

December 14, 2021

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

Re: State Complaint

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 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 (the Superintendent); and
2. Mr. Gerald Loiacono, Education Program Specialist within the Division at the SEA (the Specialist).

The above individual(s) conducted the operations on behalf of the SEA under the leadership of Mr. Mohammed Choudhury, State Superintendent of Schools at the SEA. The Superintendent and the Specialist served as the chief participants.

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)(4) 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 review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of 34 C.F.R. §300;
4. 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;

5. 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;
6. 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; and
7. 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 October 08, 2021 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, the Regulations and related COMAR. The Complaint was addressed to the Superintendent;
2. One of the allegation in the Complaint was that the LEA did not ensure that proper procedures were followed when including the provision of exclusion, in the Student's Behavioral Intervention Plan (BIP) on May 28, 2021, in accordance with with 34 CFR §300.324 and COMAR 13A.05.01.08 (the Allegation);
3. Regarding the Allegation, the Complainant explained in the Complaint that BIP is an attachment to the Individualized Education Program (IEP); the LEA included provision of exclusion in the BIP; the previous BIP did not have this provision; the IEP Team did not decide to include this provision in the BIP during the May 28, 2021 IEP Team Meeting; and there was no agreement between the District and the Student's parents to include this provision in the BIP;

4. On October 15, 2021; the Specialist asserted to the Complainant in writing by electronic mail (email) that the Allegation was included in the investigation completed for the complaint that the SEA numbered as #22-013;
5. On the same date, the the Superintendent wrote a letter (the Letter), numbered as #22-013, addressed to Ms. Trinell Bowman, Associate Superintendent for Special Education at the LEA (the Director) and the Complainant asserting that the SEA completed investigation of the Allegation;
6. The Letter did not demonstrate that an investigation was conducted regarding the Allegation;
7. The Letter did not include any Finding of Facts regarding the Allegation;
8. The Letter did not state whether the LEA violated the IDEA, the Regulations or COMAR as alleged in the Allegation; and
9. It has been more than sixty (60) days since the filing of the Complaint.
10. As of the date of this letter, the SEA has not provided a written decision to the Complainant that addressed the Allegation; contained Finding of Facts and conclusion for the Allegation; or stating whether the LEA violated the requirements in the IDEA, the Regulations or COMAR.

Violation #1:

The SEA has not provided a written decision to the Complainant that addressed the Allegation and contained Finding of Facts and conclusion for the Allegation, in accordance with 34 C.F.R. §300.152 and COMAR 13A.05.01.15

Date(s) violation(s) occurred or duration of the violation: December 08, 2021.

Violation #2:

The SEA did not review all relevant information and make an independent determination as to whether the LEA violated requirements under 34 CFR §300.324 with regards to the Allegation, in accordance with 34 C.F.R. §300.152 and COMAR 13A.05.01.15

Date(s) violation(s) occurred or duration of the violation: December 08, 2021.

Violation #3:

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

Date(s) violation(s) occurred or duration of the violation: December 08, 2021.

Proposed Resolution:

1. Within five (5) days of the date of this letter, the SEA should complete the investigation of the Allegation and provide a written decision to the Complainant for the Allegation fully complying with the IDEA, the Regulations and COMAR;
2. Within ten (10) days of the date of this letter, the SEA should provide a written confirmation to the Complainant that it has appointed qualified staff at the positions of the Superintendent and the Specialist;
3. Within ten (10) days of the date of this letter, the SEA should provide a written confirmation to the Complainant that officials appointed to the positions of the Superintendent and the Specialist completed the training on how to conduct State Complaint investigations under the IDEA, the Regulations and COMAR;
4. Within fifteen (15) days of the date of this letter, the SEA should provide the Complainant with a written confirmation that it has identified any and all students in the State for whom the Superintendent and the Specialist conducted similar operations as described in this letter and respective parents of the students are notified of the violations of the IDEA, the Regulations and/or COMAR by the SEA and respective LEAs;
5. Within ten (10) 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 uses staff with proper qualifications to conduct State Complaint investigations;
6. Within fifteen (15) 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 and the Specialist have been revised to include history of proper correction of noncompliances consistent with IDEA, the Regulations and COMAR;
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 any and all 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/or any other children with disabilities in the State.

All of the above must be implemented. All confirmations referred above must be consistent with facts. The SEA and the LEA must comply with any and all requirements in the IDEA, the Regulations, and COMAR for each of the steps described above.

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 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

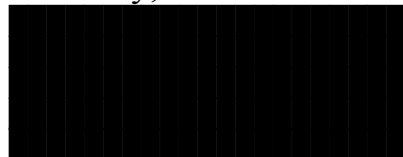
provide Free Appropriate Public Education (FAPE) to the children with disabilities in the State.

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 with me to clarify the allegations before starting the investigation, to set up times for your investigators to talk to me and to 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,



Hameed Jamarussadiq

c: David J. Cantrell
Gregg Corr
Christine Pilgrim
Gbenimah Slopadoe
Boyd K. Rutherford

Mohammed Choudhury
the Superintendent
the Specialist