



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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**REISSUED ON JULY 19, 2018 SEE PAGE 6**

July 6, 2018

Ms. Jessica Williams  
Education Due Process Solutions, LLC  
711 Bain Drive #205  
Hyattsville, Maryland 20785

Dr. Terrell Savage  
Acting Executive Director of Special Education & Student Services  
Howard County Public Schools  
1400 Nalley Terrace  
Ellicott City, Maryland 21157

RE: XXXXX  
Reference: #18-154

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 May 11, 2018, the MSDE received a complaint from Ms. Jessica Williams hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public Schools (HCPS) 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 HCPS has not ensured that the Individualized Educational Program (IEP) has addressed the student’s academic and speech and language needs, in accordance with 34 CFR §§300.320 and .324, since May 2017.<sup>1</sup>

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<sup>1</sup> While the violation was alleged to have occurred beyond this date, the complainant was informed, in writing, that only those violations of the IDEA that are alleged to have occurred within one year of the filing of a state complaint may be addressed through the State complaint procedure (34 CFR §300.153)

2. The HCPS has not ensured that the IEP team reviewed and revised, as appropriate, the student's IEP to address lack of expected progress toward achieving the IEP goals since May 2017,<sup>1</sup> in accordance with 34 CFR §300.324.
3. The HCPS has not followed proper procedures when making the determination that the student would participate in the Alternate Maryland School Assessment (Alt-MSA), and that he would exit school with a Maryland High School Certificate of Completion, since May 2017,<sup>1</sup> in accordance with 34 CFR §§300.160 and .320, COMAR 13A.03.02.09, and the *Alternate Maryland School Assessment Handbook* (Alt-MSA Handbook).
4. The HCPS has not followed proper procedures when determining the student's educational placement since May 2017<sup>1</sup>, in accordance with 34 CFR §§300.114 and .116.
5. The HCPS has not ensured that the IEP team meetings convened since May 2017<sup>1</sup> included the required participants, specifically, the student and representatives from agencies providing transition services, in accordance with 34 CFR §300.321.
6. The HCPS has not ensured that reports of the student's progress towards achievement of the annual IEP goals have been made since May 2017<sup>1</sup>, in accordance with 34 CFR §§300.101, .320 and .323.

### **BACKGROUND:**

The student is 20 years old and attends XXXXXXXXXXXXXXXX. He is identified as a student with a Autism under the IDEA and has an IEP that requires the provision of special education instruction and related services.

There is documentation that the student's parent participated in the education decision-making process and was provided with written notice of the procedural safeguards during the time period addressed by this investigation.

### **ALLEGATIONS #1-#4:**

### **IEP DEVELOPMENT AND PLACEMENT DECISION**

### **FINDINGS OF FACTS:**

1. On June 12, 2017, the IEP team met to complete an annual review for the student. The team determined that the student continued to have needs related to expressive/receptive language, reading comprehension, written expression, math and social/pragmatics. The team developed goals in the areas of reading comprehension, math, written expression, independent living, and social interaction skills. To assist the student in his areas of need, the IEP team determined that the student would receive special education instruction and speech/language therapy services both outside and inside the general education setting.

2. At the June 12, 2017 IEP team meeting, the IEP team reviewed a private speech/language assessment for the student. The IEP team agreed with the results of the assessment and discussed that they were consistent with previous assessment data, but that many of the recommendations were not appropriate for the school setting. The IEP team also determined that the student would participate in a work-study class designed to instruct the student in community living skills and that the speech/language therapist would also work with the student in this setting.
3. At the June 12, 2017 meeting, the IEP team determined that, because the student had a significant cognitive disability and required modification of the curriculum to match that of his instructional level, he would receive instruction and assessment on the Maryland alternative curriculum and would pursue a Maryland High School Certificate of Completion. There is documentation that the student's parent consented to the IEP team's decision at the June 12, 2017 IEP team meeting.<sup>2</sup>
4. In October 2017, the complainant requested an IEP team meeting to provide the parent with the opportunity to withdraw her consent for the student to participate in alternative assessments. At the meeting, the student's mother withdrew consent, and the student was enrolled in classes that would earn credits towards a Maryland High School Diploma. The IEP team revised the student's IEP to ensure that the student would receive grade level instruction. The school staff explained that the student's schedule would need to be modified to include credit earning classes in lieu of the student's work-study classes.
5. Following the determination that the student would be enrolled in credit bearing classes, the complainant expressed concern regarding the student's lack of progress in the general curriculum. The team subsequently met to respond to these concerns and conduct a reevaluation on the following dates:
  - December 11, 2017,
  - February 23, 2018,
  - February 26, 2018,
  - March 14, 2018,
  - April 4, 2018,
  - April 12, 2018; and
  - April 18, 2018.

On multiple occasions, the school-based members of the IEP team reminded the complainant and the parent that the data regarding the student's abilities does not support the parent's decision that he be provided with instruction and assessment on the State's

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<sup>2</sup> The complainant had previously filed a State complaint (17-119) alleging that the IEP team's previous decision that the student would receive instruction and assessment on the States alternate curriculum was not consistent with the data. On May 8, 2017, this office issued a Letter of Findings reporting that the IEP team's decisions were consistent with the data.

general curriculum. During this time, the student failed almost all of his classes, and did not make sufficient progress on his academic goals.

6. At the April 18, 2018 IEP team meeting, the complainant shared her concerns regarding the student's pragmatic language skills and the development of new goals related to speaking and listening. In response, the IEP team recommended that the student receive additional support from the speech/language therapist. The team also recommended that the student receive thirty (30) minute sessions, six (6) times per month, with additional consultation as needed.
7. At the conclusion of the annual review on April 18, 2018, the IEP team determined that the student's IEP could be implemented in the general education and special education classrooms at XXXXXXXXXXXX School with the provision of supplementary aids and services, but the school-based members of the team reiterated that as a result of the student's disabilities, he will struggle to make progress in the general curriculum.

## **DISCUSSION/CONCLUSIONS:**

### **Allegation #1: Addressing the Student's Needs**

#### Academic Needs

In this case, the complainant alleges that the IEP team did not properly develop an IEP for the student that addresses his academic needs in accordance with 34 CFR §§300.320 and .324. Based on the Findings of Facts #1 and #2, the MSDE finds that the IEP team met to identify the student's academic needs and developed goals to measure the student's progress in identified areas prior to the start of the 2017-2018 school year.

However, based on Findings of Facts #3-#5, the IEP team was required to modify the student's educational program as a result of the student's mother withdrawing consent for the student to receive instruction and assessments on the alternate curriculum. Based on those same Findings of Facts, the MSDE finds that the IEP team documented their inability to address the student's academic needs as a result of those changes. Therefore, the MSDE does not find that a violation of 34 CFR §§300.320 and .324 occurred with respect to this aspect of the violation.

#### Speech/Language Needs

In this case the complainant alleges that the IEP did not review a private assessment for the student and develop an IEP that addresses his speech/language needs. Based on Finding of Fact #2, the MSDE finds that the IEP team considered the private speech/language assessment completed for the student and concurred with the conclusions of the assessment findings with regard to the student's needs.

Based on Findings of Facts #6, the MSDE further finds that the IEP team addressed the student's speech/language needs as part of the student's program and increased direct services for the

student when appropriate, in accordance with 34 CFR §§300.320 and .324. Therefore this office does not find that a violation occurred with respect to this allegation.

**Allegation #2: Addressing the Lack of Expected Progress**

In this case, the complainant alleges that the IEP team did not address the student's reported lack of progress on IEP goals. Based on Finding of Fact #5, the MSDE finds that the IEP team convened multiple times over the course of the 2017-2018 school year to address the student's lack of expected progress, in accordance with 34 CFR §300.324. Therefore, this office does not find that violation occurred with respect to this allegation.

**Allegation #3: Determination That the Student Would Pursue a High School Diploma**

In this case, the complainant alleges that the school staff improperly determined in June 2017 that the student would exit high school with a certificate of completion Based on Finding of Fact #3, the MSDE again finds that the IEP team's decision consistent with the data, in accordance with 34 CFR §§300.160 and .320, COMAR 13A.03.02.09, and the *Alternate Maryland School Assessment Handbook* (Alt-MSA Handbook). Therefore, this office does not find that a violation occurred with respect to this allegation.

**Allegation #4: The Student's Placement**

In this case, the complaint alleges that the IEP team did not consider other placement options for the student when completing the student's annual review at the end of the 2017-2018 school year. Based on Finding of Fact #7, the MSDE finds that the IEP team determined the supplementary aids and supports that could be provided in the least restrictive environment, in accordance with 34 CFR §§300.114 and .116. Therefore, this office does not find that a violation occurred with respect to this allegation.

**ALLEGATION #5: REQUIRED MEETING PARTICIPANTS**

**FINDINGS OF FACT:**

8. There is documentation that the school staff have invited the student and transition agency representatives to each IEP team meeting held for the student since May 2017.

**DISCUSSION/CONCLUSIONS:**

In this case the complainant alleges that the student and representatives of transition agencies were not invited to IEP team meetings where transition activities were being discussed.

Based on Finding of Fact #8, the MSDE finds that the documentation does not support the allegation that the student and transition agency representatives were not invited to IEP team

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meetings since May 2017, in accordance with 34 CFR §300.321. Therefore this office does not find that a violation occurred with respect to this aspect of the allegation.

**ALLEGATION #6:               REPORTS OF THE STUDENT’S PROGRESS ON GOALS**

**FINDINGS OF FACTS:**

9.       The student’s IEP, first developed in June 2017, requires that the parent be provided with reports of the student’s progress on a quarterly basis.
10.     There is documentation that the school staff have provided the student’s parent with reports of the student’s progress on his IEP goals, on a quarterly basis.

**DISCUSSION/CONCLUSIONS:**

In this case, the complainant alleges that the student’s parent was not provided with reports of the student’s progress on IEP goals. Based on Findings of Facts #9 and #10, the MSDE finds that there is documentation that the student’s parent was provided copies of reports on the student’s progress, as required by the IEP, since May 2017, in accordance with 34 CFR §§300.101, .320 and .323. Therefore, this office **does not find** that a violation occurred with respect to this allegation.

**TIMELINE:**

Please be advised that the HCPS 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 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.

Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The complainant 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 Free Appropriate Public Education for the student,

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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 due process.

Sincerely,

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

MEF:gl

c: Michael J. Martirano  
Kathy L. Stump  
XXXXXXXX  
XXXXXX  
Dori Wilson  
Anita Mandis  
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