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February 4, 2016

Ms. Jessica R. Williams  
Education Due Process Solutions, LLC  
P.O. Box 1391  
Laurel, Maryland 20725

Mrs. Joan Rothgeb  
Director of Special Education  
Prince George's County Public Schools  
1400 Nalley Terrace  
Landover, Maryland 20785

RE: XXXXX  
Reference: #16-061

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 December 17, 2015, the MSDE received a complaint from Ms. Jessica R. Williams, hereafter, "the complainant," on behalf of the above-referenced student and his parent, Ms. XXXXXXXXXX. 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 has not ensured that the student's progress toward achieving the annual goals has been measured in the manner required by the Individualized Education Program (IEP) during the 2014-2015 school year,<sup>1</sup> in accordance with 34 CFR §§300.101 and .320.

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<sup>1</sup> Only those violations of the IDEA that are alleged to have occurred within one year of the filing of a State complaint may be addressed through the State complaint procedure. Therefore, progress reports from the first (1<sup>st</sup>) quarter were not included in the investigation since it occurred more than one year ago (34 CFR §300.153).

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2. The PGCPs did not provide the student's parent with the opportunity to participate in the IEP team meeting on January 9, 2015, in accordance with 34 CFR §300.322.

**INVESTIGATIVE PROCEDURES:**

1. On December 17, 2015, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPs.
2. On January 5, 2016, 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 Mrs. Rothgeb of the allegations to be investigated and requested that her office review the alleged violations.
3. On January 15, 2016, Mr. Albert Chichester, Complaint Investigator, MSDE, reviewed the student's educational record at the XXXXXXXXXXXXXXXXXXXX, and interviewed Ms. XXXXXXXXXXX Principal, and Ms. XXXXXXXXXXX, Special Educator and IEP Chairperson.

Ms. Kerry Morrison, Special Education Instruction Specialist, PGCPs, attended the record review as a representative of the PGCPs and to provide information on the school system's policies and procedures, as needed.

4. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
  - a. IEP, dated January 7, 2015;
  - b. IEP team meeting invitation, dated December 19, 2014;
  - c. Prior written notice, dated January 12, 2015;
  - d. Prior written notice, dated December 15, 2015;
  - e. IEP progress reports for the 2014-2015 school year;
  - f. Correspondence, dated between January 7, 2015 and January 11, 2015, among the parent and the school staff; and
  - g. Correspondence from the complainant containing an allegation of a violation of the IDEA, received by the MSDE on December 17, 2015.

**BACKGROUND:**

The student is fourteen (14) years old and is identified as a student with a Specific Learning Disability under the IDEA. He has an IEP that requires the provision of special education instruction and related services (Doc. a).

**ALLEGATION #1: MEASURING THE STUDENT'S PROGRESS TOWARD  
ACHIEVING THE IEP ANNUAL GOALS**

**FINDINGS OF FACTS:**

1. There are quarterly IEP progress reports for each annual goal for the 2014-2015 school year. The reports indicated that the student was making sufficient progress to meet the annual goals (Docs. a and e).
2. The reports of the student's progress toward achieving the annual goals include information related to the short-term objectives and indicate that progress was measured consistent with the goal description (Docs. a, e, g, and interview with the school staff).

**DISCUSSION/CONCLUSIONS:**

The IEP must include, among other things, a description of how the student's progress toward achieving the annual goals will be measured and when reports will be made of the student's progress to the parent. The public agency must ensure that progress on the goals is reported consistent with the description in the IEP (34 CFR §§300.101, .320, and .323). In this case, the complainant alleges that the student's progress was not accurately measured.

Based on the Findings of Facts #1 and #2, the MSDE finds that there is documentation that the student's progress was measured as required by the IEP. Therefore, this office does not find that a violation occurred with respect to this allegation.

**ADDITIONAL DISCUSSION:**

As indicated in our January 5, 2016 correspondence to the complainant, if the parent believes that the documentation in the student's progress reports, which was used as a basis for this conclusion, is inaccurate or misleading, she may request an amendment of the record (34 CFR §300.618). If the public agency refuses to amend the information in accordance with the request, it must inform the parent of the refusal. The public agency must also advise the parent of the right to a hearing, upon her request, conducted by the public agency to challenge the information in the student's educational record to ensure that it is not inaccurate or misleading (34 CFR §300.619).

If as the result of the hearing, the public agency decides that the information is inaccurate or misleading, it must amend the information and inform the parent in writing. However, if the public agency decides that the information is not inaccurate or misleading, it must inform the parent of her right to place in the record a statement regarding information in the record or to set forth any reasons for disagreeing with the decision of the agency (34 CFR §300.620).

## **ALLEGATION #2: PARTICIPATION IN THE JANUARY 9, 2015 IEP MEETING**

### **FINDINGS OF FACTS:**

3. There is documentation dated December 19, 2014, in the student's educational record, that the student's parent received a written invitation to an IEP meeting scheduled for January 7, 2015, and that she returned the invitation, with her signature, indicating that she would attend the meeting (Docs. b and c).
4. There is also documentation that the parent requested that the January 7, 2015 meeting be rescheduled and that she and the school staff agreed to a new date of January 9, 2015. The documentation reflects that the parent planned to participate by telephone, but that the school-based members of the team were unable to reach her by telephone, as arranged (Docs. b, c, and f).
5. On January 12, 2015, the school staff sent the parent correspondence offering to reconvene the IEP team with her participation to ensure that any input that she wished to provide would be considered. However, there is no documentation that the parent responded to the offer (Docs. c, f, and g).
6. On December 15, 2015, the IEP team convened to review and revise the student's IEP. There is documentation that the parent participated in the meeting (Doc. d).

### **DISCUSSION/CONCLUSIONS:**

Each public agency must take steps to ensure that parents are afforded the opportunity to participate in IEP team meetings, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend, and scheduling the meeting at a mutually agreed on time and place. If the parent cannot attend an IEP team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls (34 CFR §300.322).

Based on the Findings of Facts #3 - #6, the MDSE finds that the IEP team followed proper procedures in their attempts to ensure that the parent was provided the opportunity to participate in the IEP meeting. Therefore, this office does not find that a violation occurred with respect to this allegation.

### **TIMELINE:**

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

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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 and conclusions contained in this letter should be addressed to this office in writing. The parent maintains 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:ac

c:       XXXXXXXXX c/o Jessica Williams  
          Kevin M. Maxwell  
          Kerry Morrison  
          XXXXXXXXX  
          Dori Wilson  
          Anita Mandis  
          Albert Chichester  
          Nancy Birenbaum