



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

November 9, 2020



Dr. Karen B. Salmon
State Superintendent of Schools
Maryland Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

RE: [REDACTED]
Reference: #21-021

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.

ALLEGATION:

On October 5, 2020, the MSDE received correspondence from [REDACTED] hereafter, “the complainant,” on behalf of his son, the above-referenced student. In that correspondence, the complainant alleged that the MSDE violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the complainant was not provided with access to the student’s educational record in response to requests made on July 2 and 21, 2020 and August 10, 2020, in accordance with 34 CFR §§ 300.123, .500, .501, .600, .604, and .611 - .625.

BACKGROUND:

The student is fifteen (15) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services.

The student is placed by the PGCPS at [REDACTED] a nonpublic, separate, special education school, which he attended from July 1, 2019 until the Statewide closure of schools as a result of the national COVID-19 pandemic.

FINDINGS OF FACTS:

1. An electronic mail message (email) from the complainant to the MSDE custodian of records, dated July 2, 2020, documents that on that date, the complainant made a request for documents related to the pending investigation of his IDEA State complaint #20-137. The correspondence states:

I make this request under the Maryland Public Information Act (MPIA), General Provisions Article (GP) §§4-101 through 4-362, Annotated Code of Maryland.

2. An email from the complainant to the State Superintendent of Schools, MSDE, dated August 6, 2020, documents that on that date, the complainant expressed concern that he had not received a response to the request made on July 2, 2020 or to his July 21, 2020 inquiry about the status of the request. In his August 6, 2020 correspondence, the complainant requested a response within one (1) day of the date of the correspondence.
3. There is no documentation that a request was made for access to the student's educational record pursuant to the IDEA.

DISCUSSION/CONCLUSION:

Complainant alleges that the records he requested from the MSDE were not provided as required under IDEA regulations. The IDEA requirements ensure that parents have the opportunity to inspect and review the student's educational record without unnecessary delay and before any meeting regarding an Individualized Education Program (IEP), and in no case more than forty-five (45) days after the request is made (34 CFR §.300.613).

Based on the Findings of Facts above, the MSDE finds that the complainant did not request access to the educational record under the IDEA, which is within the jurisdiction of the DSE/EIS to investigate. The IDEA requires each State to have policies and procedures in place to monitor and enforce the implementation of the IDEA requirements (34 CFR §§ 300.123, .500, .501, .600, .604, and .611 - .625). In reviewing state special education complaints, the jurisdiction of DSE/EIS is limited to the review of alleged violations of the IDEA. This office found that the complainant requested the records under the MPIA. The DSE/EIS does not have jurisdiction to review requests under the MPIA, which is a separate law that gives the public broad right of access to records that are in the possession of State and local government agencies.

Therefore, this office finds that the IDEA requirements do not apply to the complainant's record request under the MPIA, and a violation of the IDEA did not occur.

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TIMELINE:

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation.

The parties 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 (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 Early Intervention/
Special Education Services

c: The Honorable Lawrence J. Hogan, Jr.
The Honorable Boyd K. Rutherford
Laurie VanderPloeg
Gregg Corr
Gbenimah Slopadoe
Carol A. Williamson
Monica Bias
Lora Rakowski
Dori Wilson
Anita Mandis