

January 24, 2025

[REDACTED]

Ms. Denise Mabry
Director of Special Education
Baltimore City Public Schools
200 E. North Avenue
Baltimore, Maryland 21202

RE: [REDACTED]
Reference: #25-150

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 25, 2024, MSDE received a complaint from [REDACTED], hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) concerning the above-referenced student.

MSDE investigated the allegation that the BCPS did not follow proper procedures when using physical restraint on or about September 24, 2024, in accordance with COMAR 13A.08.04.05.

BACKGROUND:

The student is six years old and is identified as a student with Autism under the IDEA. The student attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The student’s IEP in effect in September 2024, was developed on April 17, 2024. The IEP reflects the student’s disability as Developmental Delay. The IEP identified math calculation, reading phonics, written language expression, and social/emotional/behavioral as areas affected by the disability. The IEP reflects

the student requires the implementation of a Behavior Intervention Plan (BIP). The IEP requires the following social/behavioral supports:

- First/Then Board;
- Home-School Communication Board;
- Reinforce positive behavior through verbal/nonverbal communication;
- Use of positive/concrete reinforcers;
- Calming area;
- Scheduled breaks;
- Adult support; and
- Frequent reminders of rules.

The IEP requires three hours per week of special education instruction inside the general education setting.

2. On September 18, 2024, the BCPS social worker submitted a witness statement. The statement reflects that the BCPS social worker observed the student's one-to-one aide engaging in an "inappropriate restraint". The one-to-one aide was observed grabbing the student by his collar and stating, "Don't play with me today, I am not in the mood." The one-to-one aide took the student to another area and "put him against the wall". The student appeared afraid and "frozen". The BCPS social worker intervened, escorted the student to the school administrator, and reported the incident.

DISCUSSIONS AND CONCLUSION:

Physical restraint is defined as a personal restriction that immobilizes or reduces the ability of a student to move the student's torso, arms, legs, or head freely. It does not include briefly holding a student to calm or comfort the student. It also does not include holding a student's hand or arm to escort the student safely from one area to another. Furthermore, it does not include moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful or intervening in a fight. (COMAR 13A.08.04.02)

In this case, the complainant alleges that the student was restrained by the one-to-one aide based upon the information obtained from the school administrator. While the incident report reflects the school social worker referred to the contact as an "inappropriate restraint" there is no documentation to support the student was restrained.

The student was grabbed by his collar and "put against the wall". There is no evidence that the student's movement was restricted at that time.

Based upon Findings of Fact #1 and #2, MSDE finds that the incident that occurred on September 24, 2024, did not meet the definition of restraint under Maryland law, and the BCPS was not required to follow the proper procedures when using a physical restraint. Therefore, this office finds that a violation did not occur.

TIMELINES:

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 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 why the documentation was not made available during the investigation. Request for reconsideration should be submitted to Tracy Givens, Section Chief, Dispute Resolution, at Tracy.Givens@maryland.gov. 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 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 (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/tg

c: Dr. Sonja Santelises, Superintendent, BCPS
Christa McGonigal, Educational Specialist, BCPS
[REDACTED], Principal, [REDACTED], BCPS
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE