



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

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December 28, 2018

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Ms. Rebecca Rider  
Director of Special Education  
Baltimore County Public Schools  
The Jefferson Bldg. 4<sup>th</sup> Floor  
105 W. Chesapeake Avenue  
Towson, Maryland 21204

RE: XXXXX  
Reference: #19-054

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention 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 30, 2018, the MSDE received a complaint from Dr. XXXXXXXXXXXX and Dr. XXXXXXXXXXXX, hereafter, “the complainants,” on behalf of their son, the above-referenced student. In that correspondence, the complainants alleged that the Baltimore County Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The BCPS has not ensured that the student has been consistently provided with the transportation services required by the Individualized Education Program (IEP) since February 27, 2018, in accordance with 34 CFR §§300.101 and .323.
2. The BCPS has not ensured that the IEP team has considered parental concerns about the student’s educational placement and transportation needs since March 2018, in accordance with 34 CFR §§300.116 and .324 and COMAR 13A.05.01.10.

**BACKGROUND:**

The student is twelve (12) years old, is identified as a student with a Traumatic Brain Injury under the IDEA, and has an IEP that requires the provision of special education services. He is placed by the BCPS at XXXXXXXXXXXXXXXXXXXX, a nonpublic separate special education school.

**FINDINGS OF FACTS:**

1. The IEP requires that the student be transported to and from school. It states that a bus aide is required on the bus, due to the student's "impulsivity and propensity to engage in potentially unsafe behavior."
2. The electronic mail (email) correspondence between the complainants and the BCPS nonpublic office (school system) staff documents that, in February 2018 and March 2018, the complainants expressed concerns to the school system staff that the bus was arriving at the student's home more than ten (10) minutes outside of the established pick up and drop off time. The complainants reported that they were taking the student to work with them in the morning when they could not wait for the bus to arrive, resulting in the student's not being able to attend school. The emails reflect that, while the school system staff made arrangements for the complainants to be contacted when the bus would arrive outside of the established timeframe, this did not consistently occur.
3. On March 16, 2018, the complainants informed the school staff that, because the bus was seventeen (17) minutes late dropping the student off at home in the afternoon, they were unable to be available to meet the student when he arrived home, which resulted in the school system staff informing them that they were making a report to Child Protective Services. The complainants informed the school system staff that the student was no longer willing to ride the school bus.
4. On March 26, 2018, the complainants suggested that a change in placement closer to home should be considered in order to resolve the concerns with transportation.
5. On April 9, 2018, the IEP team convened and considered the complainants' concerns about the student's transportation as well as the transportation staff's concerns that the complainants were not consistently available to meet the student at the bus when it arrived home in the afternoon. The transportation staff agreed to improved communication with the complainants about the estimated time of the bus' arrival to the home in the morning

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and the complainants were asked to contact the bus lot when the bus runs late in order to obtain information about the bus' location. The complainants agreed that the student would continue to ride the bus and to provide consent for the student to be dropped off at the same location in the afternoon but with another family member.

6. The transportation problems continued during April 2018. There was a delay in communicating to the bus staff the complainant's consent to drop the student off at home with another family member, and the complainants reported that the bus continued to be "outside of the 15 minute window."
7. On April 27, 2018, the school system staff offered to set up a tour of another school for the complainants that is closer to their home. On the same date, the complainants indicated that they had some concerns about the new placement, but requested that a tour of the school be arranged.
8. The transportation problems continued during May, 2018. On May 29, 2018, the complainants reported to the school system staff that the student's bus arrived to drop the student off in the afternoon at the same time that emergency vehicles were arriving to respond to an emergency in the neighborhood. The complainants indicated that their neighbors reported that the student's bus would not move out of the way in order for the emergency responders to reach an individual working on a neighbor's house, who was having a medical emergency. The complainants further indicated that the student would not be sent to school the following day.
9. On May 30, 2018, the complainants reported to the school system staff that the student "does not want to board the bus due to the anger of those around us," and that he would not be sent to school until the matter was resolved. The student's mother reported that "NOBODY on this street want to see that bus, ever again."
10. On June 4, 2018, the complainants requested alternative transportation for the student.
11. On June 6, 2018, the complainants reiterated the request, and inquired about the status of arranging for an emergency IEP meeting.
12. On June 7, 2018, the school system staff responded as follows:

I must have missed an email about an emergency IEP meeting. I have been told that the director of transportation is reaching out to you. It is not something I am able to communicate about with you. Once you hear from them, please let me know if you would like to schedule an IEP meeting.

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13. On June 8, 11, and 13, 2018, the complainants again inquired about alternative transportation and an IEP team meeting to address transportation issues. In the June 13, 2018 correspondence, the student's father reported that the student had only been in school on one (1) day in the past two (2) weeks, and that this was only because he had provided transportation on that date.
14. On June 13, 2018, the school system staff responded as follows:

This is completely out of my hands. I have contacted transportation several times on your behalf. I have responded to your requests for an emergency IEP meeting by saying that there is nothing that I and [the nonpublic school] can do from an IEP standpoint until you hear from them.
15. On July 27, 2018,<sup>1</sup> the team convened with participation by pupil personnel staff and documented that the student had only been to school on three (3) days since May 28, 2018 and that the father had provided transportation on those dates. The pupil personnel staff discussed the need for the student to attend school regularly. The school system staff reported that an observation of the video recording of the May 28, 2018 incident reflects that the bus "moved in a matter of seconds to allow the emergency vehicle to assist the neighbor." However, the student's father reported that the student is nevertheless refusing to board the bus.
16. At the July 27, 2018 IEP team meeting, the complainants reported that the family was going on vacation and would return on August 10, 2018. The school-based members of the team reported that the school was closed from August 10, 2018 to August 23, 2018, and offered to provide the student with counseling by telephone during the month of August in order to assist him with anxiety he was experiencing about the May 28, 2018 incident. The team also discussed that a taxicab service would be provided at the start of the 2018-2019 school year and that an adult would be provided to assist the student during the ride at no cost to the complainants. The team also decided to reconvene on August 20, 2018 to develop a plan to transition the student from taxicab service back to bus service.
17. On August 20, 2018, the IEP team reconvened and developed a schedule to gradually fade the use of the taxicab service and have the student begin riding the bus again. The team also decided that the student would receive counseling and additional "check ins" by the therapist during the first month of school. At the meeting, the pupil personnel staff reminded the complainants again of the legal requirement for the student to attend school regularly.

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<sup>1</sup> The team documented that this was the earliest date that was mutually convenient for the school system staff and the complainants.

18. On September 11, 2018, the complainants informed the transportation staff that they would not be able to have the student available for pick up in the morning more than twelve (12) minutes after the scheduled pick up time and would not be there to receive the student more than fifteen (15) minutes after the scheduled time for drop off in the afternoon. The transportation staff informed them that they must allow ten (10) to fifteen (15) minutes for unexpected traffic and traffic delays.
19. On September 25, 2018, the complainants informed the school system and transportation staff that they were unable to have the student available for pick up that day because the taxicab service did not arrive on schedule.
20. The school staff report that the IEP team convened on December 17, 2018 and determined compensatory services for the loss of services to the student as a result of the problems with transportation. However, to date, there is no documentation of the meeting.

#### **DISCUSSION/CONCLUSIONS:**

##### **Allegation #1            Provision of Transportation Services**

Based on the Findings of Facts #1 - #19, the MSDE finds that the student has not been consistently provided with transportation services as required, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

##### **Allegation #2            Consideration of Parental Concerns About Transportation and Placement**

Based on the Findings of Facts #10 - #20, the MSDE finds that there were delays in addressing the complainants' concerns from May 30, 2018 to July 27, 2018, and following concerns raised on September 25, 2018, in accordance with 34 CFR §§300.116 and .324 and COMAR 13A.05.01.10. Therefore, this office finds that violation occurred.

#### **CORRECTIVE ACTIONS/TIMELINES:**

The MSDE requires that the BCPS provide documentation by February 1, 2019 that the IEP team has considered the complainants' concerns about the proposed placement that is located closer to the student's home, and determined whether there is a school closer to the student's home than

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XXXXXXXXXXXXXXXXXXXX that can implement the IEP. The team must also determine the compensatory services or other remedy for the loss of services due to the bus arriving to the student's home more than fifteen (15) minutes before or after the scheduled pick up and drop off times.

If a school that is closer to the home is identified, the MSDE requires that the BCPS provide documentation by March 1, 2019 that steps have been taken to expedite the student's transfer to the school.

If a school that is closer to the home is not identified, the MSDE requires that the BCPS provide documentation by March 1, 2019 that the student's bus is consistently arriving at the student's home no more than fifteen (15) minutes before or after the scheduled pick up and drop off times.

The MSDE requires that the BCPS provide documentation by March 1, 2019 of the steps taken to ensure that the violations do not recur. The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

**TECHNICAL ASSISTANCE:**

Technical assistance is available to the parties by contacting Ms. Bonnie Preis, Compliance Specialist, Family Support and Dispute Resolution Branch, 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.

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,

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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:aam

c: Verletta White  
Dan Martz  
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