break, use of timer, scheduled breaks for bathroom use, encourage student to ask for assistance when needed, home-school communication, gain attention prior to giving directions, adult support, social skills training, preferential seating, slant board, visual boundary at seat;
- As needed – emergency evacuation supports; and
- Periodically – psychologist consult.

The IEP requires Speech-Language services for thirty minutes per week, outside of the general education setting. The IEP requires Occupational Therapy (OT) for one hour per week outside of the general education setting.

The IEP reflects progress reports will be issued quarterly, with the following method of measurement:

- reading comprehension, reading decoding, math problem solving goals - measured by data sheets;
- written expression goals - measured by work samples;
- learning behavior goals - measure by data sheets; and
- expressive/receptive language goals - measured by data collection.

On 2/7/2024 the IEP was amended in response to a parent's request. The amended IEP reflects removal of reduced distraction to others on the instructional and assessment accessibility features page and the removal of timer on the supplemental aids and services page.

On 2/28/2024, the IEP was amended following an IEP team meeting to reflect the following: extended school Year (ESY) eligibility was determined, specific goals and objectives were chosen for ESY, ESY Service hours and Transportation for ESY was updated on the services page, Special Transportation was added to the services page, and Special Transportation was updated on the Least Restrictive Environment Page (LRE).

2. The report of the student's progress dated April 5, 2024, and June 11, 2024, towards the achievement of the annual reading decoding, reading comprehension, written expression, math problem solving, learning behaviors, and expressive/receptive language reflects that the student is "making sufficient progress to meet the goal." The narrative reflects that the student's progress was measured based upon the data collection method required by the IEP.

3. There is documentation that the student was provided with special education classroom instruction, supplementary aids and services, OT, and transportation as required by the IEP.
4. There is documentation that the student did not receive speech services during the week of April 1, 2024, and April 8, 2024.

**CONCLUSIONS:**

**ALLEGATION #1**

**PROGRESS REPORT**

Based on the Findings of Fact #1, and #2, MSDE finds that AACPS ensured the provision of reports of the student's progress towards achievement of the annual IEP goals, was based on the data collection method required by the IEP, since February 28, 2024, in accordance with 34 CFR §§ 300.101 and 323. Therefore, this office finds that a violation has not occurred concerning this allegation.

**ALLEGATION #2**

**PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES**

Based on the Findings of Fact #1, and #3, MSDE finds that the AACPS ensured that the student is being provided with the special education classroom instruction, supplementary aids and services, OT, and transportation as required by the IEP, since February 28, 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

Based on the Findings of Facts #1 and #4, MSDE finds that the AACPS did not ensure that the student has consistently been provided with speech-language services as required by the IEP since February 28, 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has occurred concerning this aspect of the allegation.

**CORRECTIVE ACTION AND TIMELINES:**

The IDEA requires that State complaint procedures include 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.<sup>[1]</sup> 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 Ms. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.<sup>[2]</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

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<sup>1</sup> 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.

<sup>2</sup> MSDE will notify the Public Agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

## Student-Based

MSDE requires the AACPS to provide documentation by October 15, 2024, that the AACPS has convened an IEP team meeting and determined if the violation concerning the provision of speech-language, had a negative impact on the student's ability to benefit from the educational program. If the 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 a year of the date of this Letter of Findings.

The AACPS must ensure that the parent is provided with prior 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.

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

Sincerely,

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

ALH/ra

c: Dr. Mark T Bedell, Superintendent, AACPS  
Diane McGowan, Director, Specially Designed Instruction and Compliance, AACPS  
Jennifer Brown, Program Manager of Compliance and Legal Issues, AACPS  
[REDACTED], Principal, [REDACTED], AACPS  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Alison Barmat, Chief, Family Support and Dispute Resolution Branch, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Rabiatu Akinlolu, Complaint Investigator, MSDE  
Nicole Green, Compliance Specialist, MSDE