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February 16, 2017

Ms. Ronetta 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: #17-075

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 December 20, 2016, the MSDE received a complaint from Ms. Ronetta Stanley hereafter, “the complainant,” on behalf of the above-referenced student and her parent. 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 above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS did not provide a copy of the Individualized Education Program (IEP) document within five (5) business days after the IEP team meeting on October 27, 2016, in accordance with COMAR 13A.05.01.07D(3);
2. The PGCPS has not ensured that proper written notice was provided of the decisions made by the IEP team at the October 27, 2016 team meeting, in accordance with 34 CFR §300.503;

3. The PGCPS did not ensure that the student was provided with a "research-based reading intervention," consistent with the IEP team decision in October 2016, in accordance with 34 CFR §§300.101 and .323;
4. The PGCPS did not ensure that reports of the student's progress towards achievement of the annual IEP goals have been made since August 2016, in accordance with 34 CFR §§300.101, .320 and .323;
5. The PGCPS has not ensured that the student's educational record is maintained, in accordance with COMAR 13A.08.02.09 and *The Maryland Student Records System Manual*; and
6. The PGCPS did not ensure the confidentiality of personally-identifiable information of students, in accordance with 34 CFR §§300.610 and .611 and the Family Educational Rights and Privacy Act (FERPA).

#### **INVESTIGATIVE PROCEDURES:**

1. On December 22, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Director of Special Education, PGCPS.
2. On December 28, 2016, Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a telephone interview with the complainant, and identified the allegations for investigation.
3. On December 28, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified the PGCPS of the allegations and requested that the school system review the alleged violations.
4. On January 17, 2017, Mr. Loiacono contacted Ms. Kerry Morrison, Compliance Specialist, PGCPS, to arrange a document review and to request additional documentation.
5. On February 2, 2017, the MSDE received additional documentation, and a response to the allegations, from the PGCPS.
6. On February 6, 2017, Mr. Loiacono reviewed the student's record at XXXXXXXXXXXX School.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP, dated October 27, 2016;
  - b. Prior Written Notice, dated November 1, 2016;

- c. Progress Reports, dated November 5, 2016;
- d. Electronic Mail (Email) from the school staff to the student's parent, dated November 1, 2016;
- e. Email from the school staff to the complainant, dated November 13, 2016;
- f. Email from the PGCPS staff to the complainant, dated December 14, 2016;
- g. Email from the school staff to the student's parent, dated December 20, 2017;
- h. Email from the school staff to another student's parent, dated January 4, 2017;
- i. Email from the PGCPS staff to the MSDE, dated February 2, 2017;
- j. Reading intervention logs, dated January 2017; and
- k. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on December 20, 2016.

**BACKGROUND:**

The student is nine years old and attends XXXXXXXXXXXXXXXXXXXX. Prior to the 2015-2016 school year, he attended XXXXXXXXXXXXXXXXXXXX. She is identified as a student with a Specific Learning Disability under the IDEA and has an IEP that requires the provision of special education instruction and related services (Doc. a).

**FINDINGS OF FACTS:**

1. On October 27, 2016, the IEP team met to review and revise, as appropriate, the student's IEP. At the meeting, the IEP team recommended that the student be provided with a "research-based reading intervention" (Docs. a and b).
2. On November 1, 2016, the school staff provided the student's parent with prior written notice of the IEP team's October 27, 2016 decisions (Doc. d).
3. On December 20, 2016, the school staff provided the student's parent with a copy of the student's IEP, revised on October 27, 2016 (Doc. g).
4. There is documentation that the student has been provided with "Specialized Program Individualizing Reading Excellence (SPIRE)," a research-based reading intervention, since November 2016 (Doc. j, review of the student's record and work samples).
5. The PGCPS has acknowledged that the student's record was not available prior to December 14, 2016 due to a delay in the PGCPS internal mail system when transferring the record from the student's prior school. As of February 7, 2017, the record is available and contains all of the required documentation (Docs. f and i, review of student's record).
6. The PGCPS has acknowledged that progress reports belonging to another student were inadvertently sent to the student's parent on November 13, 2016. On January 4, 2017, school staff corrected the error and provided the student's 2016-2017 first quarter progress reports to them. On that same date, the PGCPS staff informed the parents of the other

student that they had shared personally identifiable information belonging to the student with another parent (Docs. c, e, h, and i).

### **DISCUSSION/CONCLUSIONS:**

#### **Allegation #1: Provision of the IEP following the IEP team meeting**

The public agency must ensure that the parent is provided with a copy of the completed IEP no later than five (5) business days after the IEP team meeting. However, a violation of this requirement does not constitute a denial of a Free and Appropriate Public Education (FAPE) (COMAR 13A.05.01.07).

Based on the Finding of Fact #3, the MSDE finds that there is documentation that the parent was provided with a copy of the IEP more than five days after the IEP team meeting. Therefore, the MSDE finds that a violation occurred with regard to this allegation. Notwithstanding that violation, the MSDE further finds that because this does not constitute a violation of the student's right to a FAPE, no student-based corrective action is needed.

#### **Allegation #2: Prior Written Notice of the IEP Team's Decisions**

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 free appropriate public education to the student. This notice includes a description of the action proposed or refused, and an explanation of the action (34 CFR §300.503).

Based on Findings of Fact #2, there is documentation that on November 1, 2016, the student's parent was provided with prior written notice of the IEP team's decisions following the October 27, 2016 IEP team meeting. Therefore, this office does not find that a violation occurred with respect to this allegation.

#### **Allegation #3: Implementation of the Student's IEP**

The public agency must ensure that each student is provided with the special education instruction and supplementary aids and services required by the student's IEP (34 CFR §300.101 and .323).

Based on the Findings of Fact #4, the MSDE finds that there is documentation that since October 2016, the student was provided with a "research-based reading intervention," in accordance with her IEP. Therefore, this office does not find that a violation occurred with respect to this allegation.

#### **Allegation #4: Periodic Reports of the Student's Progress**

The public agency must ensure that each student is provided with the special education instruction and supplementary aids and services required by the student's IEP (34 CFR §300.101 and .323).

Based on Finding of Fact #6, the MSDE finds that the parent was not provided with periodic reports of the student's progress, created on November 5, 2016, until January of 2017. Therefore this office finds that a violation occurred with respect to this allegation. Notwithstanding that violation, because the school staff provided the correct progress reports on January 4, 2017, no student-based corrective action is necessary.

#### **Allegation #5: Maintaining the Student's Record**

Student records provide information about a student's academic and functional performance. Therefore, the proper maintenance of these records is necessary to ensure that accurate information is available to plan for a student's education. The IDEA requires that all student educational records are be maintained in accordance with FERPA (34 CFR §§300.610 - .627).

In order to ensure proper student records management, the local public agencies in Maryland are required to maintain educational records consistent with the Maryland Student Records System Manual (COMAR 13A.08.02.01 and .02). The Maryland Student Records System Manual requires that records, including those related to attendance and discipline, be maintained in the educational record (*Maryland Student Records System Manual*, 2016).

Based on Finding of Fact #5, the MSDE finds that the student's record was not available in its entirety from August 2016 to December 2016. Therefore, the MSDE finds that a violation occurred with respect to this allegation. Notwithstanding that violation, based on the same Findings of Facts, the MSDE finds that the PGCPS has taken steps necessary to remedy the violation with respect to the student, and that no student-based corrective action is necessary.

#### **Allegation #6: Disclosure of Personally Identifiable Information**

Each public agency must ensure the confidentiality of students' personally identifiable data, information, and records that are collected or maintained by the agency (34 CFR §300.610 and COMAR 13A.05.01.11F). Parental consent must be obtained before personally identifiable information is disclosed to parties, unless the information is contained in educational records and the disclosure is authorized without parental consent by FERPA (34 CFR §99.30).

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means to any party except the party identified as the party that provided or created the record. This includes disclosing information orally, in writing, or by electronic means (34 CFR §99.30).

In this case, the PGCPS has acknowledged that there was an unauthorized disclosure of another student's personally identifiable information to the complainant. Therefore, the MSDE finds that a violation occurred. Notwithstanding that violation, based on Finding of Fact #6, the MSDE finds that the PGCPS staff have taken steps to remedy the violation, and that no further corrective action is needed.

**CORRECTIVE ACTIONS/TIMELINES:**

**School-based**

The MSDE requires the PGCPS to provide documentation by May 1, 2017, to demonstrate that, school staff at XXXXXXXXXXXXXXXXXXXX are informed of the procedural requirements related to providing parents with a copy of a student's completed IEP no later than five business days following an IEP team meeting.

**System-based**

The MSDE requires the PGCPS to provide documentation by June 1, 2017, of the steps that have been taken to ensure that there is not a delay in the transfer of a student's record following the student's enrollment in a different PGCPS school. The documentation must include a description of how the school system 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.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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 Dr. Nancy Birenbaum, Compliance Specialist, 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

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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.

Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The complainant 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 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 due process.

Sincerely,

Marcella E. Franczkowski, M.S.  
Assistant State Superintendent  
Division of Special Education/Early Intervention Services

MEF:gl

c:     XXXXXXXXX  
       Kevin Maxwell  
       Gwen Mason  
       LaRhonda Owens  
       Debrah Anzelone  
       Kerry Morrison  
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       Dori Wilson  
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