



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

January 11, 2019

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

RE: XXXXX
Reference: #19-062

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 November 13, 2018, the MSDE received a complaint from Mrs. XXXXXXXX, 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 the student.

The MSDE investigated the allegation that the PGCPS has not ensured that proper procedures have been followed when using physical restraint with the student, since the start of the 2018 – 2019 school year, in accordance with COMAR 13A.08.04.

BACKGROUND:

The student is seven (7) years old, is identified as a student with Multiple Disabilities under the IDEA, including Autism and an Intellectual Disability. The student has an IEP that requires the provision of special education and related services and attends the XXXXXXXXXXXXXXXXXXXX.

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FINDINGS OF FACTS:

1. There is no documentation of the use of physical restraint with the student. In addition, a review of video tape footage from the student's bus taken on October 12, 2018, does not reflect that physical restraint was used with the student.
2. The IEP documents that the student rides the school bus to school and requires a bus attendant for assistance with boarding and exiting the bus. The IEP states that the student "is able to walk up and down the bus steps, [but that] she requires adult assistance to hold her hand for stability, guidance and safety." The IEP also states that the student independently walks to the classroom with her backpack and close adult supervision.
3. A review of the October 12, 2018 video footage from cameras on the student's bus reflects that the student demonstrated behaviors interfering with getting off of the school bus and walking into the school building.
4. A review of the October 12, 2018 video footage from cameras at XXXXXXXXXXXXXXXX XXXXX reflects that the student was carried and dragged from the school bus into the school building by a school staff. Once inside the school building, the student was laid on the floor and another school staff located a stroller which was used to transport the student because she was unable to independently walk to class.
5. The administration school staff report that the interfering behavior displayed by the student on October 12, 2018 was behavior that she previously exhibited. As a result, the administration school staff report that, prior to October 12, 2018, and outside of the IEP team process, an informal plan had been developed for a specific school staff member to assist with taking the student off of the bus and putting her on the bus each day. The school staff report that the assigned school staff member was not present on October 12, 2018 to assist the student with getting off the bus.
6. On December 20, 2018, the IEP team convened. The IEP team discussed that "at times," the student is asleep and that it is difficult to or wake her to get off the bus in the morning, and that she may "refuse" to walk. The IEP team developed a "protocol" plan for assisting the student with transitioning from the bus into the school building. The protocol requires the classroom staff to meet the student at the bus and assist with getting her off the bus.¹ If the classroom staff are unable to wake the student and have her walk off the bus, or if the student is noncompliant with getting off the bus, the "protocol" requires the school staff to use of a stroller, via bus lift, to transport the student to her classroom.

¹ The protocol states that the bus staff should not assist the student off the bus without the present of a school staff member.

CONCLUSION:

Based on the Finding of Fact #1, the MSDE finds that the documentation does not support the allegation, in accordance with COMAR 13A.08.04. Therefore, this office does not find a violation occurred with respect to this aspect of the allegation.

However, based on the Findings of Facts #2 - #6, the MSDE finds that, while there is documentation that, by the October 12, 2018 incident, the school staff were aware of the student's interfering behavior and need for assistance with getting off the school bus, the IEP team did not convene to develop a plan to address the student's interfering behavior until December 20, 2018. Therefore, this office finds that there was a delay in convening an IEP team meeting to address the student's interfering behavior, in accordance with 34 CFR §§300.101, .320 and .324, and that a violation occurred with respect to this aspect of the allegation.

However, the MSDE does not require student-specific corrective action because there is no documentation that the delay had a negative impact on the student's ability to benefit from the education program.

CORRECTIVE ACTION/TIMELINE:

School-Based

The MSDE requires the PGCPS to provide documentation by March 15, 2019, of the steps it has taken, including training, to ensure that the XXXXXXXXXXXXXXXXXXXX school staff comply with the IDEA requirements for ensuring that the IEP team does not delay in addressing student interfering behaviors. 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 violation does 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.

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

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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 complainant 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 Early Intervention and Special Education Services

MEF/ksa

c: Monica Goldson
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