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September 27, 2017

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

RE: XXXXXXXXXXXXXXXX  
Reference: #18-009

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.

**ALLEGATIONS:**

On July 31, 2017, the MSDE received a complaint from Mr. XXXXXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of his 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 following allegations:

1. The PGCPS did not ensure that the student was provided with the transportation services needed to access special education and related services, as required by the Individualized Education Program (IEP) on August 4, 2016, in accordance with 34 CFR §§300.101 and .323.

2. The PGCPS did not provide access to the student's educational record in response to a May 17, 2017 request, in accordance with 34 CFR §300.613.

**BACKGROUND:**

The student is 12 years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education and related services. He attends the XXXX XXXXXXXXXXXXXXXXXXXXXXXX, a nonpublic, separate, special education school, where he is placed by the PGCPS.

**ALLEGATION #1                      PROVISION OF TRANSPORTATION SERVICES  
ON AUGUST 4, 2016**

**FINDINGS OF FACTS:**

1. The IEP in effect on August 4, 2016 is dated September 8, 2015. The IEP required the provision of special education instruction and related services, including specialized transportation services.
2. There is documentation that on August 4, 2016, the last day of the summer session for the 2015-2016 school year at the XXXXXXXXXXXXXXXXXXXXXXXX, the complainant reported to the school staff that the student was absent from school because the bus arrived earlier than the time the parents were asked to have the student at the bus stop and that the bus left without taking the student to school.
3. On October 26, 2016, the MSDE issued a Letter of Findings as a result of an investigation of a previous State complaint filed on behalf of the student (State complaint #17-026). In that Letter of Findings, it was reported that a violation was identified related to the PGCPS not ensuring that the IEP team reviewed and revised the IEP to address lack of expected progress from January 2016 until August 25, 2016. As a result, the MSDE required that compensatory services be provided to the student.

**DISCUSSION/CONCLUSIONS:**

Based on the Findings of Facts #1 and #2, the MSDE finds that the student was not provided with transportation services on August 4, 2016, as required by of 34 CFR §§300.101 and .323, and as a result, he lost one day of services. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #3, the MSDE finds that the IEP team has already determined a remedy for the lack of progress made during the time period of the violation. Therefore, no additional corrective action is required.

**ALLEGATION #2                      ACCESS TO THE EDUCATIONAL RECORD**

**FINDINGS OF FACTS:**

4.        On May 17, 2017, the complainant made a request to the PGCPS staff for access to all reports of assessments of the student's functioning in the area of fine motor skills.
  
5.        On May 25, 2017, the IEP team considered the complainant's request for direct occupational therapy services to assist the student with improving his handwriting skills, and decided to conduct an updated occupational therapy assessment. There is no documentation that the complainant was provided with access to the documents requested on May 17, 2017 prior to the convening of the IEP team.
  
6.        On August 23, 2017, the IEP team considered the results of the occupational therapy assessment and determined that the student does not require direct occupational therapy services. There is no documentation that the complainant was provided with access to the documents requested on May 17, 2017 prior to or since the August 23, 2017 IEP team meeting.

**DISCUSSION/CONCLUSIONS:**

Based on the Findings of Facts #4 - #6, the MSDE finds that the PGCPS did not respond to the complainant's request for access to the educational record in a timely manner, as required by 34 CFR §99.10 and 34 CFR §300.613. Therefore, this office finds that a violation of occurred.

**CORRECTIVE ACTIONS/TIMELINES:**

**Student Specific**

The MSDE requires the PGCPS to provide documentation by November 1, 2017 that it has provided the complainant with access to the student's educational record in response to his May 17, 2017 request.

The MSDE also requires the PGCPS to provide documentation by December 1, 2017 that the IEP team has again considered the complainant's request for direct occupational therapy services following his review of the documents requested from the educational record. If the IEP team decides that the student requires direct occupational therapy services based on information from the complainant, the IEP team must also determine the services needed to remediate the delay in the provision of those services since May 25, 2017.

### **System-Based**

The MSDE further requires that the school system to provide documentation by December 1, 2017 of the steps taken to ensure that requests for access to student educational records are responded to in a timely manner. The documentation must include a description of how the PGCPs will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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.

### **TECHNICAL ASSISTANCE:**

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Consultant, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that the PGCPs and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact or conclusions reached in this Letter of Findings. The additional written documentation must not have been available to this office during the complaint investigation and there must be a substantial reason why it was not submitted during the investigation period. 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 within the timelines reported in this Letter of Findings.

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 Appropriate Public Education (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA. The

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Ms. Trinell Bowman

September 27, 2017

Page 5

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/am

c: Kevin W. Maxwell  
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