



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

June 21, 2021

Grace Reusing, Esq.  
Assistant Public Defender  
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Juvenile Protection Division  
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Ms. Deborah Grinnage-Pulley  
Executive Director, Juvenile Services Education System  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201

Re: [REDACTED]  
Reference: #21-089

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and Special Education Services (MSDE), 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 April 22, 2021, the MSDE received a complaint from Grace Reusing, Esq., Office of the Public Defender, hereafter “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Maryland State Department of Education Juvenile Services Education System (JSES) 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 JSES has not ensured that the student has been provided with a Free Appropriate Public Education (FAPE) while placed at the [REDACTED] [REDACTED] ( [REDACTED] from April 22, 2020 to April 25, 2020 and December 24, 2020 to February 12, 2021, the [REDACTED] ( [REDACTED] from February 12, 2021 to April 4, 2021, and the [REDACTED] ( [REDACTED] since April 4, 2021, in accordance with 34 CFR §§300.2, .17, .101, .323, and .324, as well as federal and State guidance.

**BACKGROUND:**

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

**FINDINGS OF FACTS:**

1. During the time periods covered by the investigation, the student has been placed by the Maryland Department of Juvenile Services (DJS) in its facilities as follows:
  - April 22, 2020 to April 23, 2020 – [REDACTED] ([REDACTED])
  - April 23, 2020 to April 25, 2020 – The student was not in a DJS facility.
  - December 24, 2020 to February 12, 2021 – [REDACTED]
  - February 12, 2021 to April 7, 2021 – [REDACTED] ([REDACTED])
  - April 7, 2021 to April 12, 2021 – [REDACTED] ([REDACTED])
  - April 12, 2021 to April 23, 2021 – [REDACTED] ([REDACTED]) and
  - Since April 23, 2021 – [REDACTED]
2. The JSES is responsible for the education of students placed in the DJS facilities.
3. An April 6, 2020 letter from the JSES to parents of students placed in the DJS facilities, reflects that during the COVID-19 pandemic, the school system was providing special education instruction through virtual learning and related services through telehealth.
4. There is documentation in the form of a DJS directive that, since the onset of the COVID-19 pandemic, upon entry to each DJS facility, the DJS places students on quarantine for approximately fourteen (14) days for health and safety reasons in order to stop the spread of the disease. The documentation reflects that, in addition, the DJS has identified housing units and other spaces that are appropriate for the safe isolation of a student who displays symptoms or tests positive for COVID-19. These spaces are designed to ensure that students' medical needs are met, and to limit facility-wide exposure. While a student is placed in quarantine, the DJS does not provide the JSES with face-to-face access to students.

**April 22, 2020 to April 23, 2020 – [REDACTED]**

5. While there is documentation that the JSES was informed of the student's arrival at the [REDACTED] on April 22, 2021, the school staff did not have time to obtain the education record and begin to provide educational services before leaving the facility the following day.

**December 24, 2020 to February 12, 2021 – [REDACTED]**

6. The JSES calendar reflects that the school system was on winter break from December 22, 2020 to January 4, 2021.
7. The student was placed on quarantine upon his arrival at the [REDACTED]. The two week quarantine was extended through January 15, 2021 due to the student's illness. The school staff logs document that, during this time, the student was provided with instructional materials.
8. There are service logs that document that the student was provided with the psychological services required by the IEP once the student was released from quarantine, and that the services he missed while in quarantine were made up.
9. There are teacher and student schedules that document that, following the student's release from quarantine, support was available to him from teachers and his case manager.
10. The documentation of a February 10, 2021 IEP reflects that the student was provided with education services virtually. The team documented that the student was being provided with support from a teacher in the classroom during virtual instruction and during student work time. It also documented that the student had access to his case manager for additional assistance. It further documented that the student's progress was negatively impacted by his work refusal and that these interfering behaviors were being addressed through counseling sessions.

**February 12, 2021 to April 7, 2021 – [REDACTED]**

11. The student was placed in quarantine from February 12, 2021 to February 26, 2021 upon his arrival at [REDACTED].
12. There are teacher support logs that document that the special education teacher checked in with the student twice per day to provide the student with assistance from February 12, 2021 to April 7, 2021. The logs document that the student refused to accept assistance and support from either the special education teacher or the case manager.
13. There are accommodations logs that document that the student was provided with IEP supports from February 12, 2021 to April 7, 2021.
14. There are service logs that document that the student was provided with the psychological services required by the IEP once the student was released from quarantine, and that the services he missed while in quarantine were made up.

**April 7, 2021 to April 12, 2021 – [REDACTED]**

15. There is no documentation of attempts to provide special education services during this one week time period. However, while placed at [REDACTED], the IEP team completed a reevaluation on April 9, 2021. The documentation of the meeting reflects that the student refused to comply with the assessments that were attempted in order to complete the reevaluation.

**April 12, 2021 to April 23, 2021 – [REDACTED]**

16. There is electronic mail (email) correspondence among the JSES staff that reflects that from April 12, 2021 to April 23, 2021, the student was moved to the infirmary at [REDACTED] for medical treatment and that he was not provided with education services due to illness. Instructional materials were delivered to him and other students placed in quarantine.
17. The April 14, 2021 reports of the student's progress towards achievement of the annual IEP goals documents that the student displayed work refusal behavior in the classroom, particularly when he knew other students from his community were in the same classroom.

**Since April 23, 2021 – [REDACTED]**

18. From April 23, 2021 to April 30, 2021, the student was placed in quarantine upon his return to [REDACTED]
19. There are accommodation logs that reflect that the student was provided with IEP supports while in quarantine.
20. There are case manager logs that reflect attempts to work with the student and the student's refusal to meet with the case manager.
21. There are psychological service logs that document the provision of related psychological services.
22. There are grade reports of assignments provided, which reflect that the student did not consistently complete assignments even with assistance, and that he did not always participate in virtual learning.
23. There is no documentation that the student was unable to access virtual learning due to problems with technology or the student's inability to benefit from this method of instruction.

**CONCLUSIONS:**

In this case, the complainant alleges that, during the COVID-19 pandemic, the student “did not receive any in-person services and found virtual learning extremely difficult.” The complainant states that “teachers were not available to help him if he had questions and there were many technical challenges at the schools that hindered his ability to fully access instruction.”

Based on the Findings of Facts #1 - #23, the MSDE finds that the documentation does not support the allegation and that the student’s lack of progress is related to his interfering behavior, in accordance with 34 CFR §§300.2, .17, .101, .323, and .324, as well as federal and State guidance. Therefore, this office does not find that a violation occurred.

**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. Pending this office’s decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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  
and Special Education Services

MEF/dee

c: [REDACTED] c/o Grace Reusing, Esq.  
Dawn Hubbard  
[REDACTED]  
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