




Mohammed Choudhury
State Superintendent of Schools

March 8, 2022




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

RE: 
Reference: #22-081

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 January 7, 2022, the MSDE received correspondence from Mr.  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 follow proper procedures when developing the student's Individualized Education Program (IEP) on December 1, 2021, in accordance with 34 CFR §300.324.

Ms. Trinell Bowman

March 8, 2022

Page 2

2. The PGCPS has not provided the parents Prior Written Notice of the IEP team's December 1, 2021 decisions, in accordance with 34 CFR §300.503.
3. The PGCPS did not provide the parents with written notice of the December 1, 2021 IEP team meeting participants, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
4. The PGCPS did not follow proper procedures when responding to a request for access to the student's record and November 3, 22, and 23, 2021, in accordance with 34 CFR §300.613.

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 November 2, 22, and 23, 2021 the complainant sent correspondence to the PGCPS staff requesting access to video recordings of the student being transported on the school bus on October 11, 19, 28, 2021 and November 18, and 19, 2021.
2. There is documentation that the complainant was permitted access to review the requested videos on December 17, 2021.
3. On December 1, 2021, the IEP team met to review and revise the student's IEP, as appropriate, including a discussion of the student's transportation needs.
4. The notice of the December 1, 2021 IEP team meeting, dated November 19, 2021, states that the purposes of the meeting was an "Emergency Transportation Meeting." The notice lists those expected to participate in the meeting, which included two PGCPS transportation staff members.
5. The December 1, 2021 IEP team meeting was attended by three PGCPS transportation staff members.
6. A review of the audio recording of the December 1, 2021 IEP team meeting demonstrates that the IEP team made the following determinations, but the decisions of the IEP team and the basis for the decisions were not included in the prior written

notice generated following the IEP team meeting and the IEP developed for the student:

- That the use of a “buckle guard” would not be effective for the student during transportation;
 - That the school staff will provide the parent with the opportunity to have the student try on a proposed new safety device;
 - That the bus staff would collect the student’s gloves and hat when the student enters the bus;
 - That the bus staff should be mindful of keeping loose objects in proximity to the student and the student’s behavior of pulling hair;
 - That the student’s bus aide will not be seated in a position within the student’s reach; and
 - That any reports of behavioral incidents on the bus where objects are thrown name the objects thrown.
7. During the IEP team meeting, the IEP team determined that the student would be provided with a “Max 2 Vest” which would restrict his movement more than his existing safety device. This decision was included in the prior written notice generated following the IEP team meeting.
 8. During the IEP team meeting on December 1, 2021, the IEP team agreed to assist the parent in carrying the student’s “fidget bag”.
 9. During the IEP team meeting on December 1, 2021, the IEP team agreed that the student would have the “shortest travel time of all students on the bus”. This decision was reflected in the prior written notice generated following the meeting.
 10. During the IEP team meeting on December 1, 2021, the IEP team rejected a proposal from the student’s school staff that transportation staff not wear loose jewelry or wear their hair in a way that the student could pull it. This decision was not included in the prior written notice generated following the IEP team meeting.
 11. During the IEP team meeting, the IEP team agreed to provide the student with social stories concerning pulling of hair as part of an existing support provided to the student.
 12. During the IEP team meeting on December 1, 2021, the IEP team agreed that the seat in front of the student should remain empty during transportation. While this decision was reflected in the prior written notice generated following the IEP team meeting, it was not included in the student’s IEP.

Ms. Trinell Bowman

March 8, 2022

Page 4

DISCUSSION/CONCLUSIONS:

Allegation 1: Developing the Student's IEP

In his complaint, the complainant alleges that IEP developed for the student does not reflect the IEP team decisions regarding the process by which the student handles his hat and gloves, the method by which the bus staff communicate to the student regarding his hat and gloves, the method by which staff communicate to the student regarding pulling the hair of bus staff, the length of the student's bus ride, the seating of the student in relation to other students and the bus aide, identifying objects that the student has thrown on the bus in incident reports, the handling of the student's 'fidget bag', and social stories involving pulling hair.

Based on Findings of Facts #6 and #12, the MSDE finds that the IEP developed for the student did not reflect each revision to the student's IEP as determined at the December 1, 2021 IEP team meeting, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based on Finding of Fact #8 the MSDE, finds that the IEP team did not make a decision related to the student's IEP with regard to his "fidget bag", only that staff would assist the student's parent in loading the items, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based on Finding of Fact #9 and #11, the MSDE finds that the decisions regarding the length of the student's bus ride and the use of social stories were not changes to the student's existing IEP and were not required to be reflected in the student's IEP, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Allegation 2: Prior Written Notice

In his complaint, the complainant alleges that he was not provided with prior written notice of IEP team decisions regarding the decision not to use the "buckle guard" during transportation, the use of a more restrictive restraint device during transportation, allowing the student to try on the more restrictive device before it was utilized, the process by which the student handles his hat and gloves and mask, the method by which the bus staff communicate to the student regarding his hat and gloves, the method by which staff communicate to the student regarding pulling the hair of bus staff, prohibiting bus staff from wearing loose jewelry or hair, informing bus staff not to keep loose objects near the student and that the student may pull their hair, the length of the student's bus ride, the seating of the student in relation to other students and the bus aide, identifying objects that the student has thrown on the bus in incident reports, the handling of the student's 'fidget bag', and social stories involving pulling hair.

Based on Findings of Fact #6 and #10, the MSDE finds that the complainant was not provided with prior written notice of each IEP team decision made during the December 1, 2021 IEP team meeting, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based on Finding of Facts #7, #9, #11, and #12 the MSDE finds that the complainant was provided with prior written notice of the IEP team's decisions regarding the use of the more restrictive safety device, the use of social stories regarding the pulling of hair, the position of the student with relation to other students on the bus, and the length of the student's bus ride, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based on Finding of Fact #8, the MSDE finds that the PGCPs was not required to provide the complainant with prior written notice regarding the loading of the student's fidget bag and the use of social stories, in accordance with 34 CFR §300.503. Therefore, this office finds does not find that a violation occurred with respect to this aspect of the allegation.

Allegation #3 Notice of IEP Team Participants

Based on the Findings of Facts #4 and #5, the MSDE finds that the PGCPs did not ensure that the invitation to the December 1, 2021 IEP team meeting included information that three PGCPs transportation staff members would participate in the IEP team meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding the violation, based on those same Findings of Facts the MSDE finds that the parent was notified that the purpose of the IEP team meeting would be to discuss transportation and that more than one PGCPs transportation staff member would be in attendance. Therefore, this office finds that the violation has not impacted the complainant's ability to participate in the IEP review.

Allegation #4: Access to the Student's Educational Record

Based on Finding of Fact #1-#3, the MSDE finds that the complainant was not provided with access to the student's educational record in a timely matter, following his requests on November 2, 22, and 23, 2021, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation occurred with respect to this allegation.

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

Ms. Trinell Bowman
March 8, 2022
Page 6

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

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 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 via email at diane.eisenstadt@maryland.gov.

The MSDE requires the PGCPS to provide documentation that it has provided the complainant with prior written notice of the IEP team meeting held on December 1, 2021. The MSDE further requires that the PGCPS convene an IEP team meeting to ensure that the IEP developed on December 1, 2021 is consistent with the decisions of the IEP team, and offer the complainant the opportunity to provide additional input to the IEP team regarding the student's transportation needs based on his review of the requested videos.

The MSDE further requires the PGCPS to provide documentation that the IEP team has convened and determined whether the violations 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 violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

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.

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

March 8, 2022

Page 7

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

c: Monica Goldson
Barbara Vandyke
Keith Marston
Gail Viens
Darnell Henderson
Diane Eisenstadt
Gerald Loiacono