



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

July 19, 2019

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Ms. Bobbi Pedrick
Director of Special Education
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland 21401

RE: XXXXX
Reference: #19-168

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 May 17, 2019 and June 5, 2019, the MSDE received complaints from Mr. XXXXXXXX, hereafter, “the complainant,” on behalf of his son, the above-referenced student. In those correspondences, the complainant alleged that the Anne Arundel County Public Schools (AACPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related State requirements with respect to the student.

The MSDE investigated the allegation that the AACPS did not ensure that proper procedures were followed when seclusion was used with the student during the 2018-2019 school year, in accordance with COMAR 13A.08.04.

BACKGROUND:

The student is six (6) years old, is identified as a student with an Other Health Impairment under the IDEA, due to Attention Deficit with Hyperactivity Disorder and has an Individualized Education Program (IEP) that requires the provision of special education and related services.

The student attended XXXXXXXXXXXXXXXXXXXX school until November 27, 2018. Since that time he has attended the XXXXXXXX of Anne Arundel, a nonpublic separate special education school, where he was placed by the AACPS.

FINDINGS OF FACTS:

1. On November 21, 2018, the complainant signed a form presented by the XXXXXXXX of Anne Arundel, titled *Seclusion and Restraints*. The form states:

I understand and grant consent for certified staff members at the XXXXXXXXXXXX of Anne Arundel, in accordance with COMAR 13A.08.04.05, to use physical restraint and seclusion (time out) when necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate. In the instance that a restraint or (time out) is utilized, the parent(s) guardian(s) will be notified via phone within 24 hours of the incident.

2. The XXXXXXXXXXXX of Anne Arundel have different procedures for the use of seclusion and time out. The procedure for seclusion requires that parents be notified each time it is used. The procedure for time out does not require such notice.
3. There is documentation that time out, but not seclusion, was used with the student.
4. The school staff did not provide the complainant with notice of the use of time out consistent with what is indicated on the consent form that he signed.

CONCLUSIONS:

Based on the Finding of Fact #1, the MSDE finds that the consent form used by XXXXXXXX of Anne Arundel uses the terms time out and seclusion interchangeably, thereby creating an expectation that the complainant would be notified when either seclusion or time out was used.

However, based on the Findings of Facts #2, #3 and #4, the MSDE finds that the documentation reflects that time out and not seclusion was used with the student. While the complainant was not provided with notice of the use of time out as he expected he would be, the requirements of COMAR 13A.08.04, with respect to notifying parents of the use of seclusion, do not apply. Therefore, this office does not find that a violation occurred.

TIMELINE:

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.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The complainant 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 and 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/sf

c: George Arlotto
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