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March 21, 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: #13-042

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 31, 2013, the MSDE received a complaint from Ms. XXXXXXXXX, hereafter, “the complainant,” on behalf of her son. 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 above-referenced student.

The MSDE investigated the allegation that the PGCPS has not provided the student, who is placed by the PGCPS at XXXXXXXXXXXXXXXXXXXX, XXXXXXXXXXXXX (XXXXXXXXXX), with the transportation services required by the Individualized Education Program (IEP) since July 2, 2012, in accordance with 34 CFR §300.101.

INVESTIGATIVE PROCEDURES:

1. Ms. Kathy Stump, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On January 31, 2013, the MSDE sent a copy of the complaint, via facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPS; Ms. LaRhonda Owens, Supervisor of Compliance, PGCPS; Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPS; and Ms. Gail Viens, Deputy General Counsel, PGCPS.

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3. On February 6, 2013, Ms. Stump conducted a telephone interview with the complainant to clarify the allegation to be investigated.
4. On February 8, 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 Mrs. Rothgeb of the allegation and requested that her office review the alleged violation.
5. On February 22, 2013, the PGCPS provided the MSDE with documentation from the student's educational record that the PGCPS wished to have considered during the course of the investigation, via electronic mail (e-mail).
6. On February 26, 2013, Ms. Stump, Ms. Linda Bluth, Quality Monitoring Specialist, MSDE, and Ms. Koliwe Moyo, Education Program Specialist, MSDE, conducted a site visit at the PGCPS Special Education Office to review the student's educational record, and interviewed Ms. Belinda J. Gantt, Nonpublic Supervisor, PGCPS. Ms. XXXXXXXX, Admissions, Compliance, and Transition Specialist, XXXXXXXX; and Ms. XXXXXXXX, Behavior Resource and Transportation Coordinator, XXXXXXXXXXXX; participated via telephone conference. Ms. 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 that same date, the PGCPS provided the MSDE with additional documentation from the student's educational record, via e-mail.
8. On March 7 and 11, 2013, the MSDE requested that the PGCPS provide additional information and documentation from the student's educational record, via e-mail.
9. On March 14 and 15, 2013, the PGCPS provided the MSDE with additional documentation, via e-mail.
10. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Correspondence and attachments from the complainant to the MSDE, received on January 31, 2013;
 - b. E-mail correspondence among the complainant, XXXXXXXXXXXX personnel, and PGCPS personnel, dated between July 1, 2012 and February 6, 2013;
 - c. IEP and meeting notice, dated June 5, 2012;
 - d. IEP and meeting notice, dated October 16, 2012;
 - e. Prior Written Notice form, dated October 16, 2012;
 - f. Transportation Incident Report form, dated October 23, 2012; and
 - g. IEP team meeting notice for the March 21, 2013 meeting.

BACKGROUND:

The student is nine (9) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires that he receive special education and related services. He attends XXXXXXXXXXXX, a nonpublic school, where he was placed by the PGCPS. During the period of time addressed by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. a, c, d, e, and g).

FINDINGS OF FACTS:

1. The IEP indicates that beginning on July 2, 2012, when the student was to begin receiving Extended School Year services, he was to be provided with transportation, via school bus, as a related service. The IEP also requires that the student be provided with a “dedicated bus aide” while on the bus. The IEP requires that the driver of the student’s bus, the general bus attendant assigned to the student’s bus, and the student’s “dedicated bus aide” be specifically trained on the use of the student’s XXXXXXX, on XXXXX management, and on care of the student’s XXXX XXXX (Docs. c, and d).
2. On October 16, 2012, an IEP team meeting convened. At the meeting, the team acknowledged that the student has not had a “dedicated bus aide” since July 2, 2012 and that none of the transportation staff has been trained, as required by the IEP (Docs. d and e).
3. The parties report that on or about October 18, 2012, the bus driver, the bus attendant, and the student’s dedicated aide attended training on the use of the student’s XXXXXXX, XXXXXXX management, and care of the student’s XXXXXXX. Additionally, the parties report that the complainant also attended the training sessions (Doc. b and interviews with school staff and the complainant).
4. On October 23, 2012, there is documentation that during the trip to school on October 23, 2012, the student hit his head on the window of the bus, but the bus personnel did not inform staff from XXXXXXXXXXXXXXX about the incident until the afternoon dismissal (Doc. f).
5. As a result of the incident on October 23, 2012, the parties agree that the complainant has been transporting the student to and from school on a daily basis because of her concern for the student’s safety. There is also documentation that the complainant has expressed her belief to the PGCPS transportation personnel that the dedicated aide “did not take training seriously by texting under the table during training.” As a result of these concerns, the complainant has requested that a different dedicated aide be assigned to the student (Doc. b and interviews with school staff and the complainant).
6. An IEP team meeting is currently being scheduled to address ongoing concerns regarding the provision of transportation services to the student (Doc. g).

DISCUSSION/CONCLUSIONS:

The public agency is required to ensure that the student is provided with the special education and related services, including transportation services, required by the IEP (34 CFR §300.101). If a public agency determines that a student with a disability requires transportation to benefit from special education, it must be provided as a related service at no cost to the student and his or her parents (*Letter to Anonymous*, United States Department of Education, Office of Special Education Programs [OSEP], 38 IDELR 42, April 19, 2002).

Based on the Findings of Facts #1-#6, the MSDE finds that the PGCPS has not ensured that the student has been provided with the transportation services as required by the IEP since July 2, 2012. Therefore, the MSDE finds an on-going violation since that date.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation by June 1, 2013 that the following have occurred:

1. The student is being provided with transportation services as required by the IEP;
2. The PGCPS has reimbursed the complainant for the transportation costs that she has accrued as a result of transporting the student to and from school for as long as the transportation services are not provided in the manner required by the IEP; and
3. The IEP team has determined whether the student's ability to receive educational benefit from his program was adversely impacted by the lack of transportation services. If the team determines an adverse impact, then the team needs to determine the nature and amount of *compensatory services*¹ or other remedy necessary to redress the violation.

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.

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

¹ Compensatory services, for the purposes of this letter, mean the determination by the IEP team as to how to remediate the denial of appropriate services to the student (34 CFR §300.151).

TECHNICAL ASSISTANCE:

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

Please be advised that the complainant and the school system 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 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 due process.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Special Education/Early Intervention Services

MEF:ks

cc :	Alvin Crawley	XXXXXXXXXX	Martha J. Arthur
	Duane Arbogast	XXXXXX	Kathy Stump
	LaRhonda Owens	Sarah Spross	
	Gail Viens	Cynthia Amirault	
	Kerry Morrison	Dori Wilson	
	XXXXXXXXXX	Anita Mandis	