



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

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February 28, 2013

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

RE: XXXXX
Reference: #13-031

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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 January 2, 2013, the MSDE received a complaint from Ms. XXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, 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 provided the student with the transportation services required by his Individualized Education Program (IEP) since October 8, 2012, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.

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2. On January 3, 2013, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPS; Ms. Gail Viens, Deputy General Counsel, PGCPS; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPS.
3. On January 9, 2013, Ms. Moyo conducted a telephone interview with the complainant to clarify the allegation to be investigated.
4. On January 18, 2013, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the PGCPS of the allegation and requested that the PGCPS review the alleged violation.
5. On January 23, 2013, the MSDE requested information and documents from the PGCPS, via electronic mail.
6. On February 1, 2013, Ms. Moyo and Ms. Kathy Stump, Education Program Specialist, MSDE, conducted a site visit at the PGCPS Central Office to review the student's educational record, and interviewed Mr. Thomas A. Bishop, Transportation Director, PGCPS, Ms. Belinda J. Gantt, Nonpublic Supervisor, PGCPS, and Ms. Jeanette Houghtaling, Nonpublic Specialist, PGCPS. Ms. Kerry Morrison attended the site visit as a representative of the PGCPS and to provide information on the PGCPS policies and procedures, as needed.
7. On February 20 and 21, 2013, the PGCPS staff provided the MSDE staff with additional documentation related to the allegation being investigated.
8. On February 22, 2013, Ms. Moyo conducted a telephone interview with the complainant.
9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. IEP, dated October 8, 2012;
 - b. Electronic mail (email) correspondence from the complainant to the PGCPS staff, dated October 17, 2012;
 - c. Correspondence from the complainant to the PGCPS staff, dated January 2, 2013;
 - d. Email correspondence between the PGCPS staff and the MSDE staff, dated February 14, 2013;
 - e. Email correspondence between the PGCPS staff members, dated February 20, 2013;
 - f. Email correspondence between the PGCPS staff and the MSDE staff, dated February 20, 2013; and
 - g. School bus routing report and student rosters, dated February 21, 2013.

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BACKGROUND:

The student is twenty (20) years old, is identified as a student with Autism under the IDEA, and receives special education instruction and related services. He is placed by the PGCPS at the XXXXXXXXXXXXXXXXXXXX, a nonpublic separate special education school. During the period of time addressed by this investigation, the complainant participated in the education decision-making process and was provided with notice of the procedural safeguards (Docs. a and c).

FINDINGS OF FACTS:

1. On October 8, 2012, the IEP team met to conduct the annual review of the student's IEP. During the meeting, the complainant and the student's father expressed concern for their son's safety while riding the school bus because another student had initiated a physical altercation with him while they were riding on the school bus together (Doc. a).
2. At the meeting, the complainant requested that the students be placed on separate buses because she believes that being transported on the same bus with the other student has caused her son stress which "has impacted his availability for learning." In order to address the complainant's concern, the team revised the IEP to require that this student be transported to and from school on another bus (Doc. a).
3. Subsequent to the October 8, 2012 IEP team meeting, the complainant reported to the PGCPS Office of Transportation staff that the students were to be transported on separate buses. However, the PGCPS Office of Transportation staff was not provided with this information from the appropriate school system staff and as a result, the two students continued to be transported on the same bus until February 20, 2013 (Docs. d – f and interviews with the PGCPS staff and the complainant).
4. On February 21, 2013, the PGCPS provided documentation that the other student has been reassigned to a different bus route and is now being transported to and from school on a different bus (Docs. e - g).

DISCUSSION/CONCLUSIONS:

The public agency is required to ensure that students are provided with the special education and related services required by the IEP (34 CFR §300.101 and .323). In this case, the complainant alleges that the student has not been provided with transportation services in the manner required by the IEP since October 8, 2012.

Based on the Findings of Facts #1 - #4, the MSDE finds that from October 8, 2012 until February 20, 2013, the PGCPS did not ensure that the student was provided with transportation services in the manner required by the IEP. Therefore, the MSDE finds that a violation has occurred with regard to this allegation.

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CORRECTIVE ACTIONS/TIMELINES:

Student-specific

The MSDE requires the PGCPS provide documentation no later than April 1, 2013 that the IEP team has convened to consider whether the violation negatively impacted the student's ability to benefit from the educational program from October 8, 2013 until February 20, 2013. If the team determines that there was a negative impact, then the PGCPS must determine the nature and amount of *compensatory services*¹ to be provided to the student.

The PGCPS must provide the complainant with proper written notice of the determinations made at the IEP team meeting, including a written explanation of the basis for the determinations, as required by 34 CFR §300.503. If the complainant disagrees with the IEP team's determinations, she maintains the right to request mediation or file a due process complaint, in accordance with the IDEA.

Systemic

The MSDE requires the PGCPS to provide documentation, by June 1, 2013, of the steps it has taken to determine if the procedural violation identified in the Letter of Findings is unique to this case with regard to communication between the PGCPS special education staff and the PGCPS transportation staff. Specifically, the PGCPS is required to determine if there is a pattern of noncompliance with regard to communication issues between these two offices with regard to the provision of transportation services for students attending similar nonpublic programs. If it is determined that a pattern of noncompliance exists, the documentation must describe the actions taken to ensure that staff properly implement the requirements of the IDEA and COMAR, and provide a description of how the PGCPS will evaluate the effectiveness of the steps taken and provide agency monitoring to ensure that the violation does not recur.

Upon receipt of this report, the MSDE will verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the Office of Special Education Programs. Additionally, the findings in the Letter of Findings will be shared with the MSDE's Policy and Accountability Branch for its consideration during present or future monitoring of the PGCPS.

Documentation of all corrective actions taken is to be submitted to this office to the attention of the Chief of the Family Support and Dispute Resolution Branch, Division of Special Education/Early Intervention Services, MSDE.

¹ Compensatory services, for the purpose of this letter, mean the determination regarding how to remediate the denial of appropriate services to the student (34 CFR §300.151).

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TECHNICAL ASSISTANCE:

Technical assistance is available to the complainant and the PGCPS by Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

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 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 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 consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the findings, conclusions and corrective actions 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 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/km

cc:

Alvin Crawley	XXXXXXXXXXXX
Duane Arbogast	Dori Wilson
Gail Viens	Anita Mandis
XXXX XXXX	Linda Bluth
LaRhonda Owens	Martha J. Arthur
Kerry Morrison	Koliwe Moyo