

Franklin Legal, LLC

February 10, 2025

RE: [REDACTED]
Reference: #25-199

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 the branch chief was adequately prepared and/or trained to investigate the allegations in the complaint filed by the complainant on December 23, 2023, in accordance with 34 CFR § 300.156.
2. MSDE has not followed proper monitoring procedures regarding implementation of 34 CFR § 300.152, in accordance with 34 CFR § 300.600, since February 19, 2024.

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 24-111 was received by MSDE on December 23, 2023.

2. On December 27, 2023, MSDE issued a letter declining to accept complaint 24-111 due to the fact that the allegations included in the complaint occurred in November 2022, more than one year prior to the filing of complaint 24-111, and because these allegations were previously investigated in complaint 23-120.
3. In a solicitation posted by the Maryland State Department of Education, October 15, 2024, titled "Special Education Compliance Investigator," the qualifications included a background in special education, experience working with special education laws and regulations on a federal and state level (■ preferred), experience conducting investigations, excellent writing skills and the ability to write technical reports, and a proven ability to work independently and conduct legal research.
4. The letter issued on December 27, 2023 was drafted by Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE. Ms. Barmat is familiar with the Standard Operating Procedure document used by MSDE complaint investigators and followed these procedures during this process. Ms. Barmat has worked in the field of special education since 1978 and is licensed to practice law in the District of Columbia as well as Maryland. She is well-versed in the legal requirements associated with state complaint investigations and IDEA compliance. Likewise, the superintendent is well-versed in special education laws and regulations on both the federal and state level.

DISCUSSION/CONCLUSIONS:

The IDEA does not include any specific requirements for individuals reviewing complaints for compliance with minimum IDEA requirements and conducting state special education complaint investigations. All MSDE employees involved in each stage of the complaint review and investigation process, including the branch chief, hold appropriate Maryland licensure for their respective positions, have earned degrees relevant to this field of work, and are highly experienced in the implementation and review of IDEA requirements and state and federal regulations. Based on Findings of Fact #3 and #4, the independent investigator does not find a violation with respect to Allegation #1, as there is no evidence that MSDE did not satisfy the requirements of 34 CFR § 300.156.

Based on Findings of Fact #1 and #2, the independent investigator finds that MSDE satisfied the requirements of 34 CFR § 300.151, 34 CFR § 300.152, and 34 CFR § 300.160 and finds no violation with respect to Allegation #2. In accordance with 34 CFR § 300.151, complaints shall allege a violation that occurred not more than one year prior to the date that the complaint is received by MSDE. The IDEA also includes no provision for investigating allegations that have already been addressed in a previous investigation.

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