



**Mohammed Choudhury**  
State Superintendent of Schools

June 12, 2021



Mr. Troy Keller  
Director of Special Education  
Frederick County Public Schools  
191 South East Street  
Frederick, Maryland 21701

RE: [REDACTED]  
Reference: #21-099

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention/Special Education Services, 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 May 13, 2021, the MSDE received correspondence from Ms. [REDACTED] hereafter, “the complainant” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Frederick County Public Schools (FCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the FCPS has not followed proper procedures when determining a change in educational placement during the 2020-2021 school year, in accordance with 34 CFR §§300.114 - .116, .321 and .322.

**BACKGROUND:**

The student is ten (10) years old, is identified as a student with Autism, under the IDEA, and has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

The student attended [REDACTED] School from the start of the 2019-2020 school year until the March 2020 Statewide closure of all school buildings and the initiation of virtual learning as a result of the COVID-19 pandemic.

Since the start of the 2020-2021 school year, the student has began receiving instruction both in the school building and virtually.

### **IEP in Effect at the Start of the 2020-2021 School Year**

1. The IEP that was in effect at the start of the 2020-2021 school year was developed on January 3, 2020. It described the areas affected by the student's disability as reading comprehension, written language, speech/language, behavior, sensory processing, and fine motor skills.
2. The IEP documents a history of behavioral challenges, in school and at home, to include work refusal, defiance accompanied with screaming, aggression, lack of frustration tolerance, coping, and peer relationship skills. The student's file includes a log of observations conducted several times a year since the first grade, suggested strategies and recommendations by specialists within the Office of Special Education. The IEP states that the student struggles with negotiation, reciprocal conversation, situational inferences, nonverbal gestures, and body language. The IEP also indicates the student is more successful within small groups. The IEP requires that the student receive behavioral support, including social skills training and access to crisis intervention, throughout the school day.
3. The IEP required one (1) hour thirty (30) minutes of special education instruction for reading outside of the general education class, forty (40) minutes of special education instruction for writing inside of the general education class, and twenty (20) minutes of special education instruction for improved behavior, per day, in the school the student would attend if not disabled.

### **November 18, 2020, IEP Team Meeting**

4. On November 18, 2020, the IEP team met to conduct an annual IEP review, and considered reports from the student's teachers that the student did not meet her IEP goals due to a lack of access to instruction, work refusal, lack of cooperation with transitions and sleeping during instruction at home and at school. The team revised the IEP goals consistent with reports of the student's progress and added supplementary aids and services to assist the student with compliance with mask wearing and sanitizing and positive behavioral support when transitioning between activities and when changes are made to the schedule. The school staff discussed the self-harming and negative, self-deprecating comments the student makes and decided to provide the student with additional one-to-one support with an instructional assistant during all classes.

### **February 10, 2021, IEP Team Meeting**

5. On February 10, 2021, the IEP team met and considered information from the student's teacher that during virtual instruction the student has not been available. The teacher reviewed the

student's lack of progress on goals and incomplete grades on her report card. The team summary report documents that the principal discussed with the team the importance of determining a method to get the student to log in to virtual instruction daily. The IEP team decided to increase the rate of reinforcements within the behavior plan since the student responds to incentives.

#### **April 28, 2021, IEP Team Meeting**

6. On April 28, 2021, the IEP team reconvened and considered information from the school staff that, while the student was making progress on the speech/language goals, she was not making sufficient progress with the remaining goals due to sleeping in class and refusing to work. Teachers reported increased incidents of yelling, chewing, and spitting toenails, crying, and making self-harming statements. The complainant reported that the student is in therapy having recently spoken of suicide and suffering from sleep deprivation. The IEP team decided to revise the Behavior Intervention Plan (BIP), increasing the amount of time the student spends in small group and adjusting the supplementary aids and services to include additional counseling support.
7. Two representatives from the [REDACTED]<sup>1</sup> provided information on services available through that program, including the small class size, individual and group counseling, and therapeutic services provided throughout the school day. At that time, the team recommended the student be placed in a school where she could receive services through this program.

#### **May 10, 2021, IEP Team Meeting**

8. On May 10, 2021, the IEP team reconvened and considered the complainant's concerns about the student's participation in the [REDACTED] Program.

#### **June 10, 2021, IEP Team Meeting**

9. On June 10, 2021, the IEP team convened to review the student's progress and discuss placement. The teachers reported that during this 4<sup>th</sup> quarter the student made "significant" academic and behavioral progress. The teachers reported that the student slept approximately forty-four (44) hours while in school between April 19, 2021, and June 14, 2021. However, the teachers also reported that the student achieved two (2) speech/language goals and is making sufficient progress on the remaining goals.
10. At the meeting, the complainant reported to the team that she reached an agreement, with FCPS central office staff, for an administrative transfer for the 2021-2022 school year. Based upon this agreement, the student will attend [REDACTED] School, which does not participate in the [REDACTED] program.

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<sup>1</sup> The [REDACTED] Program is contracted through Sheppard Pratt Health System to provide individual and group therapeutic services and social skills education within a comprehensive school setting.  
<https://www.fcps.org/academics/service-delivery-and-programs>

**CONCLUSION:**

In this case the complainant alleges there was no data to support the IEP team's decision to place the student in a school where she would participate in the [REDACTED] Program and that the complainant did not have the opportunity to participate in the decision-making process.

Based on the Findings Of Facts #1 - #10, the MSDE finds that that documentation does not support the allegation, in accordance with 34 CFR §§300.114 - .116, .321 and .322. Therefore, this office does not find that a violation occurred with respect to the allegation.

**TIMEFRAME:**

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusion 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.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The parents 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, 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  
and Special Education Services

MEF/sf

c: Theresa Alban  
Keith Harris  
Denise Flora  
[REDACTED]  
Sonya McElroy  
Dori Wilson  
Anita Mandis  
Sharon Floyd