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State Superintendent of Schools

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June 2, 2017

Ms. Ronnetta Stanley  
Loud Voices Together  
P.O. Box 1178  
Temple Hills, Maryland 20757

Ms. Trinell Bowman  
Director of Special Education  
Prince George's County Public Schools  
1400 Nalley Terrace  
Landover, Maryland 20785

RE: XXXXX  
Reference: #17-127

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention 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.

**ALLEGATIONS:**

On April 5, 2017, the MSDE received a complaint from Ms. Ronnetta Stanley, hereafter, "the complainant," on behalf of the above-referenced student and his parents, Mr. XXXXXXXX and Mrs. XXXXXXXX. In that correspondence, the complainant alleges that the Prince George's County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured the Individualized Education Program (IEP) has been revised to reflect changes made at the April 6, 2016 IEP team meeting, in accordance with 34 CFR §300.320. Specifically, it is alleged that the IEP was not amended to include an "end-of-the-day checklist" as a support.

Ms. Ronnetta Stanley  
Ms. Trinell Bowman  
June 2, 2017  
Page 2

2. The PGCPS did not provide an IEP within five (5) business days of the April 6, 2016 IEP team meeting, in accordance with COMAR 13A.05.01.07.
3. The PGCPS did not follow proper procedures when responding to the request to amend the educational record in November 2016 and December 2016, in accordance with 34 CFR §300.618.

**INVESTIGATIVE PROCEDURES:**

1. On April 5, 2017, the MSDE received the State complaint and documentation to be considered.
2. On April 5, 2017, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Director of Special Education, PGCPS.
3. On April 13, 2017, Mr. Albert Chichester, Complaint Investigator, MSDE, conducted a telephone interview with the complainant to discuss the allegations.
4. On April 20, 2017, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. The MSDE also notified Ms. Bowman of the allegations to be investigated and requested that her office review the alleged violations.
5. On May 18, 2017, Mr. Chichester and Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a site visit to XXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed Ms. XXXXXX, Special Resource Teacher. Ms. Kerry Morrison, Compliance Specialist, PGCPS, attended the site visit as a representative and to provide information on the school system's policies and procedures, as needed.
6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
  - a. IEP, dated February, 29, 2016;
  - b. IEP prior written notices, dated April 6, 2016; November 30, 2016, March 1, 2017, March 16, 2017, and April 13, 2017;
  - c. The student's "end-of-day checklist" dated between April 2016 to June 2016 and November 2016 to May 2017;
  - d. IEP, revised on December 6, 2016;
  - e. Electronic mail (email), dated between October 10, 2016 and May 18, 2017 between the school staff, the student's parents, and the student's advocate;
  - f. Occupational therapy logs, dated between September 2016 and November 2016;
  - g. The student's "visual schedule," used between September 2016 and November 2016; and

- h. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on April 5, 2017.

**BACKGROUND:**

The student is 9 years old and is identified as a student with Autism under the IDEA. He attends XXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services (Docs. a - e).

During the time period covered by this investigation, the student's parents participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. a, b, d, and e).

**ALLEGATIONS #1 AND #2: REVISING THE IEP AND THE PROVISION OF DOCUMENTATION**

**FINDINGS OF FACTS:**

1. On April 6, 2016, the IEP team met to discuss the parents' concern about the student "not bringing all homework materials home each night." The prior written notice reflects that the "end-of-the-day checklist would be developed and implemented, and if the checklist does not work, then the option to take all materials home will be revisited." However, the IEP document was not revised at the meeting and school-based members of the IEP team report that they intended to evaluate the effectiveness of the support before requiring it in the IEP. A review of prior written notices from subsequent IEP team meetings reflect that the IEP team is now providing more explicit information in its notices to the parent of IEP team decisions (Doc. b, an interview with the school staff, and a review of the student's educational record).
2. There is documentation that the student was provided with the "end-of-the-day checklist" between April 2016 and June 2016 (Doc. c).
3. The school staff report that at the beginning of the 2016-2017 school year, the student was provided with a laminated "visual schedule"<sup>1</sup> that could be "erased" daily, in order to be used for the following school day as a "checklist." The occupational therapist logs reflect that, on September 19, 2016, the student indicated that the "visual schedule" which he used during the 2015-2016 school year was helpful, but that "he was not interested in utilizing it during the 2016-2017 school year," although the school staff report that the student did use the support in class. There is documentation that the occupational therapist had discussions with the student about the use of the "visual

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<sup>1</sup> The "end-of-the-day checklist" and the "visual schedule" are used interchangeably in this Letter of Findings, and both supports serve the same purpose as discussed by the IEP team on April 6, 2016 (Doc. g and an interview with the school staff).

Ms. Ronnetta Stanley  
Ms. Trinell Bowman  
June 2, 2017  
Page 4

schedule” during their sessions together, from the start of the 2016-2017 school to November 2016 (Docs. c, f, and an interview with the school staff).

4. On November 30, 2016, the IEP team reconvened and revised the IEP to require the provision of the “end-of-the-day checklist” (Docs. b and d).

### **DISCUSSION/CONCLUSIONS:**

#### **Allegation #1 Revising the IEP**

The IEP must contain a statement of the special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student (34 CFR §300.320).

In this case, the complainant alleges that the IEP team should have revised the IEP to require the provision of the “end-of-day checklist” as a support, following the April 6, 2016 IEP team meeting (Doc. h).

Based on the Findings of Facts #1 - #4, the MSDE finds that there is evidence that the intent was to use the “end-of-the day checklist” on a trial basis to determine whether it was an appropriate support before revising the IEP to require the support. Based on the Findings of Facts #3 and #4, the MSDE also finds that the IEP team has used the information collected during that trial, and has revised the IEP. Therefore, this office does not find that a violation occurred with respect to the allegation.

#### **Allegation #2: Provision of Documents**

No later than five (5) business days after an IEP team meeting, appropriate school personnel are to provide parents an accessible copy of the completed IEP. If the IEP has not been completed by the fifth business day after the IEP team meeting, school personnel shall provide the parents with the draft copy of the IEP (Md. Code Ann., Educ., §8-405(e)(1)(2)).

The failure of school personnel to comply with the timelines and actions listed above for providing copies of a child’s completed IEP following the IEP team meeting does not constitute a substantive violation of the requirement to provide a Free Appropriate Public Education (FAPE) (Md. Code Ann., Educ., §8-405)(g)).

The public agency is required to provide the parent of a student with a disability with written notice before proposing or refusing to initiate or change the identification, evaluation, or educational placement of the student or the provision of a FAPE to the student. This notice includes a description of the action proposed or refused, an explanation of the action, and a description of each evaluation procedure, assessment, record, or report used as a basis for the decision (34 CFR §300.503 and COMAR 13A.05.01.12).

Ms. Ronnetta Stanley  
Ms. Trinell Bowman  
June 2, 2017  
Page 5

In this case, the complainant alleges that the IEP team did not provide the student's parents with a copy of an amended IEP, that included the "end-of-the day checklist" as a support, following the April 6, 2016 IEP team meeting (Doc. h).

Based on the Findings of Facts #1 - #3, the MSDE finds that the school-based members of the IEP team intended to evaluate the effectiveness of the support before requiring it in the IEP, and that the IEP was not revised as a result of that meeting. Therefore, this office does not find that a violation occurred with respect to the allegation.

However, based on the Findings of Facts #1 - #4, the MSDE finds that the PGCPS did not provide the student's parent with proper prior written notice that the "end-of-the day checklist" was intended to be used on a trial basis only. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on the Findings of Facts #2 and #3, the MSDE finds that the student was provided with the "end-of-the day checklist" support, as determined at the April 6, 2016 IEP team meeting, and that the IEP was subsequently amended to include the "end-of-the day checklist" as a support for the student. Further, based on the Finding of Fact #1, the MSDE finds that the IEP team is now providing more explicit information in the notices to the parent of IEP team decisions. Therefore, no corrective action is required.

### **ALLEGATION #3: RESPONSE TO A REQUEST TO AMEND THE EDUCATIONAL RECORD**

#### **FINDINGS OF FACTS:**

5. At a November 30, 2016 IEP team meeting, the student's parents requested that the student's annual goals, the "progress code" on the goals, and the "evaluation method" used to measure the goals be revised. The prior written notice reflects that the school-based members of the team agreed to amend the IEP in response to the parent's request (Docs. b, e, and a review of the student's educational record).
6. On December 4, 2016, the student's parents emailed the school staff with a request for additional amendments to the student's educational record. In response, the school staff suggested that a "work session" be scheduled with the parents to address the requested changes. The student's parents agreed to the scheduling of a "work session" meeting; however, attempts to schedule a mutual date were unsuccessful. There is documentation that a "work session" meeting is currently scheduled for June 5, 2017. There is no documentation that the school staff have either agreed to the request to amend the record or have provided the student's parents with information on the right to a hearing (Doc. e and an interview with the school staff).

Ms. Ronnetta Stanley  
Ms. Trinell Bowman  
June 2, 2017  
Page 6

**DISCUSSION/CONCLUSIONS:**

A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing (34 CFR §§300.618 and .619).

Based on the Findings of Facts #5 and #6, the MSDE finds that, although attempts have been made, since December 2016, to schedule a mutual meeting between the school staff and the student's parents to discuss the requested amendments to the educational record, the PGCPS has not responded to the request to amend the educational record within a reasonable period of time. Therefore, this office finds that a violation occurred with respect to the allegation.

**CORRECTIVE ACTION/TIMELINE:**

The MSDE requires the PGCPS to provide documentation, by June 30, 2017, that the school system has taken the following action:

- a. Amended the record in accordance with the parent's request; or
- b. Informed the parents of the refusal and provided them with information about the right to a hearing.

The parents maintain the right to request mediation or to file a due process complaint to resolve any IDEA disagreement.

**TECHNICAL ASSISTANCE:**

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that both the complainant and the PGCPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of facts or conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

Ms. Ronnetta Stanley  
Ms. Trinell Bowman  
June 2, 2017  
Page 7

If additional information is provided, it will be reviewed and the MSDE will determine if a reconsideration of the conclusions is necessary. Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, set forth additional findings and conclusions, or enter new findings and conclusions. Pending the decision on a request for reconsideration, the school system must implement any corrective actions within the timelines reported in this Letter of Findings.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. 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 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 Special Education/Early Intervention Services

MEF:ac

c:     XXXXXXXXX  
          XXXXXXXXX  
          Kevin Maxwell  
          Gwendolyn Mason  
          LaRhonda Owens  
          Kerry Morrison  
          Deborah Anzelone  
          XXXXXXXXX  
          Dori Wilson  
          Anita Mandis  
          Albert Chichester  
          Bonnie Preis