



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

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December 17, 2018

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

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

RE: XXXXX  
Reference: #19-049

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education 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 October 18, 2018, the MSDE received a complaint from Ms. Ronetta Stanley, hereafter, “the complainant,” on behalf of the above-referenced student and her parents, Mr. XXXXXX and Ms. XXXXXXX. 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 the parent with proper written notice of the Individualized Education Program (IEP) team’s decisions following the IEP team meeting held on July 30, 2018, in accordance with 34 CFR §300.503.

2. The PGCPS did not complete a re-evaluation within the required timeline in April 2018, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06.
3. The PGCPS did not ensure that the re-evaluation assessments were properly administered using the instructions provided by the producer of the assessments, in accordance with 34 CFR §300.304.
4. The PGCPS did not ensure that a special education teacher was in attendance at the IEP team meeting held on July 30, 2018, in accordance with 34 CFR §300.321 and COMAR 13A.05.01.07.
5. The PGCPS has not ensured that reports of the student's progress towards achievement of the annual IEP goals from December 2017 to the end of the 2017-2018 school year were consistent with the data, in accordance with 34 CFR §§300.101 and .324.
6. The PGCPS did not ensure that the student's technology needs have been addressed since April 2018, in accordance with 34 CFR §300.304.

**BACKGROUND:**

The student is 9 years old and is identified as a student with Autism under the IDEA. She attends XXXXXXXXXXXXXXXXXXXXXXX and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. The reports of the student's progress on the IEP goals, made on January 26, 2018, state "newly introduced skill, and progress cannot be measured at this time." No reports were made on the student's progress in December 2017.
2. On April 27, 2018, the IEP team convened and determined that the student required updated assessments in the areas of academics, communication, adaptive functioning, cognitive functioning, fine motor and sensory skills. The parents provided consent for assessments at the meeting.
3. The reports of the student's progress on the IEP goals, made on March 29, 2018 and June 6, 2018, reflect that the student was making sufficient progress towards achieving the goals by December 2018. There is documentation that the progress was measured consistent with the description in the goals and that the reports of the student's progress on the goals were consistent with the data.
4. On July 23, 2018, the IEP team reviewed the assessment results and determined that the student continued to be eligible for special education services under the IDEA. However, the team did not include a special education teacher of the student.

5. At the July 23, 2018 IEP team meeting, the parents raised concern that the student's communication skills have regressed. The school-based members of the team expressed their belief that the student was making progress with the provision of various low-tech devices, including a picture communication system (PCS). The team decided to reconvene at a later date to revise the IEP with the appropriate staff at the IEP meeting, and that an assistive technology (AT) consultation would be conducted and the results considered at the next IEP team meeting.
6. The assessments were administered in accordance with instructions provided by the producer of the assessments. A review of the audio recording of the IEP team meeting reflects that the complainant questioned the appropriateness of using assessments that are assigned for student of a younger age than the student, and that the school staff explained that they were within the developmental level appropriate for administration of the assessments, as indicated by the producer of the assessments. The audio recording also reflects that the school staff explained that the assessment results were being considered along with classroom data and progress reports since, as a result of the nature and severity of the student's disabilities, the student was not always able to be scored using standardized assessments.
7. There is documentation that, on August 22, 2018, the student's parents were provided with written notice of the decisions made at the IEP team meeting held on July 23, 2018. The first day of the 2018-2019 school year was September 4, 2018.
8. On September 20, 2018, the IEP team reconvened, with the required participants, to review and revise the student's IEP. The team updated the student's academic and related service present levels of performance to include assessment results previously reviewed, and revised the student's goals and objectives. The parents raised concern that the AT consultation had not yet been conducted, and indicated that the results of an independent communication evaluation would be shared at the next IEP team meeting. The school staff reported that staff were not available prior to the meeting to conduct a consultation, but that the consultation would be scheduled and the results discussed at the next IEP team meeting.
9. On November 9, 2018, the IEP team convened to review results from the independent communication evaluation provided by the student's parents, which recommended a particular device, and the assistive technology consultation assessment completed by PGCPs, which recommended collecting data on the student's use with a variety of devices. Based on the assessment results, the team recommended collecting data for two (2) to three (3) week periods using a variety of high and low tech communication devices, and to reconvene at a later date to determine next steps based on the trial data.

## **CONCLUSIONS:**

### **Allegation #1: Provision of IEP Prior Written Notice**

Based on the Findings of Facts #3 - #7, the MSDE finds that written notice of the July 23, 2018 eligibility determination was provided to the student's parents prior to the continued provision of special education services at the start of the 2018-2019 school year, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation occurred with respect to the allegation.

### **Allegation #2: Re-evaluation Timeline**

Based on the Findings of Facts #2, and #4 - #8, the MSDE finds that the PGCPS did not complete a re-evaluation within the required timeline that began on April 27, 2018, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred with respect to the allegation.

### **Allegation #3: Properly Administered Assessments based on Producer's Instructions**

Based on the Findings of Facts #2, #4, and #6, the MSDE finds that PGCPS did ensure that the re-evaluation assessments were properly administered using the instructions provided by the producer of the assessments, in accordance with 34 CFR §300.304. Therefore, this office does not find that a violation occurred with respect to the allegation.

### **Allegation #4: Proper IEP Team Participants**

Based on the Finding of Fact #4, the MSDE finds that the PGCPS did not ensure that the required IEP participants were in attendance at the IEP team meeting held on July 30, 2018, in accordance with 34 CFR §300.321 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Findings of Facts #4, #8 and #9, the MSDE finds that the IEP team determined that the student would continue to receive special education services and held subsequent IEP team meetings with the required participants, to review and revise the IEP, as appropriate. Therefore, no student specific corrective action is required.

### **Allegation #5: Progress Reports Consistent with the Data**

Based on the Findings of Facts #1 - #3, the MSDE finds that the reports of the student's progress towards achievement of the annual IEP goals were consistent with the data, in accordance with 34 CFR §§300.101 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

**Allegation #6: Addressing Assistive Technology Needs**

Based on the Findings of Facts #5, #8 and #9, the MSDE finds that, while there is conflicting data, the IEP team's decisions have been supported by data, and that the team is continuing to obtain additional data to ensure that the student's AT needs are addressed, in accordance with 34 CFR §300.304. Therefore, this office does not find that a violation occurred with respect to the allegation.

**CORRECTIVE ACTIONS/TIMELINES:**

**Student-Specific**

The MSDE requires PGCPS to provide documentation by February 28, 2019 that the IEP team has determined the compensatory services or other remedy for the delay in completing the re-evaluation.

The PGCPS must ensure that the parents are provided with written notice of the team's decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

**School-Based**

The MSDE requires the PGCPS to provide documentation by March 31, 2019 of the steps taken to ensure that the violations identified do not recur at XXXXXXXXXXXXXXXXXXXXX.

**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.

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 for 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 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

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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 Early Intervention/Special Education Services

MEF:ac

c:     XXXXXX  
       XXXXXX  
       Monica Goldson  
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