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July 19, 2016

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

RE: XXXXX
Reference: #16-131

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 May 20, 2016, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, "the complainant," on behalf of the above-referenced student. 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 her son, above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the student has been provided with a one-to-one (1:1) aide that is appropriately and adequately trained to manage the student's behavioral needs while being transported on the school bus, during the 2015-2016 school year, as required by the Individualized Education Program (IEP), in accordance with 34 CFR §§ 300.101, .156, and .323.
2. The PGCPS has not ensured that the student has been provided with specialized equipment while being transported on the school bus. Specifically, it is alleged that the student has not been provided with an operable child safety restraint system, as required by the IEP, in accordance with 34 CFR §300.34 and COMAR 13A.05.01.10

INVESTIGATIVE PROCEDURES:

1. On May 20, 2016, the MSDE received the State complaint and documentation to be considered from the complainant.
 2. On May 20, 2016, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, former Director of Special Education, PGCPs.
 3. On May 23, 2016, Mr. Albert Chichester, Complaint Investigator, MSDE, conducted a telephone interview with the complainant to discuss the allegations.
 4. On June 2, 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.
 5. On June 28, 2016, Mr. Chichester and Dr. Linda Bluth, Consultant, MSDE, conducted a site visit to the XXXXXXXXXXXXXXXX (XXXX to review the student's educational record, and interviewed the following staff:
 - a. Ms. XXXXXXXXXXXX, Bus Driver, PGCPs;
 - b. Ms. XXXXXXXXXXXX, Bus Aide, PGCPs;
 - c. Mr. XXXXXXXXXXXX, Bus Aide PGCPs;
 - d. Ms. XXXXXXXXXXXX, Office of Admissions, Compliance, and Transition, PGCPs;
 - e. Ms. XXXXXXXXXXXX, Office of Admissions, Compliance, and Transition, PGCPs;
 - f. Mr. Jacob Anderson, Transportation Supervisor, PGCPs;
 - g. Ms. XXXXXXXXXXXX, Mental Health Case Manager, XXX;
 - h. Mr. XXXXXXXX, Education Director, XXX;
 - i. Ms. XXXXXXXX, Educational Services Coordinator, XX;
 - j. Ms. Jeannette Houghtaling, Non-Public Specialist, PGCPs; and
 - k. Ms. XXXXXXXX, Bus Driver, PGCPs.
- Ms. Kerry Morrison, Compliance Specialist, PGCPs, attended the site visit as a representative of the school system and to provide information on the school system's policies and procedures, as needed.
6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
 - a. IEP, dated February 5, 2016;
 - b. *E-Z-On Vest* product installation release of liability form, not dated;
 - c. XXXXXXXXXXXXXXXX School training sign-in sheet, dated April 29, 2016 and May 27, 2016;
 - d. School bus disciplinary reports, dated between October 2015 and May 2016;

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- e. Correspondence, among the complainant, the school staff and the PGCPS transportation staff, dated between October 2015 and May 2016; and
- f. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on May 20, 2016.

BACKGROUND:

The student is nineteen (19) years old and is identified as a student with Autism under the IDEA. He attends the XXXXXXXXXXXXXXXX, where he was placed by the PGCPS, and has an IEP that requires the provision of special education instruction and related services (Docs. a and f).

During the time period covered by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. a and f).

ALLEGATION #1 PROVISION OF TRAINED TRANSPORTATION STAFF

FINDINGS OF FACTS:

- 1. The student's IEP requires that he be provided with a one-to-one (1:1) bus aide while being transported on the school bus, to and from school. The IEP reflects that the role of the bus aide is to "engage the student and ensure the student's safety on the school bus" (Docs. a and f).
- 2. There is no documentation that the student had a 1:1 bus aide on the school bus prior to May 27, 2016 (Docs. c and f).
- 3. On May 27, 2016, there is documentation that the student's 1:1 bus aide participated in a training conducted by the XXX school staff, which included a presentation on the student's behavior plan, a review of the student's bus incentives, staff proximity on the bus, and communication strategies to be used with the student while on the bus. However, there is no documentation that the 1:1 bus aide completed the two (2) hours of in-service instruction required by Maryland regulation on equipment, student management, and first aid (Doc. c).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that each student is provided with the special education and related services required by the IEP and that the student's IEP is accessible to each related service provider responsible for its implementation (34 CFR §§300.101 and .323).

A school vehicle attendant is required to complete two (2) hours of in-service instruction each year in topics that include equipment, student management, and first aid (COMAR 13A.06.07.09).

The public agency is required to maintain attendance records, electronic or printed format, of all pre-service and in-service instructional sessions which include the following information, as

appropriate, the name of the trainee, driver, or attendant, name of the instructor, dates of instruction, number of hours of classroom instruction and topics of instruction, and number of hours of behind-the-wheel instruction (COMAR 13A.06.07.09).

Based on the Findings of Facts #1 - #3, the MSDE finds that until May 27, 2016, there is no documentation that the student has been provided with a 1:1 bus aide who is appropriately and adequately trained to manage his behavioral needs while being transported on the school bus. Therefore, this office finds that a violation has occurred with respect to the allegation.

**ALLEGATION #2 OPERABLE CHILD SAFETY RESTRAINT SYSTEM
(SAFETY VEST)**

FINDINGS OF FACTS:

4. The IEP reflects that the student requires a safety vest during transportation to and from school (Doc. a).
5. On November 4, 2015, the correspondence between the school staff and the transportation staff indicate that the zipper on the student's safety vest was broken. There is also documentation that the school staff expressed concern about the fit of the safety vest on the student as well as his ability to release himself from the safety vest. The transportation staff responded by attempting to locate an operable replacement safety vest; however, there is no documentation that an operable replacement safety vest was provided to the student (Docs. e and g).
6. The 1:1 bus aide reports that the student "rocks back and forth" while in the safety vest, which causes the safety vest straps to stretch and become loose on the student's shoulders. Further, it was reported that when the safety vest straps are loose, the student removes the safety vest straps and often times attempts to recline on the seat (Doc. d and an interview with the school and the transportation staff).
7. The student's school bus disciplinary reports indicate that on several occasions during the 2015-2016 school year, the student released himself from his safety vest, allowing him to get out of his seat and engage in "unsafe" behaviors while the bus was moving (Doc. d and an interview with the school and the transportation staff).
8. The student is continuing to use the same safety vest while being transported on the bus for the Extended School Year services (Doc. f and an interview with the school and the transportation staff).

DISCUSSION/CONCLUSIONS:

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

Based on the Findings of Facts #4 - #7, the MSDE finds that the PGCPS has not ensured the proper use of the safety vest during transportation. Therefore, this office finds that a violation has occurred with respect to the allegation.

Further, based on the Finding of Fact #8, the MSDE finds that the student continues to be transported with the same vest and that this violation continues to occur.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by August 3, 2016 that an IEP team, which includes participation by the PGCPS transportation and nonpublic school staff, has been convened on an expedited basis and determined if a school location closer to the student's home can provide the appropriate services without an interruption negatively impacting the student.

If the IEP team determines that there is a school location closer that can provide the appropriate services, then the PGCPS must provide documentation by the start of the 2016-2017 school year of the steps taken to expedite the student's placement at the school.

The PGCPS must also provide documentation that it is providing safe transportation for the student in accordance with the student's individual needs as addressed in the IEP.

System-Based

The PGCPS officials have developed a corrective action plan in consultation with the MSDE staff, which is designed to ensure that violations, such as the ones identified during this investigation, do not recur. The plan includes regular monitoring by the PGCPS and MSDE of the effectiveness of the steps being taken to ensure the safety and timely delivery of transportation services. Therefore, no additional system-based corrective action is required.

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 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 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

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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 parties 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 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:	Kevin Maxwell	Dori Wilson
	Gwendolyn Mason	Anita Mandis
	LaRhonda Owens	Albert Chichester
	Kerry Morrison	Linda Bluth
	XXXXXXXXXX	Nancy Birenbaum