



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

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November 30, 2018

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Dr. Debra Brooks  
Director of Special Education  
Baltimore City Public Schools  
200 East North Avenue, Room 204-B  
Baltimore, Maryland 21202

RE: XXXXX  
Reference: #19-044

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 October 1, 2018, the MSDE received a complaint from Mr. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of his son, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City 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 allegation that the BCPS has not ensured that the student has consistently been provided with appropriate transportation services as required by the Individualized Education Program (IEP), since the start of the 2018 – 2019 school year, in accordance with 34 CFR §§300.101 and .323.

**BACKGROUND:**

The student is ten (10) 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. The student attends XXXXXXXXXXXX (XXXXX), a nonpublic separate special education school where he was placed by the BCPS.

**FINDINGS OF FACTS:**

1. The IEP requires that the student be provided with bus transportation as a related service.
2. Prior to the start of the 2018 – 2019 school year, the school system sent correspondence to the complainant that identifies 8:07<sup>1</sup> a.m. as the time that the student’s bus is estimated to arrive at his house for transport to XXXXXXXX.
3. The route sheet for the student’s bus reflects that the bus transports three (3) students to XXXXXX, and that the student is the last student picked up in the morning.
4. In mid-September 2018, and again in late September 2018, the complainant sent electronic mail (email) correspondence to the school system staff reporting that the student’s bus was arriving late “more often than not this year” to pick the student up from his home for morning transportation to school. The complainant also reported that the student’s bus was arriving at the student’s home more than twenty (20) minutes late and that it did not arrive at all to pick the student up on some days.
5. There is documentation that, between August 27, 2018 and October 12, 2018, the bus arrived to the student’s house within fifteen (15) minutes of 8:07 a.m. estimated pick-up time except on one (1) occasion.
6. The school day at XXXXX begins at 8:30 a.m. The route sheet for the student’s bus reflects that 8:25 a.m. is the estimated time for the bus to arrive at XXXXX.
7. There is documentation that, between August 27, 2018 and October 12, 2018, the student’s bus arrived at XXXXXX prior to the 8:30 a.m. start of the school day on seven (7) days, and arrived at or after 8:30 a.m. on twenty-six (26) days.
8. On or about October 22, 2018, the school system staff made changes to the student’s bus route. The new schedule reflects an earlier start time, by fifteen (15) minutes, for the bus to arrive at the pick-up location of the first (1st) student on the route. The school system staff report that the change was made to accommodate heavy traffic on the bus route. However, without explanation, the student’s pick-up time was unchanged.
9. The documentation reflects that, between October 23, 2018 and November 2, 2018, the student’s bus arrived at XXXX prior to the 8:30 a.m. start time on eight (8) out of nine (9) days.<sup>2</sup>

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<sup>1</sup> The route sheet for the student’s bus reflects that 8:08 a.m. is the estimated time for picking up the student in the morning.

<sup>2</sup> The bus arrived at 8:40 a.m. on one (1) date.

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10. The IEP requires that the student be provided with a total of thirty (30) hours per week of special education services. The IEP states that the total time in the school week is thirty (30) hours.
11. The XXXXX instructional school day hours are from 8:30 a.m. to 3:00 p.m. on Mondays through Thursdays, and from 8:30 a.m. to 12:30 p.m. on Fridays. This represents a total of thirty (30) hours.

### **CONCLUSIONS:**

In this case, the complainant expresses concern that the student's bus is not arriving to his home at the designated pick-up time in the mornings in order for him to arrive to school on time. Based on the Findings of Facts #1 - #5, the MSDE finds that there is documentation that the BCPS has consistently made morning bus transportation available to the student at his home. However, based on the Findings of Facts #6 - #9, the MSDE finds that there is documentation that the BCPS has not ensured that the student was consistently provided with transportation to school in a timely manner from the start of the 2018 - 2019 school year until October 23, 2018, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds a violation occurred with respect to this aspect of the allegation.

Furthermore, based on the Findings of Facts #6, #7, and #9 - #11, the MSDE finds that the BCPS has not ensured that the student has received the amount of special education classroom instruction required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds an additional violation has occurred.

### **CORRECTIVE ACTION/TIMELINES:**

The MSDE requires the BCPS to provide documentation by February 1, 2019, that the student is consistently provided bus transportation in a timely manner in order to ensure that he is receiving the amount of special education services required by the IEP.

The BCPS must also provide documentation by February 1, 2019, that the IEP team has determined the amount and nature of compensatory services to the student for the loss of instruction since the start of the 2018 – 2019 school year, and developed a plan for the provision of those services within one (1) year of the date of this Letter of Findings.

The MSDE also requires the BCPS to provide documentation by February 1, 2019, that it has identified all similarly-situated students on the same school bus as the student since the start of the 2018 – 2019 school year, and has offered compensatory services or other remedy for any loss of instruction that resulted from the violation identified in this Letter of Findings.

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**TECHNICAL ASSISTANCE:**

Technical assistance is available to the parties by contacting Ms. Bonnie Pries, Compliance Specialist, MSDE, at (410) 767-7770.

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.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. 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/ksa

c: Sonja Brookins Santelises  
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