

August 03, 2021

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

Re: Special Education State Complaint for

Dear Governor Hogan:

I am writing to file a complaint on behalf of my son (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:

Date of Birth:

Address:

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

School the student is currently attending:

School(s) the student attended when violation(s) occurred:

(Placed by the PGCPS)

Student Background:

The Student is a sixteen (16) 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).

Participants Information:

The individual(s) participated in the violation(s) described in this complaint include, but not limited to, the following:

1. Ms. Marcella E. Franczkowski, Assistant State Superintendent, Division of Special Education/Early Intervention Services (the Division) within the SEA (hereafter the "Superintendent");
2. Ms. Dori Wilson, Chief, Family Support and Dispute Resolution Branch at the SEA (the Branch Chief);
3. Ms. Anita Mandis, Section Chief, Complaint Investigation Section at the SEA (the Section Chief); and
4. Dr. Carol A. Williamson, Deputy Superintendent at the SEA (the Supervisor)

The above individual(s) conducted the operations on behalf of the SEA under the leadership of Dr. Karen B. Salmon, Previous State Superintendent of Schools at the SEA (the Previous Superintendent).

Legal Standards:

1. The IDEA implementing regulations at 34 C.F.R. §300.101 requires that a free appropriate public education must be available to all children residing in the State between the ages of 3 and 21;
2. The IDEA implementing regulations at 34 C.F.R. §300.146 requires that each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency is provided special education and related services in conformance with an IEP that meets the requirements of 34 C.F.R. §§300.320 through 300.325;
3. The IDEA implementing regulations at 34 C.F.R. §300.152(a)(5)(i) requires that each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under 34 C.F.R. §300.153 to issue a written decision to the

complainant that addresses each allegation in the complaint and contains Findings of fact and conclusions;

4. The IDEA implementing regulations at 34 C.F.R. §300.152(a)(5)(ii) requires that each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under 34 C.F.R. §300.153 to issue a written decision to the complainant that addresses each allegation in the complaint and contains the reasons for the SEA's final decision;
5. The IDEA implementing regulations at 34 C.F.R. §300.152(b)(2)(i) requires that each SEA's procedures under 34 C.F.R. §300.152(a) must include procedures for technical assistance activities;
6. The IDEA implementing regulations at 34 C.F.R. §300.152(b)(2)(i) requires that each SEA's procedures under 34 C.F.R. §300.152(a) must include procedures for effective implementation of corrective actions to achieve compliance;
7. 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;
8. The IDEA implementing regulations at 34 C.F.R. §300.600(b) requires that the primary focus of the State's monitoring activities must be on improving educational results and functional outcomes for all children with disabilities; and ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities;
9. The IDEA implementing regulations at 34 C.F.R. §300.600(e) requires that in exercising its monitoring responsibilities under paragraph (d) of this section, the State must ensure that when it identifies noncompliance with the requirements of this part by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance; and
10. 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 June 21, 2020 the Complainant filed a complaint, pursuant to 34 C.F.R. §300.153 and COMAR 13A.05.01.15 (the Complaint), with the SEA alleging that the LEA violated certain provisions of the IDEA and its implementing regulations at 34 C.F.R. §300 and related COMAR. The Complaint was addressed to the Superintendent;
2. One of the allegations in the Complaint was that the LEA did not ensure that the School staff were consistently available via email for the Student's parents' questions and/or concerns, as required by the Student's IEP, in accordance with 34 CFR §300.101 and COMAR 13A.05.01.09 (the Allegation);
3. On June 23, 2020, the Branch Chief wrote a letter (the Initiation Letter) to the Complainant informing him that the SEA planned to investigate the Allegation and the Complaint was assigned to the Section Chief, but did not mention the purpose of the assignment;
4. On August 06, 2020 the Superintendent wrote a letter (the Letter), addressed to Ms. Trinell Bowman, Executive Director of Special Education at the LEA and the Complainant asserting that the SEA completed investigation of the Complaint;
5. In the Letter, the Superintendent confirmed that he School staff did not respond to all of the Student's parents' questions and/or concerns, as required by the Student's IEP and “a violation” occurred with respect to the Allegation;
6. In the Letter, the Superintendent documented that the SEA required the LEA to taken several corrective actions (collectively, the Corrective Actions);
7. The Corrective Actions did not include an action for the School staff to provide response to the Student's parents for their questions and/or concerns which were not responded to, as alleged in the Allegation;
8. One of the actions included in the Corrective Actions as the SEA's final decision was to developed a protocol for communication between the complainant and all school and school system staff, including transportation staff (the Protocol);
9. The Letter did not include a reason for development of the Protocol;
10. The Superintendent documented in the Letter that SEA plan to provide technical assistance to the Complainant and the LEA;
11. On October 14, 2021 the Complainant conducted a telephone conversation (the Conversation) with the Section Chief;
12. During the Conversation the Section Chief started talking about the Protocol without the Complainant bring that subject up for discussion. The Section Chief asserted that the purpose of the Protocol was to make things easy for the

- Complainant so that he don't have to go behind various people. However, this reason for development of the Protocol was not included in the Letter;
13. During the Conversation, the Section Chief also informed the Complainant that she believes the issues with the Complainant's various requests should be "owned" by the LEA instead of the non-public school. Again, this reason for development of the Protocol was not included in the Letter;
14. On October 20, 2020, the Complainant shared the above information from the Conversation with the Superintendent, the Supervisor and the Previous Superintendent in writing. The Complainant also informed the Superintendent that his understanding was that there was another section chief in charge of "non-public stuff" and he was not sure what did that section chief own. The Complainant inquired whether there was a communication protocol for the two (2) section chiefs;
15. On October 21, 2020, the Superintendent responded to the Complainant asserting that a "prepared response" would be forthcoming that week;
16. On the same date, the Superintendent sent another email to the Complainant with a letter attached;
17. On the same date, the Complainant responded to the Superintendent as follows:

"In your earlier email you mentioned that you will be prepared to send the response. But, the documentation you provided demonstrates that you were not prepared properly. I have been requesting you in the past several years to ensure that the MSDE has staff who understand what they read and write. I continue to find that you have been ignoring my request.

>>>> In your correspondence, you state that you are unaware of the purpose of the communication protocol that this office required the PGCPs to develop with your family, and indicate that Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, is also unaware of the purpose of the communication protocol.

Where did I state these?

>>> During that telephone conversation, you questioned why this office is requiring the PGCPs staff to take responsibility for ensuring timely communication with you and not the nonpublic school staff.

I didn't question this. You are just fabricating things as usual. As I mentioned the Section Chief brought this up. I know you were not present during our talks.

>>> Contrary to your assertion, at no time did Ms. Mandis raise a question about the purpose of the communication protocol.

Where did I assert this?

>>> As Ms. Mandis explained, the PGCPs, as the public agency responsible for your son's education, is ultimately responsible for ensuring the nonpublic school staff's compliance with the IDEA because the PGCPs placed your son in the nonpublic school.

This assertion is not consistent with the IDEA and its implementing regulations. Ultimate responsibility is with the MSDE.

I did not see answer to the following questions:

Is there a communication protocol for the two section chiefs?

Do you have any explanation to provide for the different treatment towards my son and me? Please see my original email for the context.

There was no explanation in your letter why the non-public school school administration was not notified of the state complaint investigation.

When you send out unprepared responses, it wastes everyone's time."

18. As of the date of this letter, the SEA has not responded to the Complainant for the above inquiries;
19. On December 04, 2020 Superintendent documented the following in another letter with regards to the development of the Protocol:

"These violations include those related to responding to numerous overlapping requests for access to documents that the complainant makes on a regular basis."

20. However, there were no findings of fact in the Letter that there were any overlapping requests. Such a reason was not included in the Letter for the development of the Protocol.

Allegation #1:

The SEA did not issue a written decision to the Complainant within sixty (60) days of receiving the Complaint, with reasons for the SEA's final decision to require development of the Protocol, in accordance with 34 C.F.R. §300.152.

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

While the SEA provided several reasons, they were not provided to the Complainant within sixty (60) days as required by the Regulations. Also there are several unanswered questions regarding the reasons.

Please refer to the the Legal Standards and Background provided earlier for more information.

Allegation #2:

The SEA did not include corrective action to achieve compliance with regards to the Allegation, in accordance with 34 C.F.R. §300.152.

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

Please refer to the the Legal Standards and Background provided earlier for more information.

Allegation #3:

The SEA did not provide Technical Assistance to the Complainant for understanding the reasons for development of the Protocol for the request he made on October 20, 2020, in accordance with 34 C.F.R. §300.152.

Date(s) violation(s) occurred or duration of the violation: October 20, 2020

Please refer to the the Legal Standards and Background provided earlier for more information.

Allegation #4:

The SEA did not provide response to the request for explanation and interpretation of education records the Complainant requested on October 20, 2020 (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: December 05, 2020

Please refer to the the Legal Standards and Background provided earlier for more information.

Allegation #5:

The State failed to monitor the implementation of 34 C.F.R. §300.152 by the SEA with regards to the Allegation, in accordance with 34 C.F.R. §300.600.

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

Please refer to the the Legal Standards and Background provided earlier for more information.

Proposed Resolution:

1. Within one (1) day of the date of this letter, the SEA should provide full and complete response to the Complainant for the Record Request;
2. Within five (5) days of the date of this letter, the SEA should require the LEA to provide responses to the Student's parents within ten (10) days of the date of this letter for any and all of their questions and/or concerns which were not responded to during the period of the Allegation;
3. Within fifteen (15) 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 requires correction of the noncompliances during State Complaint investigations, within sixty (60) days of the filing of the complaint;
4. Within twenty fifteen (15) 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 does not misuse the provisions of State Complaints to retaliate against the Complainant;
5. Within twenty (20) days of the date of this letter, you should provide a written confirmation to the Complainant that minimum qualifications for the positions of

the Superintendent have been revised to include history of proper conducting and supervision of State Complaint investigations consistent with IDEA, the Regulations and COMAR;

6. Within twenty (20) days of the date of this letter, you should provide the Complainant with a written confirmation that qualified personnel have been appointed to the positions of the Superintendent;
7. 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 the SEA and the State comply with each of the requirements in the Regulations which are described in this letter; and
8. 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 and 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. 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

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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.

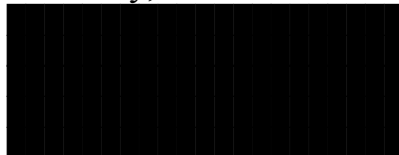
Failures of the SEA and the State described in this letter negatively impacts the education of children with disabilities in the State. I believe that it is essential that the SEA and the State fully comply with the requirements of the Regulations in order to provide Free Appropriate Public Education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

Sincerely,

A black rectangular box redacting the signature of Hameed Jamarussadiq.

Hameed Jamarussadiq

c: Laurie VanderPloeg
Gregg Corr
Christine Pilgrim
Gbenimah Slopadoe
Boyd K. Rutherford
Mohammed Choudhury
Carol A. Williamson
Marcella E. Franczkowski
Leigh E. Dalton
Trinell Bowman