


September 26, 2023




Ms. Trinell Bowman
Associate Superintendent, Special Education
Prince George's County Public Schools
John Carroll Center
1400 Nalley Terrace
Landover, Maryland 20785

RE: 
Reference: #24-014

Dear Parties:


The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), 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 July 31, 2023, MSDE received a complaint from Mr.  hereafter, "the complainant," on behalf of his 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.

MSDE investigated the allegation that PGCPS has not ensured that the student has been consistently provided with the toileting services and modifications required by the Individualized Education Program (IEP) since July 28, 2023, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is eighteen 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. The student is placed by the PGCPS at the  a nonpublic, separate, special education school.

FINDINGS OF FACT:

1. The student's IEP, in effect on July 28, 2023, was developed on May 10, 2023. It requires that the student be provided with:
 - "staff support if he has a bowel movement; he cannot clean himself. Staff will have access to gloves, gown, and wipes to assist [the student] in cleaning. To avoid [the student] touching feces, a drape may be placed over [the student's] lap and staff can prompt [the student] to clasp hands together.

- In the bathroom, visual aides to support routines such as proper handwashing techniques will be posted by the sink, but staff may have to guide [the student] through handwashing. [The student] will also have visual aids available to request a bathroom break.
 - As [the student] demonstrates the ability to complete bathroom sequences and procedures without maladaptive behaviors, staff support will fade to allow for bathroom independence."
2. The student's May 10, 2023, IEP also requires that the student have access to a change of clothes at school.
 3. The student's behavior intervention plan, dated March 10, 2023, requires that the student be supported with "additional strategies for the bus."
 4. The "Strategies to Support Positive Bus Rides" document created by the IEP team on November 3, 2021, requires that the student wear a singlet over his clothes and under his safety vest while on the bus. Specifically, the document states that "[a] singlet should be worn on top of clothes and under safety vest[.]" Staff should "[b]lock any attempts to: Unhook or unzip safety vest, Reach hands up or down clothing, [or] Disrobe..."; use "SAFE HANDS" verbal/visual prompting as needed; and redirect hands to available fidgets which should be in the student's book bag.
 5. There is documentation that the school staff utilizes handwashing and restroom protocols with the student, including the use of picture directions/visual aids that are posted in the restroom that the student uses.
 6. There is documentation that school staff has been trained on "[the student's] daily protocols related to toileting, handwashing, daily logs, [and] visual aids," which reflect staff signatures.
 7. There is documentation that the school staff sent home a notice with the student dated July 28, 2023, that reflects that there was an incident of "Inappropriate Fecal Behavior" that day.
 8. While there is documentation that the school staff have been trained in and are knowledgeable of the supports required by the student's IEP and that the student has additional pairs of clothing available to him at his school, there is no documentation that the supports were provided to the student on July 28, 2023.

DISCUSSION/CONCLUSION:

Based on the Findings of Facts #1 to #8, MSDE finds that there is no documentation that the student was provided with the toileting supports required by his IEP on July 28, 2023, in accordance with 34 CFR §§300.101 and .323.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.¹ This office will follow up with the public agency to ensure that it completes the required actions consistent with MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks technical assistance, they should contact Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

MSDE requires that the PGCPS provide documentation by November 30, 2023, that the student is consistently being provided with the toileting supports required by his IEP.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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. 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,

Dr. Deann M. Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC/ebh

c: Monica Goldson Paige Bradford
 Keith Marston Diane Eisenstadt
 Darnell Henderson Elizabeth B. Hendricks
 Gerald Loiacono Nicol Elliott

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

² MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.