

September 26, 2020

The Honorable Lawrence J. Hogan, Jr.
Governor of Maryland
100 State Circle
Annapolis, Maryland 21401

Re: Special Education State Complaint for [REDACTED]

Dear Governor Hogan:

I am writing to file a complaint on behalf of my son [REDACTED] (the Student), regarding his education in the state of Maryland (the State). I believe that the Maryland State Department of Education (the "State Educational Agency" or the "SEA") and the State are in violation of certain requirements in the Individuals with Disabilities Education Act (IDEA or the "Act"), its implementing regulations at 34 C.F.R. §300 (the Regulations) and related Code of Maryland Regulations (COMAR). This complaint is filed under 34 C.F.R. §300.153 and COMAR 13A.05.01.15, against the SEA and the State. I will be referred to as the "Complainant" hereafter.

The details about the complaint are as follows:

Student Information:

Student's Name: [REDACTED]

Date of Birth: [REDACTED]

Address: [REDACTED]

Local Educational Agency (LEA): Prince George's County Public Schools (PGCPS)

School the student is currently attending: [REDACTED]

School(s) the student attended when violation(s) occurred: [REDACTED]

[REDACTED] (Placed by the PGCPS)

Student Background:

The Student is a fifteen (15) years old boy with Autism and Epilepsy, and is a child with disability under the IDEA. The Prince George's County Public Schools (the LEA) placed the Student at the [REDACTED] (the School), a non-public separate day school in the State, to receive Free Appropriate Public Education (FAPE).

Legal Standards:

1. The IDEA implementing regulations at 34 C.F.R. §300.613 requires that each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under 34 C.F.R. §300. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, and in no case more than 45 days after the request has been made;
2. The IDEA implementing regulations at 34 C.F.R. §300.326 requires that the SEA must have in effect the policies and procedures, including sanctions that the State uses, to ensure that its policies and procedures consistent with 34 C.F.R. §§ 300.611 through 300.625 are followed and that the requirements of the IDEA and the regulations in 34 C.F.R. §300 are met;
3. The IDEA implementing regulations at 34 C.F.R. §300.501 requires that the parents of a child with a disability must be afforded, in accordance with the procedures of 34 C.F.R. §§ 300.613 through 300.621, an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child;
4. The IDEA implementing regulations at 34 C.F.R. §300.500 requires that each SEA must ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of 34 C.F.R. §§ 300.500 through 300.536;
5. The IDEA implementing regulations at 34 C.F.R. §300.123 requires that the State must have policies and procedures in effect to ensure that public agencies in the State comply with 34 C.F.R. §§ 300.610 through 300.626 related to protecting the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the Act;
6. The IDEA implementing regulations at 34 C.F.R. §300.600(a)(1) requires that the State must monitor the implementation of 34 C.F.R. §300;
7. The IDEA implementing regulations at 34 C.F.R. §300.600(a)(3) requires that the State must enforce 34 C.F.R. §300, consistent with 34 C.F.R. § 300.604, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in 34 C.F.R. § 300.604(a)(1) (technical

assistance), (a)(3) (conditions on funding of an LEA), (b)(2)(i) (a corrective action plan or improvement plan), (b)(2)(v) (withholding funds, in whole or in part, by the SEA), and (c)(2) (withholding funds, in whole or in part, by the SEA); and

8. Pursuant to 34 C.F.R. §300.33 and section 612(a)(11) of the Act, the term public agency includes the SEA. The SEA must, therefore, resolve any complaint against the SEA pursuant to the SEA's adopted State complaint procedures. The SEA, however, may either appoint its own personnel to resolve the complaint, or may make arrangements with an outside party to resolve the complaint. If it chooses to use an outside party, however, the SEA remains responsible for complying with all procedural and remediation steps required in part 300. (Analysis of Comments and Changes to IDEA, *Federal Register*, Vol. 71, No. 156, p. 46602, August 14, 2006).

Background:

1. On July 02, 2020, the Complainant sent a letter (the Record Request) to Ms. Lora Rakowski, Director of Communications within the SEA (the Director), requesting access to certain records which are in the possession of the SEA. On the same date, the Complainant provided a copy of the Record Request to Dr. Karen B. Salmon, State Superintendent of Schools within the SEA (the Superintendent). The records included education records of the Student as defined under the Regulations;
2. On July 21, 2020, the Complainant sent another letter to the Director and the Superintendent expressing concern that he has not received any response to the Record Request. The Complainant also requested prompt attention and full cooperation from the Director for the Record Request, at the same time;
3. On August 06, 2020, the Complainant sent another letter to the Superintendent expressing concern that he had not received any response to the Record Request;
4. On August 10, 2020, Ms. Monica C. Bias, Executive Associate/Scheduler to the Superintendent (the Associate) sent an electronic mail (email) to the Complainant acknowledging the receipt of the August 06, 2020 letter. At the same time, the Associate informed the Complainant that a copy of his August 06, 2020 letter had been printed for review and response; and
5. As of the date of this letter the Complaint has not been provided with response to the Record Request or the concerns he expressed in subsequent letters and he has not been provided access to the education records for which he requested access in the Record Request.

Violation #1:

The SEA has not provided me with access to the Student's education records for which I requested access in the Record Request, in accordance with 34 CFR §300.613 and COMAR 13A.08.02.13.

Date(s) violation(s) occurred or duration of the violation: August 17, 2020

Violation #2:

The SEA did not have procedures in effect to ensure that its policies and procedures consistent with 34 C.F.R. §300.613 are followed and that the requirements of the IDEA and the regulations in 34 C.F.R. §300 are met with regards to the Record Request, in accordance with 34 C.F.R. §300.326.

Date(s) violation(s) occurred or duration of the violation: August 17, 2020

Violation #3:

The SEA did not ensure that it established and implemented procedural safeguards that met the requirements of 34 C.F.R. §300.501 with regards to the Record Request, in accordance with 34 C.F.R. §300.500.

Date(s) violation(s) occurred or duration of the violation: August 17, 2020

Violation #4:

The State did not have procedures in effect to ensure that the SEA complied with 34 C.F.R. § 300.613 with regards to the Record Request, in accordance with 34 C.F.R. §300.123.

Date(s) violation(s) occurred or duration of the violation: August 17, 2020

Violation #5:

The State failed to monitor the implementation of 34 C.F.R. §300.613 with regards to the Record Request, in accordance with 34 C.F.R. §300.600.

Date(s) violation(s) occurred or duration of the violation: August 17, 2020

Violation #6:

The State did not enforce the requirements under 34 C.F.R. §300.613 with regards to the Record Request, in accordance with 34 C.F.R. §300.600.

Date(s) violation(s) occurred or duration of the violation: Since August 06, 2020

Proposed Resolution:

1. Within fifteen (15) days of the date of this letter, the SEA should provide the Complainant with with copies of all the records for which he requested access to as requested in the Record Request;
2. Within fifteen (15) days of the date of this letter, you should provide the Complainant with a written confirmation that responsible individuals have been appointed to the positions held by the Director and the Superintendent at the SEA;
3. Within twenty (20) days of the date of this letter, the SEA should provide a written explanation to the Complainant with the steps it has taken to ensure that it complies with all federal and state laws and regulations with regards to request for access to records from the Complainant;
4. Within twenty (20) days of the date of this letter, you should provide a written explanation to the Complainant with the steps the State has taken to ensure that the SEA complies with all federal and state laws and regulations with regards to request for access to records from the Complainant;
5. Within thirty (30) days of the date of this letter, the SEA should provide a written explanation to the Complainant, describing the steps it has taken to ensure that each of the violations and the issues identified in this letter do not reoccur for the Student or any other children with disabilities in the State; and
6. Within thirty (30) days of the date of this letter, you should provide a written explanation to the Complainant, describing the steps you have taken to ensure that each of the violations and the issues identified in this letter do not reoccur for the Student or any other children with disabilities in the State.

All of the above must be implemented.

Complainant Information:

Complainant's Name: HAMEED JAMARUSSADIQ

Relationship to Student: FATHER

Address: [REDACTED]

Telephone Number(s): [REDACTED]

This complaint is filed against the SEA and the State. Pursuant to 34 C.F.R. §300.33 and section 612(a)(11) of the Act, the term public agency includes the SEA. The SEA must, therefore, resolve any complaint against the SEA pursuant to the SEA's adopted State complaint procedures. The SEA, however, may either appoint its own personnel to resolve the complaint, or may make arrangements with an outside party to resolve the complaint. If it chooses to use an outside party, however, the SEA remains responsible for complying with all procedural and remediation steps required in part 300. (Analysis of Comments and Changes to IDEA, *Federal Register*, Vol. 71, No. 156, p. 46602, August 14, 2006).

Since the SEA has demonstrated severe deficiencies in its State Complaint procedures, because of the severity and depth of the deficiencies in the SEA's complaint investigation system and because of the unavailability of the qualified staff at the SEA, I strongly suggest that an outside party be used to investigate this complaint in order to have an independent, fair and proper investigation.

Failures of the SEA and the State described in this letter negatively impacts the education of children with disabilities in the State. I believe that it is essential that the SEA and the State fully comply with the requirements of the Regulations in order to provide Free Appropriate Public Education (FAPE) to the children with disabilities in the State.

By this letter to you and the copies, I would like to remind the SEA and the State that federal regulations prohibit public entities and recipients of Federal Financial Assistance (FFA) from taking actions, towards the Student or any of his immediate family members, to harass, intimidate, threaten, coerce or discriminate them, because I filed this complaint, any additional complaints regarding the same or different matter, asserted the Student's right to receive FAPE in the State, or asserted the Student's right to not being discriminated based on his disability, in the State. I request you to take proactive measures to ensure that violations described in this paragraph do not occur.

I request you to ensure that this complaint is processed in accordance with the IDEA and the Regulations, complying with all procedural requirements. I also request you to provide procedures for effective implementation of corrective actions to achieve compliance as required by the IDEA.

Thank you for your cooperation. Please contact me to confirm the receipt of this complaint, set up times for the investigators to talk to me and establish timelines for completing the investigation. If you or the investigators need further information or clarification, I can be reached at the contact numbers in this letter.

The Honorable Lawrence J. Hogan, Jr.
September 26, 2020
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Sincerely,

A black rectangular box redacting the signature of Hameed Jamarussadiq.

Hameed Jamarussadiq

c: Laurie VanderPloeg
Gregg Corr
Gbenimah Slopadoe
Boyd K. Rutherford
Karen B. Salmon
Carol A. Williamson
Marcella E. Franczkowski