



Karen B. Salmon, Ph.D.
State Superintendent of Schools

October 9, 2018

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Ms. Bobbi Pedrick
Director of Special Education
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland 21401

RE: XXXXX
Reference: #19-022

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 August 17 and 24, 2018, the MSDE received correspondences from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter. In the correspondences, the complainant alleged that the AACPS violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the following allegations:

1. The AACPS did not ensure that the student was provided with the transportation services needed to access special education, as required by the Individualized Education Program (IEP), on July 9 and 10, 2018, in accordance with 34 CFR §§300.101 and .323, and
2. The AACPS has not ensured that the IEP team considered the impact of transportation on the educational placement, in accordance with 34 CFR §300.116 and COMAR 13A.05.01.10.

BACKGROUND:

The student is eighteen (18) years old and is identified as a student with Autism under the IDEA. She is placed by the AACPS at the XXXXXXXXXXXX, a nonpublic separate special education school located in Baltimore City, Maryland.

FINDINGS OF FACTS:

1. The IEP requires that the student be provided with transportation on an air conditioned bus. The IEP also requires that the student be provided with a one-to-one bus aide to implement the student's behavior plan and a harness to secure her safety during transportation.
2. The IEP states that the student's school is not the school she would attend if not disabled but that it is as close to the student's home as possible. The IEP also states that the IEP team agreed that the benefits of the selected placement outweigh any potentially adverse effects that may result from additional time/distance required to transport the student to school.
3. The documentation of the logs of the student's attendance reflect that on Monday, July 9, 2018 the student arrived at school at 9:11 AM for a school day that began at 8:05 AM.
4. The documentation of the logs of the student's attendance reflect that on Tuesday, July 10, 2018, the student arrived at 9:15 AM for a school day that began at 8:05 AM.
5. On Wednesday, July 11, 2018, the cause for the late arrivals of the previous two days was remedied.
6. On September 25, 2018, the IEP team met to discuss transportation, specifically, the length of bus ride to and from XXXXXXXXXXXX. The documentation of the September 25, 2018 IEP team meeting reflects that the complainant was offered compensatory services for the two school days in which the student was transported late to school, which resulted in missing instruction in math. The complainant declined the offering of two hours of compensatory services in math stating that compensatory services for math could not be implemented without disrupting the student's school schedule or having an unfamiliar teacher come to the house, which would likely lead to the student refusing to engage.

CONCLUSIONS:

Allegation #1: Provision of Transportation Services

Based on the Finding of Facts #1-#4, the MSDE find that the student was not provided with transportation needed to access the entire instructional day on two occasions, in accordance with 34 CFR §§300.101 and .323. Therefore this office finds a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #5, the MSDE finds that the cause of the problem has been remedied and the IEP team has convened and made an offer of compensatory

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services for the two hours of math instruction missed. Therefore, this office does not require additional corrective action to remediate the violation.

Allegation #2: Consideration of Impact of Transportation Services

Based on the Findings of Facts #1, #2 and #6, the MSDE finds that AACPS IEP team determined that the benefits of the selected placement outweigh any potentially adverse effects that may result from additional time/distance required to transport the student to school, in accordance with 34 CFR §§300.34(c) (16) and .324, and COMAR 13A.05.01.10. Therefore, this office does not find that a violation occurred.

TIMELINE:

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.

The complainant and the school system 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/sf

c: George Arlotto
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