




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

December 12, 2019




Ms. Rebecca Rider
Director of Special Education
Baltimore County Public Schools
The Jefferson Building
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: 
Reference: 20-043

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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 October 15, 2019, the MSDE received a complaint from Ms.  hereafter the “complainant,” on behalf of her grandson, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore County Public Schools (BCPS) 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 BCPS did not develop a plan for returning the student to a school-based program, subsequent to receiving Home and Hospital Teaching (HHT), since October 15, 2018, in accordance with 34 CFR §§ 300.114 and COMAR 13A.05.01.10.
2. The BCPS did not review and revise the Individualized Education Program (IEP) when the period of treatment or convalescence ended and did not determine the appropriate Least Restrictive Environment (LRE), in accordance with 34 CFR §§ 300.114 and COMAR 13A.05.01.10.

3. The BCPS did not ensure that the student was provided with the transportation services required by the IEP from September 3, 2019 to October 4, 2019, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is twelve (12) years old and currently attends ██████████ Middle School. During school year 2018-2019, the student attended ██████████ Elementary School.

The student is identified as a student with an Other Health Impairment related to Attention Deficit Hyperactivity Disorder (ADHD) under the IDEA and has an IEP that requires the provision of special education services.

ALLEGATION #1: DEVELOPMENT OF A PLAN TO RETURN THE STUDENT TO A SCHOOL - BASED PROGRAM

1. On April 1, 2019, while placed at ██████████ Elementary School, the student began receiving Home and Hospital services because he was unable to attend school. The verification of need was for the period from May 31, 2019, to June 3, 2019.
2. An IEP team meeting was held on April 10, 2019. The IEP team determined the Home and Hospital Teaching services and developed an *Action Plan for Student Reentry* to a school-based program.

Discussion/Conclusion:

Based on the Finding of Facts #1 and #2, the MSDE finds that there is documentation that a plan was developed to return the student to a school-based program. Therefore, this office finds that a violation did not occur with respect to this allegation.

ALLEGATION #2: REVIEW OF IEP AT THE END OF HOME AND HOSPITAL SERVICES

Finding of Facts:

3. There is no documentation that an IEP meeting was held at ██████████ Elementary School following the period of HHT Services.
4. On July 31, 2019, the BCPS withdrew the student from the school system because the complainant did not provide documentation of continued residency, which is required for all students transitioning from elementary to middle school in Baltimore County.
5. Once the complainant provided the necessary documentation to reenroll the student in the school system on September 4, 2019, the staff at ██████████ Middle School, where the

student was assigned for the 2019-2020 school year, began attempting to convene the IEP team to review the student's educational placement since he was returning from HHT services.

6. After several attempts were made to find a mutually convenient date and a home visit was made by the BPCS Office of Pupil Services, the ██████████ Middle School convened the IEP team on October 1, 2019 and reviewed the student's educational placement. The IEP team, including the complainant, who participated by telephone, decided that the Least Restrictive Environment (LRE) in which the IEP can be implemented remained the same as before the student began receiving HHT services.

CONCLUSIONS:

Based on the Finding of Fact #3, the MSDE finds that the ██████████ Elementary School staff did not convene the IEP team to review the educational placement in a timely manner, in accordance with COMAR 13A.05.10.10. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #6, the MSDE finds that the ██████████ Middle School staff convened the IEP team and determined that the student's educational placement remained appropriate. Therefore, this office finds that the delay in convening the IEP team did not negatively impact the student's ability to benefit from his education program.

Based on the Finding of Facts #4 - #5, the MSDE further finds that there were unique circumstances that resulted in the delay in convening the IEP team and that the BCPS took appropriate steps to remediate the violation. Therefore, this office finds that no further corrective action is required.

ALLEGATION #3: TRANSPORTATION

Findings of Facts:

9. While the student was transported to and from ██████████ Elementary School during the 2018-2019 school year on a "special education bus", that stopped in front of his house to pick him up and drop him off, there is no documentation that the IEP team determined that the student requires this service to benefit from special education and related services.
10. On September 6, 2019, two (2) days after the student was enrolled at ██████████ Middle School, transportation was offered to the student. However, the complainant refused this service because it was not a "special education bus" and the student would no longer be provided with door-to-door service.

11. Because the complainant was not sending the student to school, on October 2, 2019, the BCPS began offering the student door-to-door bus transportation on a “special education bus” in an effort to improve student attendance. The [REDACTED] Middle School staff have been attempting to identify a date for an IEP team meeting to consider whether the student requires this service, but has not yet found a date that is mutually convenient for the complainant.

CONCLUSION:

Based on the Finding of Facts #9 - #11, the MSDE finds that the BCPS has offered transportation services, in accordance with 34 CFR 300.101 and .323 and does not find that a violation occurred.

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 (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 and Special Education Services

MEF:dee

c: Darryl L. Williams
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Dori Wilson
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