



February 17, 2022



Dr. Tia McKinnon
Director of Special Education
Charles County Public Schools
5980 Radio Station Road P.O. Box 2770
La Plata, Maryland 20646

RE: [REDACTED]
Reference: #22-075

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 December 23, 2021, the MSDE received a complaint from [REDACTED] hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Charles County Public Schools (CCPS) 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 CCPS has not ensured that the student has been provided with the transportation services required by the Individualized Education Program (IEP), since August 2021, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is 12 years old and attends the [REDACTED]. She is identified as a student with a Multiple Disabilities under the IDEA and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The Student's IEP developed on August 19, 2021, requires that she be provided with transportation to and from school daily.¹
2. The CCPS has acknowledged that the student has not been provided with transportation services. In that correspondence, the CCPS explained that the current medical documentation on file indicates that the student requires the services of a private duty nurse during transportation, and that the CCPS has been unable to provide that service to the student since the start of the 2021-2022 school year due to staffing shortages.
3. There is documentation that the complainant has transported the student to and from the Maryland School for the Deaf since the beginning of the 2021-2022 school year.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Facts, #1-2, the MSDE finds that the CCPS has not ensured that the student has been provided the transportation services required by her IEP since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323 Therefore, the MSDE finds that a violation occurred with respect to this allegation.

Notwithstanding that violation, based on Finding of Fact #3, the MSDE further finds that the student was transported to school by her parent and that there has been no educational impact to the student as a result of the violation.

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.²

¹ The parties have shared that the student lives in a dormitory during the week, and returns home only on the weekends due to the distance between her home and the Maryland School for the Deaf.

² 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.

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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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³ Ms. Eisenstadt can be reached at (410) 767-7770.

Student-Specific

The MSDE requires the CCPS to provide documentation by April 1, 2022 that the IEP team has convened for the student to review current medical documentation for the student and determined if the student continues to require nursing services during transportation, and if so, that these services are available to the student.

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 Special Education/Early Intervention Services

MEF:gl

c: Maria Navarro
LeWan Jones
[REDACTED]
Brian Morrison
Diane Eisenstadt
Gerald Loiacono

³ The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.