

Franklin Legal, LLC

February 12, 2025

RE: [REDACTED]
Reference: #25-071

Dear Parties:

The independent investigator assigned by the Maryland State Department (MSDE), Division of Early Intervention and Special Education Services (DEI/SES), has completed the investigation complaint regarding special education services for the above-referenced student. This correspondence is the report on the final results of the investigation.

The independent investigator investigated the following allegations:

1. MSDE has not ensured that proper procedures were followed when responding to a State complaint filed by the complainant on July 19, 2024 in accordance with 34 CFR § 300.152
2. MSDE has not followed proper monitoring procedures regarding implementation of 34 CFR § 300.152, in accordance with 34 CFR § 300.600, since July 19, 2024, when complaint #25-026 was filed by the complainant.
3. MSDE has not ensured that proper monitoring procedures are in effect in the PGCPS to ensure compliance with access to student records since August 27, 2024, in accordance with 34 CFR § 300.613.

BACKGROUND:

The student is 19 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. At the time of this complaint, the student was placed by the PGCPS at [REDACTED].

FINDINGS OF FACT:

1. Complaint 24-026 was filed on July 19, 2024 and the Letter of Findings was issued on August 27, 2024.
2. The Letter of Findings in complaint 24-026 provided information about what steps to take if there were concerns about the accuracy of the findings of the investigator.
3. The complainant sent a letter to MSDE on September 8, 2024 alleging inaccuracies in the Letter of Findings in complaint 24-026; however, the complaint investigator was not copied on the email the letter was attached to and did not see it until on or around January 7, 2025.
4. MSDE has a “Standard Operating Procedure for its investigators that includes steps to take from the outset of the investigation through its conclusion.
5. The investigator followed the “Standard Operating Procedure” during the investigation of complaint 24-204.
6. MSDE has a monitoring system in place to ensure that school districts satisfy IDEA requirements. This system includes components to increase the level of monitoring and technical assistance provided to school districts failing to meet IDEA compliance standards over a period of time. MSDE has increased the level of monitoring and technical assistance provided to PGCPs over a period of time based upon findings made in recent monitoring activities. PGCPs is currently in the “Focused” Tier of General Supervision and Support and is monitored for compliance with IDEA requirements every two years.
7. During fiscal year 2024, there were twelve complaints filed against PGCPs that included an allegation that 34 CFR § 300.613 was not being implemented appropriately, three of which were filed by the complainant. Six of those allegations were substantiated. In each instance, MSDE ordered appropriate corrective action and is ensuring that all corrective action is completed by PGCPs.

DISCUSSION/CONCLUSIONS:

The complainant alleges that MSDE did not follow proper procedures while investigating complaint 24-026.

34 CFR § 300.152 requires that the state education agency (SEA) carry out an independent investigation, give the complainant the opportunity to submit additional information about the allegations in the complaint, provide the public agency an opportunity to respond, review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the IDEA, and issue a written decision that addresses each allegation in the complaint and contains findings of fact and conclusions as well as the reasons for the SEA’s final decision.

The Letter of Findings for complaint 24-026, while not as specific as the complainant would have preferred, does address each of the allegations made in the complaint. In the Letter of Findings for complaint 24-026, it is clearly stated that these findings are considered final “new, previously unavailable documentation is submitted within 15 (15) days of the date of this correspondence.” Accordingly, on September 8, 2024, the complainant’s spouse submitted a letter to MSDE expressing concerns about the Letter of Findings. Unfortunately, the complaint investigator was not copied on this email and did not see the letter until on or around January 7, 2025.

Based on Finding of Facts #1 through #5, the independent investigator finds that while MSDE has satisfied most of its requirements under 34 CFR § 300.152, the failure to appropriately process the communication received on September 8, 2024 was inconsistent with the language contained in the Letter of Findings itself. Therefore, there is no violation with respect to Allegation #1 but there is a violation with respect to Allegation #2.

Based on Finding of Facts #6 and #7, the independent investigator finds that MSDE has satisfied its requirements under 34 CFR § 300.600 to ensure that PGCPs is in compliance with 34 CFR § 300.613. Therefore, there is no violation with respect to Allegation #3.

The following corrective action for the violation of 34 CFR § 300.152 discussed above is ordered:

1. MSDE is to review the correspondence received from the complainant’s spouse on September 8, 2024, and determine if additional action is necessary;
2. MSDE is to review internal communication practices and revise as necessary to ensure that similar communication issues do not occur in the future.

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 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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Michael Franklin
Independent Investigator

- c: Millard House, II, Superintendent, PGCPS
- Trinell Bowman, Associate Superintendent, PGCPS
- Darnell Henderson, General Counsel, PGCPS
- William Fields, Associate General Counsel, PGCPS
- Keith Marston, Supervisor, Special Education Compliance, PGCPS
- Lois Jones-Smith, Liaison, Special Education Compliance, PGCPS
- Dr. Antoine L. Hickman, Assistant State Superintendent, Division of Early Intervention and Special Education Services, MSDE
- Tracy Givens, Section Chief, Dispute Resolution, MSDE
- Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
- Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
- Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE