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July 28, 2017

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Ms. Trinell Bowman
Director of Special Education
Prince George's County Public Schools
1400 Nalley Terrace
Landover, Maryland 20785

RE: XXXXX
Reference: #17-141

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention 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.

ALLEGATIONS:

On May 12, 2017, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of 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 her son, above-referenced student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the student has been provided with a one-to-one (1:1) aide while being transported on the school bus, since July 20, 2016,¹ as required by the Individualized Education Program (IEP), in accordance with 34 CFR §§ 300.101, .156, and .323.

¹ On July 20, 2016, the MSDE issued a Letter of Findings that identified violations of the IDEA with respect to the same allegations (State complaint #16-131).

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2. The PGCPS has not ensured that the student has been provided with an operable child safety restraint system, since July 20, 2016,¹ as required by the IEP, in accordance with 34 CFR §300.34 and COMAR 13A.05.01.10.

INVESTIGATIVE PROCEDURES:

1. On May 12, 2017, the MSDE received the State complaint and documentation to be considered from the complainant.
2. On May 12, 2017, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Director of Special Education, PGCPS.
3. On May 23, 2017, Mr. Albert Chichester, Complaint Investigator, MSDE, conducted a telephone interview with the complainant to discuss the allegations.
4. On May 31, 2017, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. The MSDE also notified Ms. Bowman of the allegations to be investigated and requested that her office review the alleged violations.
5. On July 5, 2017, Mr. Chichester and Ms. Anita Mandis, Complaint Investigator Section Chief, MSDE, conducted a site visit to the XXXXXXXXXXXXXXXX (XXX) to review the student's educational record, and interviewed the following staff:
 - a. Ms. David Hill Jr., Operations Supervisor of Transportation, PGCPS;
 - b. Ms. XXXXXXXX, Educational Services Coordinator, XXX;
 - c. Mr. Richard Baird, Non-public Instructional Specialist, PGCPS;
 - d. Mr. XXXXXXXX, Director of School Operations, XXXX;
 - e. Mr. XXXXXXXX, Dean of Students, XXX;
 - f. Ms. XXXXXXXX, Acting Manager, XXX;
 - g. Ms. XXXXXXXXXXX, Principal, XXXX;
 - h. Ms. XXXXXXXXXXX, Mental Health Case Manager, XXX; and
 - i. Ms. XXXXXXXX, Educational Case Manager, XXX.

Ms. Kerry Morrison, Compliance Specialist, PGCPS, attended the site visit as a representative of the school system and to provide information on the school system's policies and procedures, as needed.

6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
 - a. IEP, dated August 30, 2016;
 - b. IEP team meeting summary for the IEP team meeting held on August 30, 2016;
 - c. IEP, dated October 6, 2016;
 - d. IEP, dated May 3, 2017;
 - e. IEP team meeting summary for the IEP team meeting held on May 3, 2017;
 - f. E-Z-On product order form, dated September 6, 2016;

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- g. E-Z-On product invoice, dated September 15, 2016;
- h. E-Z-On product packing sheet, dated October 4, 2016;
- i. E-Z-On product repair form, dated March 30, 2017;
- j. E-Z-On product packing slip, dated April 20, 2017;
- k. E-Z-On product repair form, dated May 2017;
- l. E-Z-On product repair form, dated May 25, 2017;
- m. E-Z-On product packing slip, dated June 14, 2017;
- n. PGCPs bus disciplinary reports, dated January 10, 2017 and March 24, 2017;
- o. XXXXXXXXXXXXXXXXXXXX training sign-in sheet, dated May 27, 2016, December 2016, March 2017, and May 2017;
- p. The student's "1:1 bus assignment sheet" for the 2016-2017 school year;
- q. The student's daily bus data sheets, dated between September 2016 and October 2016, and May 2017, kept by the 1:1 bus aide;
- r. Electronic mail (email), dated between September 2016 and June 2017, among the school staff, the transportation staff, the vest manufacturer, the complainant, and the MSDE;
- s. A receipt, dated May 18, 2017, from the complainant for repairs made on the "Max" vest; and
- t. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on May 12, 2017.

BACKGROUND:

The student is nineteen (19) years old and is identified as a student with Autism under the IDEA. He attends the XXXXXXXXXXXXXXXXXXXX, a non-public special education school, where he was placed by the PGCPs, and has an IEP that requires the provision of special education instruction and related services (Docs. a - c).

During the time period covered 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).

ALLEGATION #1: PROVISION OF TRAINED TRANSPORTATION STAFF

FINDINGS OF FACTS:

- 1. On August 30, 2016, the IEP team met to review the Letter of Findings issued by the MSDE as a result of a previous investigation of the same allegations (Complaint #16-131). The student's IEP was revised to require that he be provided with a one-to-one (1:1) bus aide who is "effectively trained" to identify the student's needs, address any behavior issues, and engage the student with activities such as reading, the use of the *iPad*, or other activities, while being transported on the school bus. The team also decided to develop bus data sheets to allow the bus aide to document the activities being used with the student during transport. There is documentation that the bus data sheets were kept by the 1:1 bus aide, from September 2016 to October 2016. However, in October 2016, the complainant requested that the bus data sheets be discontinued (Docs. a, b, q, and interview with the complainant).

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2. At the August 30, 2016 IEP team meeting, the team decided to implement two (2) plans to allow the transportation staff to provide support for the student while on the bus. “Plan A” allows for the same transportation staff to provide bus transportation services for the student in the morning and afternoon on school days. “Plan B” allows for additional transportation staff to be trained as back-ups in case any of the original transportation staff are absent. The IEP team also agreed to provide “refresher” trainings each quarter of the school year for the transportation staff that support the student on the bus, and that additional trainings would be provided if the student received frequent bus referrals due to his behavior (Doc. b and interview with the XXX school staff and the PGCPs transportation staff).
3. The student’s transportation “1:1 assignment sheet” for the 2016-2017 school year documents that there were nine (9) different staff members that supported the student on the bus during transport when his assigned 1:1 bus aide was absent. There is documentation that the 1:1 bus aide, and the attendant and the driver assigned to the student’s bus completed transportation training on May 27, 2016, which included behavior protocol for managing the student’s while on the bus. There is also documentation that the 1:1 bus aide, and the attendant and the driver assigned to the student’s bus completed three (3) additional quarterly bus trainings throughout the course of the 2016-2017 school year (Docs. p and o).
4. There is no documentation that the two (2) hours of annual in-service instruction required by Maryland regulation on equipment, student management, and first aid, has been completed by individuals who have served as the bus aide in preparation for the 2017-2018 school year. In addition, there is no documentation that all the 1:1 bus aides that were supporting the student on the bus during the 2016-2017 school year completed training on the behavior protocol for managing the student’s while on the bus (Docs. o, p, s and t).
5. The IEP team meeting summary, dated May 10, 2017, reflects that the student “will continue to be provided with a 1:1 bus aide.” However, the “transportation needs” section of the current IEP has not been revised to document this decision by the IEP team (Docs. d and e).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that each student is provided with the special education and related services required by the IEP and that the student’s IEP is accessible to each related service provider responsible for its implementation (34 CFR §§300.101 and .323).

A school vehicle attendant is required to complete two (2) hours of in-service instruction each year in topics that include equipment, student management, and first aid (COMAR 13A.06.07.09).

The public agency is required to maintain attendance records, electronic or printed format, of all pre-service and in-service instructional sessions which include the following information, as appropriate, the name of the trainee, driver, or attendant, name of the instructor, dates of

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instruction, number of hours of classroom instruction and topics of instruction, and number of hours of behind-the-wheel instruction (COMAR 13A.06.07.09).

In order to ensure that the student receives the services required, the IEP must be written in a manner that is clear to all who are involved in its development and implementation (*Analysis of Comments and Changes*, Federal Register, Vol. 64, No. 48, p.12479, March 1999).

In this case, the complainant alleged that PGPCS continues to allow staff that do not have the appropriate training to support the student on the bus during transport (Doc. t).

Based on the Findings of Facts #1 - #4, the MSDE finds that there is no documentation that the student has consistently been provided with a 1:1 bus aide who is appropriately and adequately trained to manage his behavioral needs while being transported on the school bus. Therefore, this office finds that a violation has occurred with respect to the allegation.

Further, based on the Finding of Fact #5, the MSDE finds that the IEP has not been revised to include the team's decision that the student "will continue to be provided with a 1:1 bus aide," and that the IEP is not written clearly with regard to the transportation staff accommodating the student on the bus. Therefore, this office finds that violations have occurred.

ALLEGATION #2: OPERABLE TRANSPORTATION SAFETY RESTRAINT SYSTEM (SAFETY VEST AND "MAX" VEST)

FINDINGS OF FACTS:

6. The student's IEP requires that he be provided with a safety vest during transport to and from school (Docs. a, c, and d).
7. On August 30, 2016, the IEP team met to review the July 19, 2016 Letter of Findings issued by the MSDE. The meeting summary reflects that the transportation staff decided to replace the safety vest which the student used on the bus during the 2015-2016 school year, with another model (referred to as a "Max" vest) that would restrict the student from removing himself from the bus seat. The school staff report that the student would continue to use the safety vest from the previous school year while the "Max" vest was being ordered. The meeting summary also reflects that the transportation staff had a backup safety vest for the student at the transportation office and also provided the complainant with set of "hooks" to be used to secure the student in the safety vest on the bus in the mornings, in the event that a substitute bus was not equipped with the proper "hooks" to fasten to the seat (Docs. a, r, and interview with the school staff and transportation staff).
8. There is documentation that on September 8, 2016, the transportation staff placed an order for two (2) new "Max" vests to replace the safety vest the student was currently using while on the school bus. The documentation reflects that the transportation office received the "Max" vests on October 11, 2016 (Docs. f - h, and r).

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9. The transportation staff reported that there was a delay in providing the “Max” vest to the student from October 11, 2016 to December 2, 2016, because they were unable to schedule a training session with the complainant on the procedures for securing the student in the “Max” vest in the mornings prior to boarding the school bus. The transportation staff report that the student was using the safety vest during that time, and began to use the “Max” vest on December 5, 2016 (Doc. r and interview with the school staff and the transportation staff).
10. A school bus disciplinary report, dated January 10, 2017, documents that the student was “jumping out of his seat and kicking and yelling and wants to get out of his safety vest” The report further indicates that the bus driver took the student back to the school and the complainant was called to pick the student up from the school (Docs. n and r).
11. A school bus disciplinary report, dated March 24, 2017, documents that the student had “taken off his safety vest and started to run down the aisle and jumping up and down” (Docs. n and r).
12. There is documentation that on March 28, 2017, the student broke the zipper on the “Max” vest, and that the transportation staff sent the vest back to the manufacturer for repair on May 4, 2017. The staff reports that during the time which the “Max” vest was being repaired, the student was provided with the backup “Max” vest (Docs. i - m, and r).
13. On May 10, 2017, the student broke the backup “Max” vest while on the bus, and on May 17, 2017, the transportation staff sent that vest to the manufacturer for repair. On that same day, the complainant notified the transportation staff that the zipper on the “Max” vest, which was recently repaired, was not functioning properly. There is documentation that the complainant spent thirty dollars (\$30) in an attempt to have the “Max” vest repaired, because the backup “Max” vest had been sent away so that it too could be repaired. The school staff report that the student was provided with the previous safety vest during this time period. Both “Max” vests were repaired and available for the student on June 19, 2017 (Docs. i - m, and r).
14. On July 5, 2017, the bus that arrived to take the student to school was not equipped with the proper mechanism to secure the “Max” vest, and the student had to be transported to school using the previous safety vest (Interview with the complainant, the school staff, and the transportation staff).

DISCUSSION/CONCLUSIONS:

As stated above, the public agency must ensure that each student is 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 at times during the 2016-2017 school year, the student was provided with the previous safety vest rather than the “Max” vest determined necessary by the IEP team due to the need for repairs to the “Max” vest and because the school bus that transports him was not equipped with the proper “hooks” to secure the “Max” vest (Doc. s and interview with the complainant).

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Based on the Findings of Facts #6 - #14, the MSDE finds that the PGCPS has not consistently ensured that the student has been provided with the equipment required in order for him to be safely transported to and from school. Therefore, this office finds that a violation has occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student -Specific

The MSDE requires the PGCPS to provide documentation by September 1, 2017 that the IEP is written clearly to reflect the personnel required to accommodate the student during transport, as has been determined by the IEP team. Further, the MSDE requires documentation that the transportation staff member assigned to serve as the student's 1:1 bus aide has both the training and experience necessary to work with the student, as has been determined by the IEP team.

The PGCPS must also provide documentation that demonstrates that all staff who are assigned to the student's bus, including the bus driver, attendant, 1:1 bus aide, and anyone who will serve as substitutes in these positions have received training on the use of the transportation safety restraint systems currently approved for the student. The documentation must further demonstrate that the training is consistent with instructions from the manufacturer of the transportation safety restraint system.

Systemic

The MSDE requires the PGCPS to provide documentation by September 1, 2017, that it has contacted Dr. Linda F. Bluth, Special Initiatives Specialist, MSDE, who has expertise in the transportation needs of students with disabilities, and has arranged for a consultation meeting with her.

The consultation will include, at Dr. Bluth's discretion, activities such as a review of video recordings from the student's bus, observations of the student and other students on the student's bus, and a discussion of industry standards and options for the use of a transportation safety restraint system on the bus.

Based on this consultation, Dr. Bluth will make recommendations for required follow-up activities to ensure that transportation needs for the student are being addressed and that students are being transported with the services required by their IEP.

The meeting must include, but is not limited to, members of the PGCPS Transportation Office, including the administrative staff, the lot supervisor, and driver trainer, the supervisor of the PGCPS Nonpublic Office, and all staff from the XXXXXXXXXX who have contact with the PGCPS Transportation Office and PGCPS Nonpublic Office.

The MSDE requires the PGCPS to provide documentation by December 1, 2017 that it has implemented all recommendations made by Dr. Bluth as a result of the above consultation. Dr. Bluth may be reached at (443) 802-0872 or at lfbluth@verizon.net.

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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

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 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 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 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.

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:ac

c:	Kevin Maxwell	Dori Wilson
	Gwendolyn Mason	Anita Mandis
	LaRhonda Owens	Albert Chichester
	Kerry Morrison	Linda Bluth
	XXXXXXXXXX	Nancy Birenbaum