




Mohammed Choudhury
State Superintendent of Schools

August 30, 2021



Ms. Bobbi Pedrick
Co-Director of Special Education
Birth to Five; Special Services & Non-Public
Anne Arundel County Public Schools
1450 Furnace Avenue
Glen Burnie, Maryland 21060


Ms. Diane McGowan
Co-Director of Special Education
Specially Designed Instruction/Compliance
Anne Arundel County Public Schools
2644 Riva Road
Annapolis, Maryland 21401

RE: 
Reference: #22-005

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.

ALLEGATION:

On July 21, 2021, the MSDE received a complaint from Mr.  hereafter, “the complainant,” on behalf of his son, the above-referenced student. In that correspondence, the complainant alleged that the Anne Arundel County Public Schools (AACPS) 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 AACPS has not ensured that the student has been provided with transportation services required by the Individualized Education Program (IEP) since July 19, 2021, in accordance with 34 CFR §§300.101, .323, Md. Code Ann., Educ. §8-410 and COMAR 13A.06.07.

BACKGROUND:

The student is nine (9) years old, is identified as a student with an Other Health Impairment (OHI) under the IDEA, related to Attention Deficit Hyperactivity Disorder, and has an IEP that requires the provision of special education instruction and related services. He is placed by AACPS at  a non-public school in Baltimore County.

FINDINGS OF FACTS:

1. The AACPS acknowledges that the student was not provided with transportation services required by the IEP from July 19, 2021 to July 23, 2021, because there was not a behavioral 1:1 bus aide available to support the student during transport.
2. The transportation attendance log reflects that transportation services resumed for the student, as required by the IEP, on July 26, 2021.

CONCLUSION:

Based on the Findings of Facts #1 and #2, the MSDE finds that the AACPS did not provide the student with transportation services required by the IEP from July 19, 2021 to July 23, 2021, in accordance with 34 CFR §§300.101, .323, Md. Code Ann., Educ. §8-410 and COMAR 13A.06.07. The MSDE appreciates this AACPS' acknowledgement and concurs that a violation occurred with respect to the 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 compliance (34 CFR §300.152). Accordingly, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.¹ This office will follow up with the public agency to ensure that it completes the required actions consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party 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.

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency 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 public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

Ms. Bobbi Pedrick
Ms. Diane McGowan
August 30, 2021
Page 3

Student-Specific

The MSDE requires the AACPS to provide documentation that the IEP team has convened to determine the amount and nature of compensatory services or other remedy to redress the violation of not providing transportation services for the student, from July 19, 2021 to July 23, 2021.

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/Special Education Services

MEF:ac

c: George Arlotto
Alison Barmat
Dori Wilson
Anita Mandis
Albert Chichester