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March 10, 2016

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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: #16-056

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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 December 4, 2015, the MSDE received a complaint from Sally Stanfield, Esq., hereafter, “the complainant,” on behalf of the above-referenced student, and Mr. XXXXXXXXXXXX and Mrs. XXXXXXXX, his parents. 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 student.

There is a sixty (60) day timeline for completion of the complaint investigation process. However, in order to review the additional information received from the student’s parent, the parties to the complaint were informed, in writing, that it was necessary to extend the timeline for completion of this Letter of Findings, pursuant to 34 CFR §300.152.

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The MSDE investigated the following allegations:

1. The AACPS did not ensure that proper procedures were followed when conducting the reevaluation of the student initiated in January 2015, in accordance with 34 CFR §§300.304, .305, .306 and COMAR 13A.05.01.06.
2. The AACPS did not ensure that the Individualized Education Program (IEP) team meetings convened on March 11 and 18, 2015 included the required participants, in accordance with 34 CFR §300.321.
3. The AACPS did not provide the student's parents the opportunity for participation in the IEP team meetings convened on March 11 and 18, 2015, in accordance with 34 CFR §300.501.
4. The AACPS did not ensure that the student's parents were timely provided with written notice of the decisions by the IEP team at the March 11 and 18, 2015 IEP team meetings, in accordance with 34 CFR §300.503 and COMAR 13A.05.01.12.
5. The AACPS did not ensure that proper procedures were followed when conducting the reevaluation of the student initiated in May 2015, in accordance with 34 CFR §§300.304, .305, .306 and COMAR 13A.05.01.06.
6. The AACPS has not ensured that the parents have been provided with quarterly reports on the student's progress toward achieving the annual IEP goals, since December 4, 2014, in accordance with 34 CFR §300.320.

INVESTIGATIVE PROCEDURES:

1. On December 7, 2015, the MSDE provided a copy of the State complaint, by facsimile, to Ms. Bobbi Pedrick, Executive Director of Special Education, AACPS.
2. On December 11, 2015, Ms. K. Sabrina Austin, Education Program Specialist, MSDE, conducted a telephone interview with the complainant to clarify the allegations to be investigated. On the same date, the MSDE requested documentation from the AACPS.
3. On December 14, 2015, and January 15, 2016, Ms. Austin discussed the allegations with the student's mother via telephone calls.
4. On December 17, 2015, the MSDE sent correspondence to the complainant that identified the allegations subject to this investigation. On the same date, the MSDE notified the AACPS of the allegations and requested that the AACPS review the alleged violations.
5. On December 18, 2015, the complainant provided additional documentation for consideration.

6. On December 21, 2015, Ms. Austin conducted a review of the student's educational record at the AACPS Central Office. Ms. Alison Barmat, Program Manager of Legal Issues and Compliance, AACPS, was present as a representative of the AACPS and to provide information on the AACPS policies and procedures, as needed. On the same date, the AACPS provided documents to the MSDE for consideration.
7. On December 21 - 23 and 28, 2015, and January 4 and 11, 2016, the AACPS provided documentation to the MSDE for consideration.
8. On January 12, 2016, Ms. Austin and Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX, and interviewed the following school staff:
 - a. Ms. XXXXXXXX, Principal;
 - b. Ms. XXXXXXXX, Speech Language Pathologist; and
 - c. Ms. XXXXXXXXXXXXXXXX, Special Education Teacher.

Ms. Barmat participated in the site visit as a representative of the AACPS and to provide information on the school system's policies and procedures, as needed.

9. On January 31, 2016, and February 1, 2016, the student's mother provided documentation to the MSDE for consideration.
10. On December 14, 2015, January 7, 11 - 12, 18 - 20, and 31, 2016, and February 1, 3, and 9 - 11, 2016, Ms. Austin and the student's mother communicated via electronic mail.
11. On January 21, 2016, the MSDE notified the parties, in writing, that it was extending the time required for investigating the complaint to ensure that all of the documentation submitted by the student's mother was considered through the investigation.
12. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated May 15, 2014;
 - b. Notice of the January 14, 2015 IEP team meeting, and written summary of the January 14, 2015 IEP team meeting;
 - c. The school staff's log of telephone contacts with the student's parents between November 24, 2014 and June 10, 2015;
 - d. The Verizon records of incoming and outgoing telephone calls to the parents' home telephone number, December 2014 to March 2015;
 - e. The student evaluation plan, dated January 14, 2015, and the student's mother's consent for evaluation, dated January 30, 2015;
 - f. Correspondence from the school staff to the student's parent concerning absences, dated January 14, 2015, and April 17, 2015;

- g. The student's attendance information for the 2014 - 2015 school year, including absentee forms and documentation from the parent explaining the reasons for the student's absences, and the student's attendance information between August 2014 and May 2015;
- h. Electronic mail communications (emails) between the school system staff and the student's parent, between the school system staff and the complainant, and among the school system staff, dated September 2014 through December 2015;
- i. Written summary of the January 21, 2015 IEP team meeting;
- j. Notice of an IEP team meeting scheduled for March 11, 2015, dated February 24, 2015;
- k. Notice of an IEP team meeting scheduled for March 10, 2015, dated March 8, 2015, and the parent response, dated March 9, 2015;
- l. Notice of IEP team meeting scheduled for March 18, 2015, dated March 8, 2015, and the parent response, dated March 9, 2015;
- m. Comprehensive Evaluation Review, dated March 11, 2015;
- n. Written summary of the March 18, 2015 IEP team meeting, and list of attendees;
- o. Written summary of the May 22, 2015 IEP team meeting, list of attendees, and the referral form, dated May 22, 2015;
- p. The reports of the student's private physician, dated April 17, 2015 and May 14, 2015;
- q. Written summary of the June 12, 2015 IEP team meeting, and list of attendees;
- r. Report of an Academic Assessment, dated June 1, 2015;
- s. Report of a Psychological Assessment, dated June 3, 2015;
- t. Reports of observations of the student conducted on May 27, 2015, and June 1 and 4, 2015;
- u. Reports of the student's progress towards achievement of the annual IEP goals, dated January 23, 2015, April 10, 2015, and June 12, 2015;
- v. Correspondence from the complainant alleging violations of the IDEA, received by the MSDE on December 4, 2015;
- w. IEP, dated November 20, 2015; and
- x. Correspondence from the school system staff to the student's parent reverifying the continuation of home and hospital teaching services to the student, dated December 18, 2015.

BACKGROUND:

The student is ten (10) years old and is enrolled at XXXXXXXXXXXXXXXX. He is identified as a student with Multiple Disabilities under the IDEA, including Autism and an Emotional Disability. The student has an IEP that requires the provision of special education and related services, and is currently receiving Home and Hospital Teaching (HHT) services as a result of a psychological condition (Docs. a , v, w and x).

ALLEGATIONS #1 - #4:

**JANUARY 2015 REEVALUATION PROCESS; IEP
TEAM COMPOSITION AT THE MARCH 2015 IEP
TEAM MEETINGS; PARENT PARTICIPATION IN
THE MARCH 2015 IEP TEAM MEETINGS; AND
PRIOR WRITTEN NOTICE OF THE MARCH 2015
IEP TEAM MEETINGS**

FINDINGS OF FACTS:

January 2015 Reevaluation Planning

1. There is documentation that, on December 22, 2014, the school staff developed a notice of an IEP team meeting scheduled for January 14, 2015. The notice indicates that the purpose of the meeting is to conduct reevaluation planning. There is no documentation that a parent returned the "Parent Response" form to the school staff to indicate whether either parent was able to participate in the meeting. The meeting notice includes information informing the parents of the option to participate in the IEP meeting by telephone if unable to attend the meeting (Doc. b and review of the student's educational record).
2. The school staff's log of telephone contacts reflects that the school staff spoke with the student's mother on January 12, 2015, and that she "agreed for [the IEP] team to meet without her."¹ The parents' telephone records confirm an incoming telephone call from the school on January 12, 2015 (Docs. c and d).
3. On January 14, 2015, without the participation of a parent, the IEP team convened to conduct reevaluation planning for the student. There is no documentation of efforts by the AACPS to convince the student's parents to attend the January 14, 2015 IEP team meeting. There is also no documentation that the IEP team considered information about the student provided by his parents at the January 14, 2015 IEP team meeting (Docs. b and e, and review of the student's educational records).
4. The written summary of the January 14, 2015 IEP team meeting states that the student's mother was contacted on January 12, 2015, and that she "agreed for the team to meet in her absence and send home all paperwork regarding [the student's] reevaluation" (Doc. b).
5. At the January 14, 2015 IEP team meeting, the IEP team reviewed existing data, including documentation of the student's diagnoses of Autism and an Anxiety Disorder. While the IEP team considered that the student continues to demonstrate emotional needs related to anxiety, the IEP team documented that his anxiety "is not felt to significantly

¹ The student's mother reports that the school staff called to suggest that the school staff could "save her a trip" by not attending the January 14, 2015 IEP team meeting because another IEP team meeting was reportedly already scheduled for the following week. The student's mother further reports that the school staff represented that the purpose of the January 12, 2015 IEP team meeting was only to obtain consent for assessments, and that she did not understand the significance of reevaluation planning (Interview with the student's mother).

impact [his] school performance.” At the time of the meeting, the school staff had information that the student had missed ten (10) days of school since the beginning of the school year. However, the student’s attendance record, as well as absentee documentation and emails from the student’s parent to the school staff, establish that the student’s absences were due to illness on nine (9) of the ten (10) days (Docs. b and e - g).

6. The IEP team considered that the student was performing on-grade level in reading and math. The IEP team recommended assessments in reading and math in order to determine the student’s present levels of performance and to determine his continued eligibility for special education services (Docs. b and e).
7. The electronic mail communications (emails) between the school staff and the student’s mother indicate that, following the January 14, 2015 IEP team meeting, the school staff sent the student’s mother documentation of the IEP team’s reevaluation planning and assessment recommendations. The student’s mother consented to reading and math assessments of the student on January 30, 2015 (Docs. e and h).
8. On January 21, 2015, the IEP team convened at the request of the student’s mother to consider her expressed concern about the student’s “recent anxiety episodes” and his “difficulty getting to school in the morning the past few weeks.” The written summary of the meeting reflects that the school staff reported that they provide assistance to the student during the school day to reduce his anxiety. The IEP team agreed to implement a “break card” for the student to use if he is feeling anxious upon his arrival to school to indicate that he needs to speak with the school staff (Doc. i).

March 2015 IEP Team Meetings

9. On February 24, 2015, the school staff developed an invitation for an IEP team meeting scheduled for March 11, 2015 to review the results of the assessments and to complete the reevaluation of the student. There is no documentation that the school staff received the “Parent Response” form to indicate whether a parent was available to attend the meeting (Doc. j and review of the student’s educational record).
10. On March 3, 2015, the school staff sent an email to the student’s mother inquiring whether she could attend the IEP team meeting scheduled for March 11, 2015 (Doc. h).
11. On March 6, 2015, the student’s mother sent an email to the school staff requesting to reschedule the IEP meeting to a date in April 2015. The school staff responded that the meeting must occur by the third (3rd) week in March in order to meet required timelines, and informed the student’s mother that the meeting would be rescheduled for March 18, 2015. The student’s mother informed the school staff that she was unavailable to attend an IEP team meeting on March 18, 2015 because she would be out of town for a conference from March 14, 2015 until March 23, 2015 (Doc. h).

12. On March 8, 2015, the school staff developed the following two (2) invitations for an IEP team meeting proposed on two (2) alternative dates:

- One invitation notice documents an IEP team meeting scheduled for March 10, 2015, a date that was two (2) days away.
- Another invitation notice documents an IEP team meeting scheduled for March 18, 2015. This invitation states that “this is the third attempt to convene this meeting. The meeting will proceed as scheduled.”

The “Parent Response” forms that accompanied each meeting invitation notice include information informing the parents of the option to participate in an IEP team meeting by telephone (Docs. k and l).

13. Through the signed “Parent Response” forms, dated March 9, 2015, the student’s mother informed the school staff that she was unavailable to attend the IEP team meetings scheduled for March 10 and 18, 2015, and requested the meetings to be rescheduled (Docs. k and l).
14. The school staff documented a telephone call made to the student’s mother on March 9, 2015, about a “meeting.” The school staff’s telephone log reflects that there was “no answer” and that the school staff left a message.² Also on March 9, 2015, the school staff sent an email to the student’s mother informing her that “paperwork from the meeting” would be sent home if she could not attend the IEP team meeting on March 10 or 18, 2015 (Docs. c and h).
15. The school staff also documented a telephone call made to the student’s mother on March 10, 2015, about a “meeting. While the school staff’s telephone log reflects that there was “no answer” and that the school staff left a message, the parents’ telephone records do not document an incoming call from the school staff on March 10, 2015 (Docs. c and d).
16. The following documents that the IEP team convened on March 11 and 18, 2015, without parent participation, and made determinations as follows concerning the student’s continued eligibility:
- The school staff developed a Comprehensive Evaluation Review document that indicates that an IEP team meeting convened on March 11, 2015. The documentation reflects that a special educator, a general educator, an administrator, and a speech language pathologist participated in the meeting. The documentation reports the results of the student’s performance on an academic assessment and describes his classroom performance. Based on this information,

² The parents’ telephone records document an incoming call from XXXXXXXXXXXXXXXXXXXX on March 9, 2015 (Doc. d).

the IEP team determined that the student “no longer meets the requirements for special education services and will be dismissed from all services.” The documentation bears the signatures of the school staff indicating their agreement with the eligibility decision, and the date of March 11, 2015 following each signature.

- On March 11, 2015, the school staff sent an email to the student’s mother. The email identifies “meeting” as the subject of the email, and documents the school staff’s plan to “send home the meeting minutes of [the] discussion.” The school staff informed the mother that, while the IEP team planned to convene again on March 18, 2015 without her, the IEP could convene a meeting with her at a later date in April 2015, based on her availability, in order “to discuss [the student’s] testing results and how they impact plans for him moving forward” (Docs. h and m).
 - The school staff developed a written summary of an IEP team meeting convened on March 18, 2015. The written summary of the meeting states that the student’s mother was unable to attend the meeting. The attendance sheet for the March 18, 2015 IEP team meeting reflects that the student’s special education teacher and a speech and language pathologist were the only participants.
 - The written summary of the March 18, 2015 IEP team meeting documents that the IEP team reconvened to review the results of the educational assessment which indicated that the student is performing in the “average” range. The IEP team also considered information that the student is performing well and actively participates in his classes, and that he “has not appeared anxious or upset in class.” The written summary states that the student “will be dismissed from special education and returned to general education.”
 - On March 25, 2015, the school staff sent an email to the student’s mother informing her that paperwork “for the meeting we had to discuss [the student’s] testing results” was being sent to her. The school staff requested to meet with the student’s mother “to discuss the results and what that means in regards to [the student’s] continued special education eligibility.”
 - On April 16, 2015, the school staff sent an email to the student’s mother stating that the student’s IEP “services ended on March 18, 2015” (Docs. h, m and n).
17. There is no documentation that the school staff provided the student’s parents with proper prior written notice of the decisions made at the March 11, 2015 IEP team meeting, including a description of the action proposed, an explanation of why the IEP team proposed such action, a description of the data used as a basis for the proposed action, and other options and factors that the IEP team considered (Doc. h and review of the student’s educational record).

18. The written summary of the March 18, 2015 IEP team meeting documents that the school staff mailed the meeting summary to the student's parents on March 23, 2015 (Doc. n).
19. Despite the April 16, 2015 email in which the school staff reported that "services ended on March 18, 2015," the following is documentation that the student's IEP services continued:
 - The email from the student's mother to the school staff, on April 20, 2015, indicates her understanding that the student's IEP was "in fact, still active."
 - The email from the school staff to the student's mother, on April 21, 2015, reflects that the school staff was scheduling an IEP team meeting to discuss whether the student continued to be eligible for special education. The email specifically states "as we discussed, we will continue to implement [the student's] IEP."³
 - The email from the school system staff to the student's mother, on April 24, 2015, states the student would continue to receive special education and related services according to the IEP dated May 15, 2014.
 - On April 10, 2015, the school staff reported on the student's progress towards mastery of the annual IEP goals (Docs. h and r).

ALLEGATION #5: MAY 2015 REEVALUATION

20. On May 13, 2015, the student's mother sent an email to the school staff with the subject line "school refusal crisis," and reporting that the student "has been experiencing significant anxiety related to attending school since January." The student's mother also reported that much of the student's anxiety is due to his concerns about performance and advance knowledge of expectations, and that his doctor recommended strategies to manage his anxiety about attending school. The student's mother requested to discuss implementation of the strategies with the school staff. The school staff responded, offering to speak with her by telephone, but stated that an IEP team meeting would be scheduled in order for the full IEP team to consider the information (Doc. h).
21. On May 22, 2015, the IEP team convened, including the student's mother, to conduct reevaluation planning for the student. There is documentation that a regular education teacher, a special education teacher, and an administrator participated in the meeting (Doc. o).
22. At the May 22, 2015 IEP team meeting, the IEP team reviewed the student's current performance, existing data, curriculum based assessments, current educational

³ The email also reflects that the school staff would determine whether an Accommodations Plan under Section 504 of the Rehabilitation Act of 1973 (504 Plan) is appropriate for the student, if the IEP team determined he is not eligible for special education (Doc. h).

performance, and progress. The student's mother reported that the student does not demonstrate the same skills at home that the school staff report about his performance at school. She expressed concerns about the student's comprehension and his inability to independently complete assignments. She also reported that the student has difficulty with "the unexpected and the unknown." The school staff described that the student is provided with support in the classroom by the staff asking how they can assist him when he becomes anxious (Doc. o).

23. The IEP team also considered two (2) reports from the student's physician, dated April 17, 2015 and May 14, 2015, based on the physician's interviews with the student and his parents. The reports state that "changes and new events, (even seemingly small ones like a new activity in physical education class), can be very difficult for [the student], causing intense anxiety" due to his Autism and anxiety disorder. The reports also state that the student frequently has episodes of "intense anxiety," sometimes accompanied by school refusal. It also indicates that the student has difficulty with pragmatic language and appropriate communication skills in "high emotional situations, such as when he is upset or anxious." The reports include recommendations to address the student's anxiety and school refusal, including advance notice for changes and new activities, and check-ins with school staff during independent work. The physician recommended a psychological evaluation and a formal pragmatic language evaluation of the student (Docs. o and p).
24. The IEP team documented its consideration that the student may have Autism and an Emotional Disability. The IEP team recommended assessments in reading, math, written expression, as well as assessments and observations in the area of social, emotional and behavior. The student's mother provided consented for assessments. The IEP team also discussed the student's past achievement of an IEP goal in the area of pragmatic language. Based on this information, the IEP team did not recommend an assessment in the area of pragmatic language (Docs. o and p).
25. On June 12, 2015, the IEP team convened, including the student's mother, to review the results of assessments and to complete the reevaluation of the student. There is documentation that a regular education teacher, a special education teacher, and an administrator participated in the meeting (Doc. q).
26. At the June 12, 2015 IEP team meeting, the IEP team considered information from the student's mother that the student has "high anxiety" and her belief that his anxiety impacts him throughout the school day. She explained that the student "often becomes very upset" worrying about the upcoming school day, homework assignments, and changes in schedule. As a result, the student becomes "agitated" at home before school, has difficulty getting on the bus, and at times, refuses to get on the school bus. The written summary of the IEP team meeting reflects that, on such mornings, the school staff greet the student upon his arrival to provide assistance (Doc. q).

27. The IEP team also reviewed the report of a psychological evaluation of the student, dated June 3, 2015. The report reflects the following information:
- In the classroom, the student was able to transition between groups without additional prompts or support. He appeared happy and engaged in class, interacted with peers and completed assigned tasks. The student “did not stand out from his classmates due to academic or behavioral concerns.”
 - The student’s mother reported “clinically significant” levels of anxiety at home.
 - The school staff reported varying degrees of anxiety in different settings.
 - Both the student’s mother and some school staff reported that the student worries about schedules and uncertain expectations, and is afraid of making mistakes.
 - While the student reported an above average anxiety rating, based on reports that he worries about things that are related to the unknown, he reported “positive feelings about school and teachers.”
 - The school staff reported that they provide assistance to the student upon his arrival to school on mornings when he is anxious. After brief conversations with the school staff about his concerns, the student is able to transition to class and successfully participate in the school day (Docs. q and s).
28. The IEP team also reviewed the results of the academic assessments indicating that the student is performing on grade level in reading, math and written language, and the April 2015 reports of the student’s progress reflecting his mastery of all of the annual IEP goals (Docs. q, r and u).
29. The IEP team also considered three (3) reports of observations that were conducted of the student in various school settings. The observation reports reflect that the student arrived at school appearing “relaxed and calm,” was able to transition smoothly from the bus to the classroom, demonstrated positive interactions with peers, and had no difficulty participating and following directions. The observation reports also reflect that the student received the support of school staff prior to his first class in order to review his communication book and discuss his anxiety and concerns about the school day (Docs. q and t).
30. At the time of the June 12, 2015, IEP team meeting, the IEP team had the following information about the student, as documented by the school staff through emails sent to the student’s mother in May and June 2015:
- Although the student has been upset on a few occasions during the school day, he has been able to calm down with the assistance of school staff.

- The school staff “check in” with the student during the day, and are available to make sure that he “settles in” to classes.
- The school staff meet with the student in the morning to address his feelings and concerns about the day, which allows him to successfully transition to class.

At the time, the IEP team also had information that the student had missed twenty-three (23) days of school since the start of the school year. However, there is documentation that fifteen (15) days were due to illness, and six (6) days were due to being out of town (Docs. f - h).

31. Based on its review of the data, including the concerns of the student’s mother, the IEP team determined that, while the student needs support in school, he does not require special education services. The IEP team discussed that supports to address the student’s needs related to his anxiety could be provided through the development of a 504 Plan. The student’s mother disagreed with the IEP team’s decision based on her belief that the student requires an IEP because he is unable to function independently and appropriately, and cannot access the curriculum without modifications and adult support (Docs. h and q).

DISCUSSION/CONCLUSIONS:

Allegations #1 and #5:

Reevaluations

A student with a disability under the IDEA is one who has been evaluated under the IDEA, has been determined to have an identified disability and who, as a result of that disability, requires special education (34 CFR §300.8 and COMAR 13A.05.01.03).

Special education means specially designed instruction, at no cost to the parent, to meet the unique needs of a student with a disability. Specially designed instruction means adapting, as appropriate to the needs of an eligible student under the IDEA, the content, methodology, or other delivery of instruction to address the unique needs of the student that result from his/her disability, and to ensure the student’s access to the general curriculum (34 CFR §300.39).

A public agency must evaluate a student with a disability before determining the student is no longer a student with a disability. As part of the reevaluation, the IEP team must review existing data, including evaluations and information provided by the parents, current classroom-based, local, or State assessments, classroom-based assessments, and observations by teachers and related service providers (34 CFR §300.305 and COMAR 13A.05.01.06).

An IEP team meeting may be conducted without a parent in attendance only if the public agency is unable to convince the parent to participate. However, the public agency must be able to document its attempts to arrange a mutually convenient time and place to hold an IEP team meeting, such as detailed records of telephone calls made or attempted and the results of those

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calls, copies of correspondence sent to the parents and any responses received, and detailed records of visits made to the parents (34 CFR §300.322 and COMAR 13A.05.01.07).

In this case, the complainant asserts that the IEP team did not consider information from the student's mother about the impact of the student's anxiety when conducting the January 2015 and May 2015 reevaluations of the student (Doc. v).

Allegation #1: The January 2015 Reevaluation

Based on the Findings of Facts #3 and #16, the MSDE finds that the student's parents were not present at the IEP team meetings on January 14, 2015, and March 11 and 18, 2015, which were convened in order to conduct a reevaluation of the student. Based on the Findings of Facts #2 - #4, the MSDE finds that, notwithstanding documentation that the AACPS contacted the student's mother prior to the January 14, 2015 IEP team meeting, there is no documentation of attempts by the AACPS to convince the student's parents to attend the January 14, 2015 IEP team meeting. Based on the Findings of Facts #1 - #19, the MSDE finds that the AACPS did not take steps to ensure the parents' participation in the January 2015 reevaluation in order to make sure that all of the data, including the parents' concerns, was considered. Therefore, the MSDE finds a violation occurred.

Allegation #5: The May 2015 Reevaluation

Based on the Findings of Facts #21 and #25, the MSDE finds that, subsequent to the January 2105 reevaluation, the IEP team convened, including the student's mother, on May 22, 2015 and June 12, 2015, and conducted another reevaluation of the student. Based on the Findings of Facts #22 - #31, the MSDE finds that the IEP team considered the existing data about the student, including information from the student's mother. Based on the same Findings of Facts, the MSDE finds that the IEP team determined that the student does not require special education, and that there was data to support the IEP team's decision. Therefore, the MSDE does not find that a violation occurred with respect to the May 2015 reevaluation, and does not require student specific corrective action to remediate the violation regarding the January 2015 reevaluation.

Allegation #2: IEP Team Participants

The IEP team must include not less than one (1) regular education teacher of the student, not less than one (1) special education teacher or provider of the student, a representative of the public agency, and an individual who can interpret the instructional implications of evaluation results, who may also be a required member of the IEP team. The IEP team may also include other individuals who have knowledge or special expertise regarding the student, including related service personnel, as appropriate (34 CFR §300.321).

March 11, 2015 IEP Team Meeting

In this case, the complainant asserts that the AACPS convened the March 11, 2015 IEP team meeting without a complete IEP team because it did not include the participation of a psychologist (Doc. v).

Based on the Finding of Fact #16, the MSDE finds that there is no documentation that, at the March 11, 2015 IEP team meeting, the IEP team was unable to make determinations without the participation of the school psychologist. Therefore, the MSDE finds that a psychologist was not a required IEP team member, and does not find a violation with respect to this aspect of the allegation.

March 18, 2015 IEP Team Meeting

In this case, the complainant asserts that the AACPS convened the March 18, 2015 IEP team meeting without the proper IEP team participants (Doc. v).

Based on the Finding of Fact #16, the MSDE finds that the March 18, 2015 IEP team meeting did not include a general education teacher. Therefore, the MSDE finds that a violation occurred with regard to this aspect of the allegation.

Notwithstanding the violation, based on the Findings of Facts #16, #2, #22, #25 and #28, the MSDE finds that subsequent IEP team meetings were held on May 22, 2015 and June 12, 2015 which included the proper participants, and that the IEP team considered the information that was considered at the March 18, 2015 IEP team meeting. Therefore, the MSDE does not require any student-specific corrective action.

Allegation #3: Parental Participation

The public agency is required to take steps to ensure that a parent of a student with a disability is present or is afforded the opportunity to attend and participate in IEP team meetings, including notifying the parent of the meeting early enough to ensure that he or she will have an opportunity to attend, and scheduling the meeting at a mutually convenient time and place. If a parent cannot attend an IEP team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls (34 CFR §300.322). The complainant asserts that the student's parents were not afforded the opportunity to participate in the March 11 and 18, 2015 IEP team meetings (Doc. v).

Based on the Findings of Facts #9 - #15, the MSDE finds that there is documentation that the AACPS attempted to schedule the March 11 and 18, 2015 IEP team meetings at a mutually convenient time. The MSDE further finds, based on the Finding of Fact #12, that the AACPS offered the student's parents an alternative method to participate in the March 11 and March 18, 2015 IEP team meetings if they would be unable to attend. Therefore, the MSDE does not find a violation occurred with regard to the allegation.

Allegation #4: Prior Written Notice

Written notice must be provided to parents when the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a Free Appropriate Public Education (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).

Based on the Findings of Facts #16 and #18, the MSDE finds that Prior Written Notice was provided to the student's parents following the March 18, 2015 IEP team meeting. However, based on the Findings of Facts #16 and #17, the MSDE finds that the AACPS has not provided the student's parents with Prior Written Notice of the decisions made by the IEP team on March 11, 2015. Therefore, the MSDE finds a violation occurred with regard to this aspect of the allegation.

However, based on the Findings of Facts #21 - #31, the MSDE finds that the IEP team, including the student's parents, subsequently convened on May 22, 2015 and June 12, 2015, and considered the information that was considered at the March 11, 2015 IEP team meeting. Therefore, no student-specific corrective action is required.

ALLEGATION #6: PROGRESS REPORTS

FINDINGS OF FACTS:

32. The May 15, 2014 IEP requires that reports of the student's progress toward mastery of the IEP goals be provided to the parents on a quarterly basis (Doc. a).
33. There is documentation that the school staff prepared reports of the student's progress towards his annual IEP goals, dated January 23, 2015, April 10, 2015, and June 12, 2015. The school staff report that it is their practice to send IEP progress reports home to parents on a quarterly basis, at the same time and along with quarterly reports cards (Doc. u and interview with the school staff).
34. While the school staff report that the January 2015 and April 2015 IEP progress reports were sent to the parent through the student's backpack, and the June 2015 IEP progress reports were mailed to the parent, there is no documentation of this (Review of the student's educational record and interview with the school staff).

DISCUSSION/CONCLUSIONS:

The IEP must include a description of how the student's progress toward achieving the annual goals will be measured and when reports will be made of the student's progress to the parents (34 CFR §300.320). The public agency must provide all services as described in the IEP

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(34 CFR §§300.101 and .323).

Based on the Findings of Facts #32 - #34, the MSDE finds that there is no documentation that the school staff provided the student's parent with quarterly progress reports in accordance with the IEP, and therefore finds a violation occurred with respect to this allegation.

CORRECTIVE ACTIONS/TIMELINE:

Student-Specific

The MSDE requires the AACPS to provide documentation, by May 1, 2016, that the student's parents have been provided with the January, April and June 2015 reports of the student's progress towards his annual IEP goals.

School-Based

The MSDE requires the AACPS to provide documentation, by June 1, 2016, of the steps taken to ensure compliance by XXXXXXXXXXXXXXXX with the IDEA and related State requirement that a public agency may conduct an IEP team meeting without a parent in attendance only if the public agency is able to document its attempts to convince the parent to participate, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.

The MSDE also requires the AACPS to provide documentation, by June 1, 2016, of the steps it has taken to determine if the other violations identified in this Letter of Finding are unique to this case or represent a pattern of noncompliance at XXXXXXXXXXXXXXXX. Specifically, a review of student records, data, or other relevant information must be conducted in order to determine if the regulatory requirements are being implemented and documentation of the results of this review must be provided to the MSDE. If compliance with the requirements is reported, the MSDE staff will verify compliance with the determinations found in the initial report.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violations do not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that both the complainant and the AACPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of facts or conclusions reached in this Letter of Findings. The additional 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 the 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. Pending the decision on a request for reconsideration, the school system must implement any corrective actions consistent with the timeline requirement as reported in this Letter of Findings.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The parents and the AACPS 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 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,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Special Education/
Early Intervention Services

c:	XXXXXXXXXX	Alison Barmat
	XXXXXXXXXX	XXXXXXXXXX
	George Arlotto	Anita Mandis
	Bobbi Pedrick	K. Sabrina Austin
	Bonnie Preis	Nancy Birenbaum