



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

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

September 29, 2017

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

Ms. Trinell Bowman  
Executive Director  
Department of Special Education  
Prince George's County Public Schools  
John Carroll Elementary School  
1400 Nalley Terrace  
Landover, Maryland 20785

RE: XXXXXXXXX a.k.a. XXXXXX a.k.a.  
XXXXXXX  
Reference: #18-008

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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 July 31, 2017, the MSDE received a complaint from Ms. XXXXXXXXXXXX, Educational Advocate, hereafter, “the complainant,” on behalf of the above-referenced student and her parents, Mr. XXXXXe and Mrs. XXXXXXXXXXXX. In that correspondence, the complainant alleged that the Prince George’s County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The PGCPS did not ensure that the student was provided with special education instruction in the educational placement required by the Individualized Education Program (IEP) when she was initially enrolled in the school system in January 2017, in accordance with 34 CFR §300.324.
2. The PGCPS has not ensured that the IEP includes a statement of the student's present levels of performance based on the most recent evaluation data since May 31, 2017, in accordance with 34 CFR §300.320.
3. The PGCPS has not ensured that that the IEP includes the counseling and crisis services that were determined necessary by the IEP team since May 31, 2017, in accordance with 34 CFR §300.320.
4. The PGCPS has not ensured that the student's speech/language needs have been appropriately identified and addressed in the IEP since May 31, 2017, in accordance with 34 CFR §34 CFR §§300.304 and .324.
5. The PGCPS did not follow proper procedures when determining the Least Restrictive Environment (LRE) in which the IEP can be implemented since May 31, 2017, in accordance with 34 CFR §34 CFR §§300.114 - .116.
6. The PGCPS did not ensure that the parents were provided with reports of the student's progress towards achievement of the annual IEP goals for the second and fourth quarters of the 2016-2017 school year, as required by the IEP, in accordance with 34 CFR §34 CFR §§300.101 and .323.

**BACKGROUND:**

The student is 13 years old, is identified as a student with a Specific Learning Disability under the IDEA, and has an IEP that requires the provision of special education and related services.

On January 3, 2017, when the student enrolled in the PGCPS, she attended XXXXXXXXXX XXXXXXXXXXXX. From January 25, 2017 until the end of the 2016-2017 school year, the student was placed by the PGCPS at XXXXXXXXXXXXXXXXXXXXXXXX. Since the start of the 2017-2018 school year, the student has attended XXXXXXXXXXXXXXXXXXXX.

The student's parents were provided with notice of the procedural safeguards and participated in the educational decision-making process.

**ALLEGATION #1                      IEP IMPLEMENTATION**

**FINDINGS OF FACTS:**

1.        On January 3, 2017, the student enrolled at XXXXXXXXXXXXXXXXXXXX (ES) in PGCPS, after the family moved to Maryland from XXXX. The PGCPS special education teacher contacted staff at the school the student attended in XXXXXX, to discuss the special education services the student received. It was reported that the student received speech/language services and pull-out special education services for reading, language arts, and math in a resource support class with four other students, located in a special education center on the grounds of a comprehensive elementary school.
2.        On January 3, 2017, the PGCPS requested the student's educational records from XXXXXX and received them on January 9, 2017.
3.        On January 3, 2017, the PGCPS staff initiated provision of special education and related services but they were not provided consistent with the XXXX IEP.
4.        On January 18, 2017, the IEP team reviewed and revised the student's IEP.

**DISCUSSION/CONCLUSIONS:**

Based on the Findings of Facts #1-#4, the MSDE finds that the XXXX IEP wasn't implemented prior to the revision of the IEP, in accordance with CFR §§300.101 and .323. Therefore, the MSDE finds a violation occurred with respect to this allegation.

**ALLEGATIONS #2 - #4                      IEP DEVELOPMENT**

**FINDINGS OF FACTS:**

5.        On January 18, 2017, an IEP team convened and decided that the school psychologist would provide the student with transition and emotional support on an as needed basis during the school day. However, the services were not documented on the IEP.
6.        On March 16, 2017, the IEP team met and the parents expressed concerns about the student's behavior at home, specifically whenever she's asked to do school work at home. They reported that the student cries, tantrums, pulls her hair out, and is defiant at home. The IEP team reported that the student was not displaying these behaviors at school and decided to delay the assessments, and would conduct them once the student was acclimated. The parents also provided input about the student's current levels of academic functioning including speech/language skills, social, emotional and adaptive functioning.

7. On March 29, 2017, the student was administered the Woodcock-Johnson Tests of Achievement (WJ-IV) in the areas of math fluency, calculation and problem solving. The student scored in the very low range in problem solving, math calculations, and math fluency. The math goal states that when the student is given mathematical problems involving calculations with whole numbers and decimals, she will solve them with 70% accuracy. The IEP team determined that the student's cognitive deficits in math reasoning affects her involvement in the general education curriculum and impedes her ability to meet grade level standards.
8. On May 11, 2017, the results of the student's speech and oral language skills were reported to be in the low average range of functioning overall and indicated that while her weakest area is her receptive vocabulary, her expressive vocabulary skills are a strength. The report indicates that the student's impulsivity impacted her performance during testing. The report also noted that the student has the ability to self correct her articulation errors when provided with a nonverbal cue. The communication goal is for the student to improve her vocabulary acquisition and use by learning and using grade level multiple words, antonyms and synonyms in oral and written sentences on 4 out of 5 opportunities. The IEP team agreed the student would receive 3 sessions a month for forty-five (45) minutes per session of speech/language services.
9. The PGCPS Central Office Special Education staff reports that the assessment tools used for reevaluation of the student's speech/language skills are valid for the intended purposes. While there is a new edition of The Comprehensive Assessment of Spoken Language (CASL), the school system has a grace period in which to acquire, train, and disseminate the assessment system wide.
10. On May 23, 2017, an Assistive Technology (AT) consultation was completed and recommended that the student needs to be provided with spelling supports, an electronic dictionary, an editing checklist, and a graphic organizer for writing assignments. The IEP was revised to address the student's AT needs through supplementary aids, supports and instructional and testing accommodations.
11. On May 30, 2017, the student was administered a reading test and scored on the second grade level and a first grade level in comprehension. On another informal assessment, the student's reading fluency was measured at a first grade level. When provided with the oral reading of the text, the student is able to comprehend some on grade level material. The IEP documents a reading fluency goal for the student to be able to read unfamiliar text with sufficient fluency to support comprehension with 80% accuracy. The goal for reading comprehension states that the student will restate, retell, paraphrase, summarize and infer the author's meaning when given a passage from the text with 80% accuracy. The IEP team determined that the student's cognitive deficits in reading comprehension affects her involvement in the general education curriculum and impedes her ability to meet grade level standards.

12. On August 10, 2017, the IEP team acknowledged that the behaviors the parents previously expressed concerns about were observed during Extended School Year (ESY) services. In response to the parent's concerns and as a result of the observed behaviors, the IEP team agreed to conduct a psychological assessment for the student.
13. On September 14, 2017, the IEP team reviewed the results of a psychological assessment and determined the student would receive counseling services twice monthly for thirty (30) minutes per session to address her social and emotional issues.

### **DISCUSSION/CONCLUSIONS:**

#### **Allegation #2 IEP Content – Statement of Present Levels of Performance**

In this case, the complainant asserts that the IEP does not include information about the student's present levels of performance that was obtained from the most recent educational and speech/language assessments and assistive technology consultation. Therefore, the complainant alleges that the annual IEP goals are not based on the current data.

Based on the Findings of Facts #7, #8, #10 and #11, the MSDE finds that the IEP goals are based on formal and informal assessments, curriculum based assessments, teacher observations and reports, as required by CFR §300.324. Therefore, this office does not find that a violation occurred with this aspect of the allegation.

#### **Allegation #3 IEP Content – Statement of Needed Services**

In this case, the complainant alleges that, while the IEP team decided that the student requires psychological support/crisis support, the IEP does not reflect that counseling and crisis services will be provided.

Based on the Findings of Facts #5 and #6, the MSDE finds that the IEP team determined that the student would receive psychological support on an as needed basis without documenting the services on the IEP, as required by CFR §§300.101, .304 and .320. As a result, the MSDE finds a violation occurred with this allegation.

Notwithstanding the violation, based on the Findings of Facts #6, #12 and #13, the MSDE finds that there is documentation that the student did not evidence a need for the services at school until the provision of ESY services, and that the services were added to the IEP at that time. Therefore, this office finds that the violation did not negatively impact the student and that no student-specific corrective action is required.

**Allegation #4                      Addressing Speech/Language Needs**

In this case, the complainant asserts that the test instruments used to identify the student's speech/language needs were not technically sound and designed to provide valid scores because they were not the most current test instruments available for use. She further asserts that the report of the WJ-IV does not include information provided by the student's parents. As a result, she alleges that the student's speech/language needs were not properly identified and the amount of speech/language services were reduced based on insufficient data.

Based on the Findings of Facts #6, #7 and #9, the MSDE finds that the IEP team used valid assessment tools and parental input regarding the reevaluation was provided at the IEP team meeting. Further, the MSDE finds that the IEP team's decision to change services was based on the data, in accordance with CFR §§300.101, .304, and .324. Therefore, this office does not find that a violation occurred with this aspect of the allegation.

**ALLEGATION #5                      EDUCATIONAL PLACEMENT**

**FINDINGS OF FACTS:**

14. On January 18, 2017, the IEP team determined that the LRE in which the IEP could be implemented was a combination of general education and separate special education classrooms. The IEP team documented that the basis for the decision was that the student required additional supports in reading and math, which required the provision of instruction in a separate special education classroom with such supports. The IEP team decided that the closest school to the student's home in which such a setting could be provided was Springhill Elementary School.
15. On May 31, 2017, the IEP team reviewed and revised the IEP in anticipation of the student's matriculation to middle school at the start of the 2017-2018 school year. At that meeting, the team documented that the student would be placed in all general education classes because the school to which she was assigned did not have separate special education classrooms. There is no documentation that the IEP team determined that the IEP could be implemented in this setting with the provision of additional supplementary aids and services.

**DISCUSSION/CONCLUSIONS:**

Based on the Findings of Facts #14 and #15, the MSDE finds that the PGCPs did not ensure that the placement decision for the 2017-2018 school year was based on the student's needs, as required by 34 CFR §§300.114 - .116. Therefore, this office finds that a violation occurred.

**ALLEGATION #6                      PROGRESS REPORTS**

**FINDINGS OF FACTS:**

16. The IEP requires that the parents be provided with reports of the student's progress towards achievement of the annual IEP goals on a quarterly basis.
17. There is no documentation that reports of the student's progress were sent to the parents during the second and fourth quarters of the 2016-2017 school year. However, on January 18, 2017, during the second quarter of the year, the IEP team, including the student's parents, met and reviewed the student's progress.
18. There is documentation that the school staff have now provided the student's parents with a report of the student's progress for the fourth quarter of the year.

**DISCUSSION/CONCLUSIONS:**

Based on the Findings of Facts #16 and #17, the MSDE finds that the parents were not provided with progress reports during the second and fourth quarters of the 2016-2017 school year, as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on the Findings of Facts #17 and #18, the MSDE finds that the student's progress was reviewed with the parents during the second quarter and that a report of progress for the fourth quarter has been provided. Therefore, this office finds that no student-specific corrective action is required.

**CORRECTIVE ACTIONS/TIMELINES:**

**Student Specific**

The MSDE requires the PGCPS to provide documentation by November 1, 2017, that the IEP team has made a placement decision based on the student's needs and not the service delivery system.

The MSDE also requires the PGCPS to determine whether the violations related to the implementation of the XXXXXX IEP and the placement determination had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violations and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

**School Based**

XXXXXXXXXXXXXXXXXXXXXXX

The MSDE requires the PGCPS to provide documentation by January 1, 2018 of the steps it has taken to ensure that the staff at XXXXXXXXXXXXXXXXXXXXXXXXXXXX complies with the requirements for implementing the IEP for each student transferring into the school system until the IEP team either determines comparable services or reviews and revises the IEP and for ensuring that the IEP includes all services determined necessary by the IEP team. The documentation must include a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

XXXXXXXXXXXXXXXXXXXXXXX

The MSDE requires the PGCPS to provide documentation by January 1, 2018 of the steps it has taken to ensure that the staff at XXXXXXXXXXXXXXXXXXXXXXXXXXXX complies with the requirements for ensuring that placement determinations are based on student needs and not the service delivery system. The documentation must include a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

**TECHNICAL ASSISTANCE:**

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

Please be advised that the PGCPS and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact 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.

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.

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Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The student's parents and the school system 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 Special Education/  
Early Intervention Services

MEF/sf

c:       XXXXXXXXXXXXXXXXXXXX  
          Kevin W. Maxwell  
          Gwendolyn Mason  
          LaRhonda Owens  
          Deborah Anzelone  
          Kerry Morrison  
          XXXXXXXXXXXXXXXX  
          XXXXXXXXXXXX  
          XXXXXXXXXXXX  
          Dori Wilson  
          Anita Mandis  
          Sharon Floyd  
          Bonnie Preis