




Mohammed Choudhury
State Superintendent of Schools

March 4, 2022




Ms. Trinell Bowman
Associate Superintendent-Special Education
Prince George's County Public Schools
John Carroll Administration Building
1400 Nalley Terrace
Hyattsville, Maryland 20785

RE: 
Reference: #22-079

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 4, 2022, the MSDE received a complaint from Mr.  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 the above-referenced student.

The MSDE investigated the allegation that the PGCPS has not ensured that the student's safety vest was properly utilized during transportation since August 30, 2021, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is sixteen (16) years old, is identified as a student with Autism under the IDEA, and has an Individualized Educational Program (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. The student’s IEP in effect on August 30, 2021, requires that he be provided with “a safety vest during transportation to and from school to maintain safety to himself and others.”
2. A review of the videos from the student’s bus during the 2021-2022 school year on the days the bus staff reported behavioral incidents during transport, reflect that the student was able to remove the safety vest and demonstrate unsafe behaviors towards himself and others while the bus was in motion. The videos further reflect that the bus staff did not properly utilize the student’s vest and/or safety restraint device consistent with the manufacturer’s instructions on these days.
3. There is no documentation indicating the student was not provided with transportation to and from school since August 30, 2021, as a result of the device not being properly utilized by the bus staff in a manner consistent with the manufacturer's instructions.

CONCLUSIONS

Based on Findings of Facts #1 and #2, the MSDE finds that the PGCPS has not ensured that the safety device required for the student during transport has been properly utilized by the bus staff in a manner consistent with the manufacturer's instructions, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on Finding of Fact #3, the MSDE further finds that transportation services for the student were not interrupted as a result of the device not being properly utilized by the bus staff in a manner consistent with the manufacturer's instructions.

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 below.¹

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

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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 the Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.²

The MSDE requires the PGCPS to provide documentation that it has taken steps to ensure that the student's safety device is being properly utilized in a way consistent with his IEP and the manufacturer's instructions.

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 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

MEF:gl

c: Monica Goldson Barbara VanDyke
 Shelly Woodson Gail Viens
 Darnell Henderson Gerald Loiacono

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.