



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

October 30, 2020

Ms. Ronetta Stanley  
Loud Voices Together  
Educational Advocacy Group  
P.O. Box 1178  
Temple Hills, Maryland 20757

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

RE: [REDACTED]  
Reference: #21-011

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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.

**ALLEGATION:**

On September 4 and 10, 2020, the MSDE received a complaint from Ms. Ronetta Stanley, hereafter “the complainant,” on behalf of the above-referenced student and his mother, Ms. [REDACTED]. 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 allegation that the PGCPS did not ensure that proper procedures were followed when using exclusion with the student, during the period of time from November 2019 to January 2020, in accordance with COMAR 13A.08.04.03. The complainant specifically alleged that exclusion was used with the student in excess of thirty (30) minutes, and used before less intrusive interventions failed or were determined to be inappropriate.

**BACKGROUND:**

The student is six (6) years old and is identified as a student with a Developmental Delay under the IDEA. He has an IEP that requires the provision of special education and related services.

The student attended the [REDACTED] until the March 16, 2020 closure of school buildings, as a result of the national COVID-19 pandemic.

### **FINDINGS OF FACTS:**

1. The IEP in effect during the time period covered by the investigation was developed on October 29, 2019. The IEP reflects that the student's social, emotional and behavioral skills are affected by this disability, and included goals to address these areas of need.
2. The IEP required the provision of specialized instruction in a general education classroom. The IEP also required counseling services twice a week, to be provided by a guidance counselor in the general education classroom.
3. The IEP also required a Behavior Intervention Plan (BIP) that was developed for the student in January 2019. A review of the BIP reflects that it does not require the removal of the student from the classroom for the provision of services or supports.

### **November 8, 2019 Incident**

4. There is documentation that, on November 8, 2019, instead of returning to the classroom after lunch with the rest of his class, the student was sent to the guidance counselor's office because at lunch, he threw another student's food tray in the trash.
5. There is documentation that the guidance counselor provided the student with individual counseling support on November 8, 2019.

### **November 21, 2019 Incident**

6. There is documentation that, on November 21, 2019, the student was removed from the classroom by the principal after he demonstrated behavior that interfered with the learning of others. The student's behavior consisted of moving chairs away from the tables and crawling under tables and the teacher's desk.
7. There is no documentation that special education services or supports were provided while the student was at the principal's office.
8. There is no documentation of the length of time that the student spent outside of the classroom in the principal's office.

### **Ability to Benefit**

9. There is no documentation that exclusion was used with the student during any other times from November 2019 to January 2020.
10. The reports of progress towards achievement of the IEP social, emotional, and behavioral goals reflect that the student made sufficient progress towards achievement of the goals from November 2019 to January 2020.

## **CONCLUSIONS:**

Based on the Findings of Facts #1 - #5, the MSDE finds that the removal of the student on November 8, 2019 was not exclusion because there is documentation that special education services or supports were provided while the student was at the guidance counselor's office, in accordance with COMAR 13A.08.04. Therefore, the MSDE does not find a violation with respect to this aspect of the allegation.

However, based on the Findings of Facts #1 - #3, #6 and #7, the MSDE finds that the removal of the student from class on November 21, 2019 was exclusion because there is no documentation that special education services or supports were provided while the student was at the principal's office.

Further, based on the Finding of Fact #8, the MSDE finds that there is no documentation that the school system ensured that the November 21, 2020 period of exclusion did not exceed thirty (30) minutes, in accordance with COMAR 13A.08.04. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

However, based on the Findings of Facts #9 and #10, the MSDE finds that there is no documentation that exclusion was used in an excessive manner, and there is documentation that the student was able to benefit from his educational program during the time period covered by the investigation. Therefore, the MSDE does not require student-specific corrective action.

## **CORRECTIVE ACTION/TIMELINES:**

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.<sup>1</sup> This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that the action will not be completed within the timeframe indicated, or if either party seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770 or by email at [nancy.birenbaum@maryland.gov](mailto:nancy.birenbaum@maryland.gov).

---

<sup>1</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, the MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

<sup>2</sup> The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been

## School-Based

The MSDE requires the PGCPs to provide documentation of the steps it has taken to ensure that the [REDACTED] staff follow the required proper procedures for the use of exclusion consistent with COMAR 13A.08.04.02 - .04. 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 reoccur.

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

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 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 Early Intervention  
and Special Education Services

MEF/ksa

c: [REDACTED] Barbara Vandyke  
Dori Wilson  
K. Sabrina Austin  
Monica Goldson  
[REDACTED]  
Anita Mandis  
Nancy Birenbaum