




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

November 1, 2019




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

RE:   
Reference: #20-028

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 September 6, 2019, the MSDE received a complaint from Mr.  hereafter, “the complainant,” on behalf of his daughter, 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 did not ensure that the student was provided with transportation services required by the Individualized Education Program (IEP) between September 3, 2019 and September 6, 2019, in accordance with 34 CFR §§300.101, and .323.

**BACKGROUND:**

The student is twelve (12) years old, is identified as a student with Multiple Disabilities under the IDEA, and has an IEP that requires the provision of special education instruction and related services. She attends the  a nonpublic school where she has been placed by the BCPS.

### **SUMMARY OF FINDINGS AND CONCLUSIONS:**

The BCPS acknowledges that a violation occurred with respect to the allegation. Specifically, the BCPS acknowledges that, from September 3, 2019 to September 6, 2019, the student's school bus arrived to her school after the start of the school day.

As a result, the MSDE finds that the BCPS did not ensure that the student was provided with transportation services required by the IEP between September 3, 2019 and September 6, 2019, in accordance with 34 CFR §§300.101 and .323. This office appreciates the BCPS acknowledgement and concurs that a violation occurred.

### **CORRECTIVE ACTIONS/TIMEFRAMES:**

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 timeframes below to ensure that noncompliance is corrected in a timely manner.<sup>1</sup> 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 timeframes 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.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770.

The BCPS has proposed the following action to remediate the violation, and the MSDE concurs:

#### **Student Specific and Similarly Situated Students**

IEP team meetings will be conducted to determine compensatory services, as appropriate, for the named student and all other students who were on that same school bus that arrived late to school. The MSDE requires documentation of the completion of this corrective action by February 1, 2020.

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<sup>1</sup> 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.

<sup>2</sup> 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.

**School-Based**

The MSDE requires the BCPS to provide documentation on a quarterly basis for the remainder of the 2019 - 2020 school year, that they are monitoring the arrival times of school buses transporting students to the [REDACTED]. Further, the BCPS will convene additional IEP team meetings, as appropriate, to determine compensatory services resulting from any late arrivals, and provide documentation from any meetings held related to this issue when submitting the quarterly reports.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention/Special Education Services, MSDE.

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 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:     Sonja B. Santelises                     Anita Mandis  
       Allen Perrigan                         Albert Chichester  
       [REDACTED]                             Nancy Birenbaum  
       Dori Wilson                             Linda Bluth