



Mohammed Choudhury
State Superintendent of Schools

November 19, 2021



Ms. Trinell Bowman
Associate Superintendent-Special Education
Prince George's County Public Schools
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 2078

RE: [REDACTED]
Reference: #22-027

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.

ALLEGATIONS:

On September 20, 2021, the MSDE received correspondence from Mr. [REDACTED] 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 allegation that the PGCPS did not ensure that the student's Individualized Education Program (IEP) addresses the student's transportation needs since September 2020, in accordance with 34 CFR §§300.320 and .324.

BACKGROUND:

The student is sixteen (16) 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 [REDACTED] a nonpublic, separate, special education school.

FINDINGS OF FACTS:

1. On October 8, 2020, the IEP team met to review and revise the student's IEP, as appropriate. During this time, the student was receiving instruction via virtual learning and was not required to receive transportation services. During the IEP team meeting, the complainant raised concerns regarding the length of the student's bus ride. Specifically, the complainant requested that the student have a shorter ride time to assist in reducing his inappropriate behaviors which included throwing objects and defecating on the bus. The PGCPS staff participating in the IEP meeting responded that the proposal would need to be addressed with transportation staff once bus routes were determined.
2. On January 8, 2021, the IEP team met to review and revise the student's IEP, including determining the student's transportation needs. In January 2021, the student was not attending school in-person. During the IEP team meeting, the parent expressed concern that the student's position on the bus would create an unsafe situation because the student could interfere with the bus driver operating the bus. The parent proposed that the student not sit directly behind the bus driver. The PGCPS staff explained that there was sufficient support on the bus, and that the attendant could provide supervision of the student. The IEP team did not, however, directly address the parent's proposal that the student sit somewhere other than directly behind the driver.
3. A review of the student's record indicates that the student has had other incidents on the bus related to throwing objects and defecating on the bus.
4. The student's IEP, dated May 28, 2021, requires that the bus attendant sit within proximity of the student, but does not indicate where the student would sit in relation to the bus driver.
5. The student attended school virtually through the 2020-2021 school year and did not access transportation service during that time. At the start of the 2021-2022 school year, the student returned to in-person instruction and resumed transportation services.
6. On October 11, 2021 while being transported on the bus, the student threw a bag containing his medication and soiled clothing toward the front of the bus.
7. On October 28, 2021 and October 29, 2021, the student demonstrated unsafe behavior on the bus that included throwing objects. On October 29, 2021, the student was able to physically grab the bus driver while the bus driver was operating the bus.
8. On October 29, 2021, the parent reported that transportation staff indicated to him that the PGCPS would no longer be transporting the student.
9. On November 1, 2021, the student was transported to school on the bus with additional supports in place to respond to his inappropriate behaviors.
10. On November 3, 2021 the IEP team met to review the student's "bus plan" and review the incidents on the bus. The IEP team agreed to seat the student in a different seat not

behind the bus driver. The IEP team also added additional behavioral support to the student's plan.

DISCUSSION/CONCLUSIONS:

Based on Findings of Facts #2- #9 the MSDE finds that the IEP team did not consider the parent's concerns related to the student's position on the bus in relation to the bus driver in accordance with 34 CFR §§300.320 and .324. Therefore, this office finds that a violation occurred. However, based on Finding of Fact #10 and #11 the MSDE finds that there was no interruption in the student's transportation services as a result of the violation and that the IEP team has considered the parent's concerns regarding the student's seating position on the bus. Therefore, no corrective action is necessary to address this violation

Based on Finding of Fact #1 and #3, the MSDE finds that the IEP team did not consider the parent's concerns related to the length of the student's bus ride in accordance with 34 CFR §§300.320 and .324. Therefore, this office finds that a violation has occurred with respect to the time following the resumption of transportation services for the student at the start of the 2021-2022 school year.

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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below¹

This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures. If the public agency anticipates that the timeframe below may not be met, or if any of the parties seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770.

The MSDE requires the PGCPS to provide documentation that the IEP team has convened to consider the Parent's concerns related to the length of the student's bus ride and determined whether the delay to do so had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the

¹ The OSEP states that the public agency must correct 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, the 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 The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

Ms. Trinell Bowman

November 19, 2021

Page 4

violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings. The PGCPs must ensure that the complainant is provided with written notice of the team's decisions.

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 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 Early Intervention/
Special Education Services

c: Monica Goldson
Barbara Vandyke
Keith Marston
Gail Viens
Nancy Birenbaum