



# Massachusetts Department of Elementary and Secondary Education

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March 10, 2023

Dr. Michael Lucas, Superintendent  
Oxford Public Schools  
4 Maple Road  
Oxford, MA 01540

Re: Intake PRS 8429  
Student Name: [REDACTED]  
**Letter of Finding**

Dear Superintendent Lucas:

The Massachusetts Department of Elementary and Secondary Education (Department) received a written statement of concern from Attorney Kimberly Winslow (Complainant/Student's SESP) involving the Oxford Public Schools on [REDACTED]. As the Problem Resolution System (PRS) Specialist inquiring into this matter, I have taken the following steps:

- Reviewed the statement of concern and supporting documentation
- Spoke to the Complainant
- Requested a Local Report from the District
- Reviewed the District's Local Report and supporting documentation submitted to the Department on February 1, 2023
- Reviewed the Complainant's response to the Local Report
- Reviewed relevant state and federal laws and regulations
- Consulted with other Problem Resolution System staff

The Department has found noncompliance, and we are advising the District now of this finding, as well as of the required corrective action which must be implemented. A summary of the concerns, our findings, conclusions, and the required corrective actions are as follows:

## CONCERNS

1. Complainant alleged that the District failed to conduct a procedurally appropriate transition assessment for the Student. Specifically, the Complainant reported that the evaluation failed to include the following procedural requirements: "[t]he person who conducted the Student's transition assessment did not summarize in writing the procedures employed, the results, and the diagnostic impression; did not define in detail and in educationally relevant and common terms, the Student's needs; [and] did not offer explicit (i.e. clear, specific, granular, NOT vague) means of meeting the student's needs." Complainant has requested the District revise Student's

transition assessment to address these concerns. The Department investigated this allegation pursuant to regulation outlining the procedure for reporting evaluation results, *603 CMR 28.04(2)(c)*.

2. Complainant alleged that the District failed to provide her with copies of the District's evaluations at least two days prior to the Student's three-year reevaluation IEP meeting. The Department investigated this allegation pursuant to *603 CMR 28.04(2)(c)*.
  
3. Complainant alleged that the District did not immediately, and within 45 school days after receipt of consent to evaluate Student, provide a copy of the IEP and proposed placement along with the required notice. The Department investigated this allegation pursuant to *603 CMR 28.05(7)* and reviewed the following guidance: "Memorandum on the Implementation of *603 CMR 28.05(7)*: Parent response to the Proposed IEP and Proposed Placement," <https://www.doe.mass.edu/news/news.aspx?id=3182>.
  
4. Complainant alleged that the District failed to provide proper written notice of District's proposal of Student's IEP. Specifically, the District failed to ensure that "the notice contained cogent and responsive descriptions and explanations of the actions proposed," including but not limited to the IEP Team's determination that Student required [REDACTED]; the Complainant's request of [REDACTED]; and Student's attorney's request of [REDACTED]. The Department investigated these allegations pursuant to *34 CFR § 300.530(a)-(b)*.

## DISCUSSION

1. At the time of Complainant's filing, Student was a [REDACTED] grade student (Student) attending [REDACTED].
  
2. The Department investigated the allegations that occurred *within one year* of the receipt of the complaint on [REDACTED].

See, as guidance: <http://www.doe.mass.edu/prs/guide/default.html>.

3. Complainant's allegations concern the District's compliance with special education evaluation and documentation procedures related to Student's three-year reevaluation. On [REDACTED]

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CONCLUSION

This determination represents the Department's interpretation of the relevant legal requirements in the context of the facts presented. The conclusions reached in this letter do not establish a policy, rule, or precedent that would apply in all circumstances.

- 1. Based on the information gathered, the Department finds that the District was out of compliance with 603 CMR 28.04(2)(c).**

The regulation outlining the procedure for reporting evaluation results, 603 CMR 28.04(2)(c), requires that a District evaluation report contains the following information:

*Each person conducting an assessment shall summarize in writing the procedures employed, the results, and the diagnostic impression, and shall define in detail and in educationally relevant and common terms, the student's needs, offering explicit means of meeting them. The assessor may recommend appropriate types of placements, but shall not recommend specific classrooms or schools.*

In this case, the District contracted with Student's out-of-district placement to have the triennial evaluations completed by Student's out-of-district providers. As the District was programmatically and fiscally responsible for Student's special education during this time period, the District was responsible for ensuring Student's evaluations were compliant with 603 CMR 28.04(2)(c).

At issue in the Department's investigation is whether the District's transition assessment contained the elements outlined in 603 CMR 28.04(2)(c). The Department's analysis turns on its review of the revised transition assessment that was provided to the Complainant on [REDACTED] on [REDACTED]. The Student's transition assessment was completed by a [REDACTED] on [REDACTED].

The evaluator's transition assessment was based on both informal assessment (Student interview [REDACTED] and formal assessment, namely, [REDACTED]). The evaluator's description of the [REDACTED] Assessment explained the expectations for taking the test [REDACTED], the particular self-reporting scales used [REDACTED] and the different transition topics assessed [REDACTED]).

The transition evaluation report **does not provide a comprehensive summary of the test results**, as it only provides a complete description of Student's responses for one of the topics tested ([REDACTED]). Although the evaluator posited that "the consistency of responses between the two parts of the [REDACTED] assessment" demonstrate that the Student has age-appropriate knowledge and transition skills, there is minimal data in the evaluation report to support the evaluator's conclusion. Further, **there is no information provided in this transition assessment to indicate what Student's postsecondary interest are or to demonstrate how Student's strengths can support these interests** (see "Purpose of Transition Assessment" in [Technical Assistance Advisory SPED 2014-4: Transition Assessment in the Secondary Transition Planning Process](#)). Lastly, the recommendations proposed by the evaluator to support the development of Student's skills in the area of housing and money management fail to offer explicit suggestions around what support the Student would require to gain knowledge about the tools associated with obtaining housing or managing money (e.g., what specifically would need to know about rental agreements or leases in order to develop independent living

skills?). By offering more explicit description of how these skills are to be developed, the IEP Team could create explicit goals tied to measurable benchmarks for supporting Student's transition skills in █ IEP. **The Department therefore requires the corrective action outlined below.**

2. **Based on the information provided, the Department finds that the District did not comply with the 603 CMR 28.04(2)(c) because the District failed to provide her with copies of the District's evaluations at least two days prior to the Student's three-year reevaluation IEP meeting on █. The Department requires the corrective action outlined below.**
3. **Based on the information provided, the Department finds that the District did not comply with 603 CMR 28.05(1) as it did not evaluate the Student, convene the IEP Team, and propose an IEP within 45 school working days of receipt of consent to evaluate.**

The Department investigated Complainant's allegation pursuant to the 603 CMR 28.05(1), the regulation governing the District's responsibility to evaluate a student and convene student's evaluation team within 45 school working days of receipt of consent to evaluate:

*Convening the Team. Within 45 school working days after receipt of a parent's written consent to an initial evaluation or reevaluation, the school district shall: provide an evaluation; convene a Team meeting to review the evaluation data, determine whether the student requires special education and, if required, develop an IEP in accordance with state and federal laws; and provide the parents with two copies of the proposed IEP and proposed placement....*

In this case, the District received Complainant's consent to evaluate Student on █. From this date, the District calculated that it had until █ to complete Student's evaluations and until █ to convene Student's Team, determine eligibility, and propose an IEP and placement if Student was eligible. The Department reviewed the District's █ school year calendar and concurs that the District had until █ to complete the evaluation but only until █ to meet and propose an IEP for Student based on affirmed eligibility. The District proposed to meet on █, which was eventually rescheduled to █. The District proposed an IEP to Complainant on █. **The Department finds that the District failed to comply with the 45-day timeline as required under 603 CMR 28.05(1).**

The Department turns its discussion to whether the District's failure to comply with procedural timelines amounted to a deprivation of FAPE for the Student. The District indicated that it provided the IEP to the Complainant on █. The Department calculates that the IEP's delivery was delayed by approximately eight school days from the date of Student's

██████████ IEP meeting, which was also the 45<sup>th</sup> day from the District's receipt of consent to evaluate. ██████████

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4. **Based on the information provided, the Department finds that the District did not comply with the requirements for Notice under 34 CFR § 300.530(b), as the Notice failed to include that the District was proposing ██████████ ██████████; that the District considered ██████████ procedure for its proposed action; that the Complainant sought a ██████████ ██████████; and that the Student's attorney sought ██████████ ██████████. The Department requires the corrective action below.**

CORRECTIVE ACTION THAT MUST BE IMPLEMENTED

1. By **March 31, 2023**, the District will submit to the Department written assurance that should Complainant request from the Oxford Public School District an independent transition assessment be conducted for Student, the District will fund said assessment at public expense.
  
2. By **March 31, 2023**, the District will submit to the Department its plan for evaluating students at ██████████. The District must include the staff member(s)/role(s) responsible for the implementation of this plan and a description of the District's process for oversight to ensure that evaluation(s) is/are completed in accordance with 603 CMR 28.04(2) and 603 CMR 28.05(1) and that evaluation reports are provided to the parent/guardians in accordance with 603 CMR 28.04(2)(c).
  
3. By **March 31, 2023**, the District will submit to the Department a copy of the materials used at its staff training for appropriate special education staff on compliance with IEP Notice requirements. The materials should indicate that the District has reviewed the following information regarding compliance:
  - Requirements for providing Notice of District Action when a district proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The District should also review the required content of notice as defined under 34 CFR § 300.503(b).
  - Name(s) of person(s)/role(s) responsible for tracking/oversight

**Provide the Department with the required Corrective Action Report pursuant to these findings no later than the above referenced dates.** Standard response forms are enclosed for your use in responding to these requests. Please return all required corrective action pursuant to these findings to [PRSCAP@doe.mass.edu](mailto:PRSCAP@doe.mass.edu).

While the Department does not consider appeals of its decisions involving alleged noncompliance with state or federal education laws or regulations, should this summary of information be inaccurate in some way, please contact me as soon as possible at (781) 338-3756 or [dara.e.yaffe@mass.gov](mailto:dara.e.yaffe@mass.gov).

Sincerely,

*Dara Yaffe*

Dara Yaffe, PRS Specialist  
Problem Resolution System Office

*Paula Twomey*

Paula Twomey, PRS Supervisor  
Problem Resolution System Office

CC: Kristin Miller, Special Education Director, Oxford Public Schools

[Redacted]

Enclosure:  
Corrective Action Plan form