


January 18, 2024



Dr. Terri Savage
Executive Director of Special Education
Howard County Public Schools
10910 Clarksville Pike
Ellicott City, Maryland 21042


Ms. Sonya McElroy
Director of Special Education
Anne Arundel County Public Schools
1450 Furnace Avenue
Glen Burnie, Maryland 21060

RE: 
Reference: #24-082

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 November 28, 2023, MSDE received a complaint from Mr. , hereafter, “the complainant”, on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public Schools System (HCPSS) and Anne Arundel County Public Schools (AACPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the allegation that the HCPSS and AACPS has not ensured that the student has been provided with transportation services as required by the Individualized Education Program (IEP) since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is ten years old and is identified as a student with a Hearing Impairment under the IDEA. He attends  and has an IEP that requires the provision of specialized instruction and related services.

FINDINGS OF FACTS:

1. There is documentation that the student is enrolled at the [REDACTED] for the 2023-2024 school year. The student's county of residence is documented as Anne Arundel County.
2. The student's IEP in effect at the start of the 2023-2024 school year was developed on September 1, 2023. The student's address on the IEP is in Anne Arundel County. The IEP requires transportation services to and from his home with a child safety vest.
3. On November 6, 2023, the IEP team met to discuss transportation. The Prior Written Notice (PWN) developed after the IEP team meeting reflects that the student spends alternating weeks at his parent's residences with the mother as the primary custodian. The AACPS transports the student from his mother's residence in Anne Arundel County but will not transport the student from the complainant's residence in Howard County. The HCPSS will not transport the student because the mother is the primary custodian and resides outside of Howard County. The complainant proposed to transport the student to the [REDACTED] in Anne Arundel County. The AACPS rejected this proposal because it is "unsafe." The complainant further proposed that AACPS pick up the student at another location in Anne Arundel County. The IEP team requested that the AACPS transportation staff propose this option to the transportation supervisor.
4. On November 6, 2023, the HCPSS transportation staff emailed the [REDACTED]. The email reflects that HCPSS is not required to transport the student since the student's primary residence is outside of Howard County.
5. On November 13, 2023, the [REDACTED] staff emailed the AACPS transportation staff to inquire about the request made at the November 6, 2023, IEP team meeting.
6. On December 11, 2023, the AACPS transportation staff emailed the [REDACTED] indicating that the AACPS transportation supervisor will provide a response to the IEP team's request.
7. On January 8, 2024, the AACPS transportation staff emailed the [REDACTED]. The email reflects that AACPS provides transportation from the primary custodian's residence or designated bus stop closest to the residence. Transportation is provided to and from school from one address and/or bus stop. If transportation is needed from an address other than the primary custodian, it is the responsibility of the parent to transport the student to the custodian's residence or designated bus stop.

DISCUSSION/CONCLUSIONS:

The public agency is required to provide or arrange for the transportation during the regular school year of each child with a disability who is in a public school, a school maintained by a State Agency, and a nonpublic school. The local education agency of the county in which the child with a disability resides shall certify and pay the cost of his daily or other reasonable transportation to school (Maryland Code, Education § 8-410).

Based upon the Findings of Facts #1 to #4, MSDE finds that the student's enrollment address is in Anne Arundel County; therefore, the HCPSS is not responsible for transportation services as required by the IEP since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based upon the Findings of Facts #1 to #3, and #5 to #7, MSDE finds that the AACPS has ensured that the student has been provided with transportation services as required by the IEP since the start of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

TIMELINE:

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, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/tg

c: Dr. Mark T. Bedell, Superintendent, AACPS
Ms. Jennifer Brown, Program Manager, Compliance and Legal Issues, AACPS
Ms. Diane McGowan, Director, Specially Designed Instruction and Compliance, AACPS
Dr. Michael J. Martirano, Superintendent, HCPSS
Ms. Kelly Russo, Coordinator of Special Education Compliance and Dispute Resolution, HCPSS

Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Ms. Diane Eisenstadt, Compliance Specialist, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Programmatic Support and Technical Assistance, MSDE
Ms. Tracy Givens, Complaint Investigator, MSDE