



October 31, 2014

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Ms. Bobbi Pedrick
Director of Special Education
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland 21401

RE: XXXXX
Reference: #15-012

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention 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 September 2, 2014, the MSDE received a complaint from Mr. XXXXXXXXX and Mrs. XXXXXXXXXX hereafter, “the complainants,” on behalf of their daughter, the above referenced student. In that correspondence, the complainants 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.

The MSDE investigated the following allegations:

1. The AACPS has not ensured that the student’s Individualized Education Program (IEP) addresses the student’s social, emotional, and behavioral, executive functioning, and functional life skills needs since September 2, 2013,¹ in accordance with 34 CFR §§300.101 and .324.

¹ The complainants included allegations of violations that occurred more than a year before the date it was received. The complainants were advised, in writing, that this office may only investigate allegations of violations which occurred not more than one year prior to the receipt of the State complaint (34 CFR §300.153).

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2. The AACPS has not ensured that the student has been provided with the accommodations and supports required by the IEP since September 2, 2013, in accordance with 34 CFR §300.323.
3. The AACPS has not ensured that the student's IEP includes an appropriate transition plan since September 2, 2013, in accordance with 34 CFR §§300.320 and .324.

INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On September 3, 2014, the MSDE sent a copy of the complaint, via facsimile, to Ms. Bobbi Pedrick, Director of Special Education, AACPS; and Ms. Alison Steinfelds, Program Manager of Legal Issues and Compliance, AACPS.
3. On September 12, 2014, Ms. Moyo spoke with the student's mother and clarified the allegations to be investigated. On the same date, she also sent additional documentation to for consideration via electronic mail (email).
4. On September 19, 2014, the MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified Ms. Pedrick of the allegations and requested that her office review the alleged violations.
5. On September 28, 2014, the student's mother sent Ms. Moyo additional documentation, via email, for consideration during the investigation.
6. On October 7, 9, 10, and 11, 2014, the student's mother sent Ms. Moyo additional documentation, via email, for consideration during the investigation.
7. On October 10, 2014, Ms. Moyo and Ms. Memuna Bangura, Monitoring Specialist, MSDE conducted a site visit at the XXXXXXXX XXXXXX to conduct a review of the student's educational record and interviewed the following school staff:
 - a. XXXXXX, School Psychologist;
 - b. XXXXXX, Special Education Department Chairperson;
 - c. XXXXXX, Special Education Teacher; and
 - d. XXXXXX, IEP Facilitator.

Ms. Steinfelds attended the site visit as representative of the AACPS and to provide information on the AACPS policies and procedures, as needed. On the same date, the AACPS provided the MSDE with documentation from the student's educational record.

8. On October 7, 9, 10, and 11, 2014, the student's mother sent Ms. Moyo additional documentation, via email, for consideration during the investigation.

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9. On October 10, 2014, Ms. Moyo conducted a telephone interview with Ms Steinfelds.
10. On October 15, 2014, the MSDE staff received email correspondence from AACPS staff including additional information related to the allegations being investigated.
11. On October 16 and 21, 2014, the MSDE responded to the email from the AACPS and, again, requested additional information and documentation from the student's educational record.
12. On October 21 and 22, 2014, the complainants additional documentation, via email, for consideration during the investigation.
13. On October 22, 2014, the AACPS staff provided the MSDE with documentation to be considered as a part of the investigation.
14. On October 24, 2014, the complainants provided the MSDE staff with additional information and documentation, via email, for consideration during the investigation.
15. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Correspondence and attachments from the complainant to the MSDE, received on September 2, 2014;
 - b. Behavioral Intervention Plan, dated December 16, 2010;
 - c. Academic and comprehensive assessment reports, reviewed on December 20, 2012;
 - d. IEP and IEP team meeting notes, dated December 20, 2012;
 - e. IEP and IEP team meeting notes, dated September 11, 2013;
 - f. Correspondence from the community-based physician regarding treatment to the student on December 13, 2013;
 - g. IEP and IEP team meeting notes, dated June 2 and 19, 2014;
 - h. Complainant's IEP team meeting notes, dated June 2, 2014;
 - i. Electronic mails (email) correspondence between the school staff and the complainant during the 2013-2014 school year;
 - j. Student's class schedule from the 2013-2014 school year;
 - k. Student's school attendance and report record for the 2013-2014 school year;
 - l. Correspondence from the school staff to the complainants, dated September 29, 2014;
 - m. Correspondence from XXXXXXXXXXXXXXXX therapist, dated October 2, 2014;
 - n. Counseling services encounter logs from the start of the 2013-2014 school year until October 9, 2014;
 - o. Correspondence from school staff regarding the incident that occurred on October 10, 2013;
 - p. Excerpts from the school's sign-in/sign-out log from the 2014-2015 school year;
 - q. Excerpts from the IEP team meeting notes, dated October 16, 2014;

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- r. Student Evaluation Plan, dated October 16, 2014; and
- s. Emails between the school staff and the complainant sent during the 2014-2015 school year.

BACKGROUND:

The student is fifteen (15) years old and attends XXXXXXXXXXXXXXX (XXXXXXX). She is identified as a student with Autism under the IDEA and has an IEP that requires the provision of special education instruction and related services. During the period of time addressed by this investigation, the complainants participated in the education decision-making process and received notice of the procedural safeguards (Docs. a, d, e, g, h, j, k, and p - r).

ALLEGATIONS #1 AND #2: DEVELOPING AND IMPLEMENTING AN IEP THAT ADDRESS THE STUDENT'S NEEDS

Findings of Facts:

2013-2014 School Year

December 20, 2012 IEP

1. The IEP in effect at the start of the 2013-2014 school year was developed on December 20, 2012, while the student was attending middle school. The IEP team considered formal and informal assessment data, reports from the student's teachers, and information from the complainants. The present levels of academic and functional performance indicate that the student has difficulty keeping her assignments organized, transitioning between classes, following directions, and interacting with peers. The teacher's reported that the student sometimes argues with peers whose opinions differ from her own or when she does not understand their intentions. The student also has difficulty working on group activities and maintaining conversations with others. The teachers also reported that the student is often distracted during class because she prefers to draw and must be redirected to focus on her class work (Doc. d).
2. The team considered assessment data indicating that the student has difficulty processing information and "exhibits performance-related anxiety that impacts her ability to process simple information efficiently." The report indicates that the student has executive functioning needs which cause her to have difficulties shifting attention, beginning tasks, generating ideas, planning, organizing her responses, and self-monitoring. The report further states that the student's exhibits "inattention and significant anxiety" as a result of her lack of confidence and "low tolerance for coping with frustration" when completing difficult tasks (Docs. c and d).
3. At the meeting, the complainants indicated that they have maintained good communication with the middle school staff which they believe assisted the student with improving her organizational and communication skills. The complainants expressed

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their concern that the XXXXX staff will not communicate with them following the student's transition to XXXXX, which may impact the student's progress on her organizational and communication skills (Doc. d).

4. Based on its review of the information, the IEP team developed an IEP requiring that the student be provided with special education instruction in the general education classroom with supports. The IEP also required that the student be provided with counseling services by the school psychologist or social worker. The IEP included goals to assist the student with increasing on-task performance, improving communication skills, and utilizing coping strategies when confronted with stressful situations (Doc. d).
5. The IEP included supports to assist the student with achieving the annual goals, such as, monitoring the student's independent work, providing an additional set of texts for home, and developing a personalized binder or organizational system, including time with guidance staff to review the binder and locate any missing assignments. The IEP also required that school staff provide the student with checks to ensure understanding, a home-school communication system, movement breaks during class, and anger management training. The IEP further required that the student be provided with additional time for transitioning between classes, and preferential seating. The IEP indicated that these supports are to be provided in the general education classroom by the general and special education teachers (Doc. d).
6. The IEP also requires the provision of "psychologist consults" "periodically" during the school year, as a support provided by the school psychologist. The IEP states that the student "will receive the support of a special education teacher, school psychologist, and the guidance counselor" (Doc. d).

September 11, 2013 IEP

7. On September 11, 2013, the IEP team convened to discuss how the student was adjusting to high school since she began attending at the start of the 2013-2014 school year. At the meeting, the complainants indicated that the student struggles with keeping her assignments organized and managing her anger and frustration. The complainants also indicated that the student has issues controlling her "paper hoarding," without the provision of organizational supports (Doc. e).
8. At the meeting, the complainants requested that school staff communicate directly with them to ensure that the complainants know how to assist the student with her assignments at home. The complainants also expressed concern that the student seemed to be experiencing increased anxiety since the beginning of the 2013-2014 school year. However, the school staff disagreed and reported that they believed the student's anxiety had been decreasing at school since the start of the school year. The school staff also reported that the student was interacting positively with her peers and remained on-task in class (Doc. e).

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9. The IEP team meeting summary indicates while the team indicated that her needs had not changed, the team determined that the student's Behavior Intervention Plan (BIP) "is no longer valid for her needs" in high school. The team suggested that color-coded binders and folders could be introduced to assist the student with organization. The team also decided that school staff would develop a "release pass" that would allow the student to leave class two minutes early and avoid crowded hallways during transitions between classes (Docs. b and e).
10. Based on its review, the IEP team decided to revise the IEP and remove some of the supports utilized to assist the student with organization, planning, transitions, and coping. Specifically, the team removed the requirement that the student be provided with a personalized "binder/organizational system", the ability to submit assignments via electronic mail (email), movement breaks, and a review of her agenda book on a daily basis by her teachers. The team also determined that the student would no longer be provided with additional time to organize her materials, meet with school staff to assist her with locating missing assignments, and receive anger management training. While the IEP team meeting notes indicate that the team discussed the student's progress since the start of the school year, there is no documentation of the basis for the decision to remove these supports (Doc. e and review of the educational record).

June 2, 2014 IEP

11. On June 2, 2014, the IEP team convened to review the student progress and program and the requirement of the IEP. At the meeting, the team considered information from the complainants and school staff that the student was not turning in her assignments and was "hoarding" papers. The student's teachers reported that the student has difficulty remaining on task because she prefers to draw during class time, but with prompting she will return to work. The complainants indicated that because the student has difficulty shifting from one task to another she can become anxious. The complainants indicated that with additional adult support to assist her with developing her organizational skills, maintaining focus, and transitioning from one task to another could help to decrease student's anxiety (Docs. g and h).
12. The complainants indicated that the student was not consistently provided with the supports required by the IEP throughout the school year which negatively impacted the her confidence and motivation. The complainants stated that they were never provided with a second set of the student's textbooks, as required by the IEP. The teachers reported, that supports were provided to the student, including modifying her assignments and allowing her to answer test questions verbally (Docs. g - i).
13. The school staff also reported that the student has a "strong desire to connect with others" and has joined an after-school club. The teachers reported that the student thrives with "structure, routine, and consistent schedules," but her executive functioning deficits make it "difficult for her to plan, organize, and shift which impacts the flexibility of her thinking and her actions. The student also has difficulty adjusting her behavior and engaging in the interest of her peers. The school staff further reported that the student did

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make some progress with the use of positive coping skills and has learned to seek out a trusted adult when she is feeling troubled. However, when she becomes upset she still tends to perseverate and has difficulty refocusing (Doc. g).

14. Based on its review, the IEP team determined that the student's counseling services would be increased at the start of the 2014-2015 school year. The team clarified that the student's assignments should be modified and included additional supports to the IEP, such as a self-help/crisis pass to the guidance office, and interaction with a positive peer for support. The team also revised the IEP to include supports which were removed during the September 2013 IEP team meeting (Docs. e and g).
15. There is documentation that since the start of the 2013-2014 school year, the student has been provided with counseling services as required by the IEP. There is also documentation that both the school psychologist and the social worker were available to the student when she needed additional support and that they contacted the complainants regularly (Docs. i and n).
16. While the school staff report that the student was provided with the supports required by the IEP during the 2013-2014 school year, there is no documentation that the student was consistently provided with the supports, as required. The meeting notes from the IEP team meeting held on June 2, 2014, document that the complainants indicated to the school staff that the student had not been provided with the services required by the IEP. Specifically, they reported that they had not been provided with a second set of textbooks during the school year, as required (Docs. g, h, interview with school staff, and review of the educational record).

2014-2015 School Year

17. There is documentation that since the start of the 2014-2015 school year, the student has struggled with her anxiety issues which have impacted her relationships with peers and caused her to experience panic attacks. There is documentation that since the start of the 2014- 2015 school year, the complainants have contacted school staff to express their concern that the school staff were not appropriately addressing the student's increasing anxiety which was impacting her ability to function in school (Docs. l, o, and s).
18. There is documentation that the complainants expressed concerns to the school staff that the student was not being provided with the supports required by the IEP and the student continued to "hoard" papers and struggle with being organized. Specifically, they complained that the school staff were not communicating with them as required by the IEP (Doc. p).
19. On September 29, 2014, the complainants were contacted and asked to retrieve the student from school before the end of the school day due to behaviors caused by her anxiety. The school staff requested that the complainants provide "a note to assure her safety and follow-up care" in order for her to return to school (Doc. l).

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20. On October 2, 2014, the student's returned to school and provided correspondence from the community-based therapist indicating that she is receiving treatment for her anxiety and that she could return to school. The community-based therapist also recommended that the school staff conduct a Functional Behavioral Assessment (FBA) to determine the triggers for the student's anxiety (Doc. m).
21. On October 7, 2014, the student sought assistance from the school staff due to her escalating anxiety while in the school cafeteria. The school staff contacted the complainants after determining that a "parent pick-up was warranted" and advised that they "seek mental health support" for the student to address her "escalating" behaviors (Docs. p and s).
22. On October 10, 2014, the student's anxiety level escalated to such a degree that she had to be taken from school to the hospital. The student returned home from the hospital on the same date. The student has not returned to school since this incident because the complainants are concerned that the school staff cannot address the student's anxiety and ensure her safety in school (Docs. o, s, and interviews with the complainants).
23. On October 16, 2014, the IEP team convened to discuss the student's emotional difficulties that she has experienced since the start of the 2014-2015 school year. The team also determined that additional data was needed to obtain additional information about the student's needs (Docs. q and r).
24. On October 17, 2014 the school psychologist sent an email to the complainants indicating that she had been in contact with the student's community-based therapist. The school psychologist indicated that she would be completing an "emotional crisis home teaching letter" so that the student can begin receiving Home and Hospital Teaching (HHT) Services (Doc. s)
25. There is no documentation indicating that the student has been provided with educational services since October 10, 2014 (review of the educational record and interviews with the complainant and AACPS staff).

Discussion/Conclusions:

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data. In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student. In the case of a student whose behavior impedes the student's learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior (34 CFR §§300.101, .320, and .324).

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Written notice must be provided to parents before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a FAPE to the student. The written notice must include a statement of the action proposed or refused, an explanation of the basis for the decision, a description of the data used in making the decision, a description of other options considered, and information on where the parents can obtain assistance in understanding the information provided (34 CFR §300.503).

The public agency must ensure that a student is provided with the special education and related services needed for the student to receive a FAPE. This includes the provision supplementary aids and services and other supports necessary to ensure that the student can receive special education instruction (34 CFR §§300.42, .101, and .323).

In this case, the complainants allege that the IEP team did not develop an IEP or provide the services necessary to address the student's identified needs. The complainants further assert that as a result the student has continued to struggle in school, and recently had an emotional incident that occurred at school and has not returned to school.

Based on the Findings of Facts #1 - #10, the MSDE finds that IEP team removed supports that addressed the student social, emotional, and behavioral and executive functioning needs and did not provide the complainants with a basis for its decision to remove the supports. Based on the Findings of Facts #1 - #10, the MSDE finds that the AACPS did not ensure that the IEP addressed the student's interfering behaviors related to her anxiety during the 2013-2014 school year.

Further, based on the Findings of Facts #1 - #25, the MSDE finds that the student has not consistently been provided with the supports which were required by the IEP since the start of the 2013-2014 school year. Based on the Findings of Facts #22 - #25, the MSDE further finds that the student is not currently attending school as a result of an emotional crisis and the AACPS has not ensured that student has been provided with educational services since October 10, 2013. Therefore, the MSDE finds ongoing violations with respect to these allegations.

ALLEGATION #3: DEVELOPING AN APPROPRIATE TRANSITION PLAN

Findings of Facts:

26. There is documentation in the IEP indicating that school staff interviewed the student on August 28, 2013 and administered a student interest inventory which indicated that the student has a strong interest in "drawing, animals, and vintage--which are little pony toys" and that she wants to be a veterinarian (Doc. e).
27. There is documentation that during the September 11, 2013 IEP team meeting the team developed a transition plan based on the information gathered from the student's interview (Doc. e).

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28. The IEP documents that on June 1, 2014 a school staff member conducted a Student Transition Interview with the student and the student also completed a Career Interest survey. She indicated during that interview that she is interested in becoming a graphic designer and helping others overcome difficulties. The IEP indicates that on June 2, 2014, the IEP team revised the student's transition plan based on the information that was gathered from the interview and survey (Doc. g).
29. The transition plan that was developed included post-secondary goals in the areas of employment and training and independent living. There is documentation that the student's mother reported that she wanted the student to be able to conduct basic monetary transactions/interactions as part of "normal daily living," and assessment data indicated that the student has difficulty with understanding how to use currency. However, the post-secondary goal in the area of independent living, does not include a goal to assist the student with learning how to conduct monetary transactions (Docs. c, e, g, and s).

Discussion/Conclusions:

The public agency must ensure that beginning not later than the first IEP that is in effect when a student turns fourteen (14) years old, and younger, if appropriate, the IEP must include appropriate measurable post-secondary goals based upon age-appropriate transition assessments related to training, education, employment, and independent living, as appropriate. It must also ensure that the IEP includes the course of study and services needed to assist the student in achieving those goals (34 CFR §300.320(b) and .321 and COMAR 13A.05.01.07).

Based on the Findings of Facts #26 - #29, the MSDE finds that the public agency has taken steps to ensure that the student's interests and preferences have been considered when conducting transition planning. However, based on the Findings of Facts #26 - #29, the MSDE finds that the IEP team has not considered whether the student requires post-secondary goals in the area of independent living. Therefore, this office finds that a violation has occurred.

CORRECTIVE ACTIONS/TIMELINES:

Student-based

The MSDE requires that the AACPS immediately take steps to ensure that the student is provided with appropriate educational services. The MSDE further requires that within fifteen (15) days of receipt of this Letter of Findings the AACPS provide documentation that the student has begun receiving HHT services, if determined necessary, or has been placed in an appropriate educational program.

The MSDE further requires that by January 1, 2015, the AACPS convene an IEP team meeting, review the student's IEP, revise it, if necessary, to address her identified needs, and ensure that the services are provided in the manner required by the IEP. The team must also determine the

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amount and nature of compensatory services necessary to remediate the violations identified in this letter.

The AACPS must provide the MSDE with documentation by January 1, 2015 that the above actions have been taken and of the compensatory services required, including a plan for how and when the services are to be provided within one (1) year of the date of this Letter of Findings.

The AACPS must provide the complainants with proper written notice of the determinations made at the IEP team meeting, including a written explanation of the basis for the determinations, as required by 34 CFR §300.503. If the complainants disagree with the IEP team's determinations, they maintain the right to request mediation or to file a due process complaint, in accordance with the IDEA.

School-Based

The MSDE requires the AACPS provide documentation by January 1, 2015, of the steps it has taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern of noncompliance at XXXXXXXXXX. Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine if the regulatory requirements are being implemented and must provide documentation of the results of this review to the MSDE. If the school system reports compliance with the requirements, the MSDE staff will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented, the school system must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the date of its determination.

Upon receipt of this report, the MSDE will verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the US Department of Education, Office of Special Education Programs. Additionally, the findings in the Letter of Findings will be shared with the MSDE's Policy and Accountability Branch for its consideration during present or future monitoring of the AACPS.

Documentation of all Corrective Actions taken is to be submitted to this office to the attention of the Chief of the Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through the Family Support and Dispute Resolution Branch, MSDE, at (410) 767-0255.

Please be advised that the AACPS and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact or conclusions reached in this Letter of Findings. The additional

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written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

If additional information is provided, it will be reviewed and MSDE will determine if a reconsideration of the conclusions is necessary. Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, set forth additional findings and conclusions, or enter new findings and conclusions.

Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, set forth additional findings and conclusions, or enter new findings and conclusions. Pending the decision on a request for reconsideration, the school system must implement any corrective actions consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The student's parents and the school system 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 FAPE for the student, including issues subject to the State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or due process.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Special Education/Early Intervention Services

MEF/km

cc : George Arlotto
Bobbi Pedrick
Alison Steinfelds
XXXXXXX
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Dori Wilson
Anita Mandis
Koliwe Moyo

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bc: Donna Riley
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