



Mohammed Choudhury
State Superintendent of Schools

April 22, 2022



Dr. Kathrine Pierandozzi
Executive Director of Special Education
Baltimore County Public Schools
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: [REDACTED]
Reference: #22-096

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 February 22, 2022, the MSDE received a complaint from Ms. [REDACTED] hereafter, “the complainant,” on behalf of 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 has not ensured that the student, and similarly situated students, have been provided with the transportation services required by their Individualized Education Programs (IEPs), since the start of the 2021 - 2022 school year, in accordance with 34 CFR §§300.101 and .323.
2. The BCPS has not ensured that the student’s IEP addresses his transportation needs since October 18, 2021, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is 11 years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education instruction and related services. He is placed by the BCPS at the [REDACTED] a non-public, separate, special education school in Baltimore County.

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2021 - 2022 school year requires that he be provided with daily transportation as a related service.
2. There is documentation that the student and other students on his bus, assigned to non-public special education schools by the BCPS, were not consistently provided with transportation services since the start of the 2021 - 2022 school year. As a result, the named student and other students on the same bus route missed instructional services.
3. There is documentation that on some dates during the 2021 - 2022 school year, the complainant contacted transportation for the named student because transportation services were not provided by the BCPS.
4. On February 28, 2022 and March 15, 2022, the IEP team met to review the student's IEP to address his transportation needs. During these IEP team meetings, the IEP team determined that, due to the nature of the student's disability, he requires a bus ride shorter than 60 minutes. The IEP team discussed past incidents where the student had vomited or had toileting issues during long bus rides and behavioral disruptions that occurred at school as a result. The IEP team further determined that he requires the assistance of a bus aide and activities to keep him engaged and awake during transport.
5. There is no documentation that the student's IEP has been revised to reflect the supports and transportation modifications determined by the IEP team at the February 28, and March 15, 2022 IEP team meetings.

DISCUSSION/CONCLUSIONS:

Allegation #1: Provision of Transportation Services

The IDEA requires that a Free Appropriate Public Education (FAPE) be provided to students with disabilities. This is achieved through the development and implementation of an IEP that requires the provision of special education and related services that are designed to meet the needs that result from each student's disability. (34 CFR §§300.101, .103, .320, and .323).

A FAPE means that special education and related services are provided at public expense without charge to parents. Services must be arranged for by the school system, and the parents may not be required to do so (34 CFR §300.17). Related services include transportation and such developmental, corrective, and other supportive services that are required to assist a student to benefit from special education (34 CFR §300.34). Each local education agency must provide or arrange for the transportation of each student with a disability who is placed in a nonpublic school through a decision of the IEP team (Md. Educ. Code Ann. §8-410).

Based on the Findings of Facts, #1-3, the MSDE finds that the BCPS has not ensured that appropriate transportation services have been provided to the student, and similarly situated students, since the beginning of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this allegation.

Allegation #2: Addressing the Student's Transportation Needs

Based on Findings of Facts #4 and #5, the MSDE finds that the BCPS has not ensured that the IEP developed for the student addresses his transportation needs, since October 18, 2021, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation has 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 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 Ms. 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 by email at diane.eisenstadt@maryland.gov.

Student-Specific

The MSDE requires the BCPS to provide documentation by May 30, 2022, of the following actions:

- a. The student is being provided with the transportation as required by the IEP;
- b. The student's IEP has been revised to reflect the February 28 and March 15, 2022 decisions of the IEP team;
- c. The IEP team has convened to determine the services needed to remediate the violations identified in this investigation; and

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.

- d. The complainant has been provided with information to request reimbursement from the school system for any expenses incurred in obtaining private transportation for the student during the 2021-2022 school year. The BCPS must provide documentation by the start of the 2022-2023 school year that appropriate steps have been taken to reimburse the complainant for the cost of any expenses for which she has provided proper documentation.

The BCPS must ensure that the parents are provided with written notice of the team's decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

System-Based

The MSDE requires the BCPS to provide documentation by June 30, 2022 of the following actions:

- a. The BCPS has reviewed the educational records of each student provided transportation services on the same bus route as the named student, including a thorough review of each student's attendance and correspondence from parents of the other students indicating issues with lapses in transportation services.
- b. The BCPS convened IEP team meetings for each student identified in that review that were subject to the same lapse in the delivery of transportation services to determine the educational impact of the similar violation and the services necessary to remediate the violation.
- c. The BCPS has reviewed each bus route serving a student with a disability receiving transportation as a related service to determine if there have been other lapses in transportation services. This review should include an examination of bus logs and/or trackers, correspondence from school staff and parents regarding lapses in transportation, and student attendance and/or arrival documentation.
- d. The BCPS has convened IEP team meetings for each student identified in the review of other bus routes to determine the educational impact of the similar violation and the services necessary to remediate the violation.
- e. Parents of other students with disabilities identified as part of the review have been informed of the process to request reimbursement from the school system for any expenses incurred in obtaining private transportation for the student during the 2021-2022 school year. The BCPS must provide documentation by the start of the 2022-2023 school year that appropriate steps have been taken to reimburse parents for the cost of any expenses for which they have provided proper documentation.
- f. The BCPS has developed a plan to prevent, identify, review, and address additional lapses in transportation services to students with disabilities.

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

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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 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

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Leslie Margolis
Darryl L. Williams
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