



Bernard J. Sadusky, Ed.D.
Interim State Superintendent of Schools

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May 22, 2012

XXXXX XXXXX

Executive Director and Program Administrator

XXXXX

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XXXX, XXXX

Ms. Kalisha Miller, M.Ed.
Director of Special Education
Baltimore County Public Schools
6901 Charles Street
Towson, Maryland 21204

RE: XXXXX
Reference: #12-066

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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 our investigation.

ALLEGATION:

On March 29, 2012, the MSDE received correspondence from Dr. XXXXXXXXXXXXX¹, hereafter “the complainant,” filed 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. This office investigated the allegation that the BCPS has not ensured that the student has been provided with the transportation services required by the Individualized Education Program (IEP) since February 21, 2012, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the allegation in the complaint.

¹ Dr. XXXXXXXXXXXX is the Executive Director and Program Administrator for XXXXXXXXXXX, XXXX., a program that operates the XXXXXXXX in which the student resides.

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2. On April 2, 2012, a copy of the complaint was provided via facsimile to Ms. Kalisha Miller, Director of Special Education, BCPS; Mr. Stephen Cowles, Associate General Counsel, Special Education Compliance, BCPS; and Ms. Sharon Floyd, Supervisor of Compliance, BCPS.
3. On April 12, 2012, Ms. Williams conducted a telephone interview with the complainant to clarify the allegation to be investigated.
4. On April 16, 2012, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On that same date, the MSDE also notified the BCPS of the allegation to be investigated and requested that the BCPS review the alleged violation.
5. On April 26, 2012, the BCPS provided the MSDE with documentation to be considered during the investigation.
6. On May 4, 2012, Ms. Williams and Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, conducted a site visit at the BCPS Central Office to review the student's educational record, and interviewed Ms. Brenda Borisevic, Transportation Assistant, Special Education, Department of Planning and Support Operations, Office of Transportation, BCPS. Ms. Floyd and Ms. Pamela Weitz, Compliance Support, Special Education Compliance, BCPS, attended the site visit as representatives of the BCPS and to provide information on the BCPS policies and procedures, as needed. On that date, the BCPS provided the MSDE with information and additional documentation to be considered as a part of the investigation.
7. On May 14, 2012, Ms. Williams conducted a telephone interview with the complainant. On the same date, the complainant provided the MSDE with documentation to be considered during the investigation.
8. The MSDE reviewed documentation relevant to the findings and conclusion referenced in this Letter of Findings. The documents referenced in this Letter of Findings are listed below.
 - a. Correspondence from the complainant to the MSDE alleging a violation of the IDEA, received on March 29, 2012;
 - b. The BCPS Application to Enroll Student in State-Supervised Care, dated September 8, 2011;
 - c. IEP Team Summary, dated February 8, 2012;
 - d. The BCPS correspondence to the XXXXXXXXXXXXXXXXXXXXXXXXXXXX, dated February 21, 2012 (Revised February 22, 2012);
 - e. XXXXXXXXX Attendance Log, dated February 21, 2012 through April 11, 2012;
 - f. Electronic correspondence from the XXXXXXXXXXXXXXXXXXXXXXXXXXXX to the BCPS Office of Transportation, dated March 6, 2012;

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- g. Electronic correspondence from the BCPS Office of Transportation to the XXXXXXXXXXXXXXXXXXXX, dated March 7, 2012;
- h. Electronic correspondence from the XXXXXXXXXXXXXXXXXXXX to the BCPS Office of Transportation, dated March 22, 2012;
- i. Electronic correspondence from the BCPS Office of Transportation to the XXXXXXXXXXXXXXXXXXXX, dated March 27, 2012;
- j. Electronic correspondence between the BCPS Office of Transportation staff, dated March 27, 2012; and
- k. Electronic correspondence from the BCPS Central Office to the MSDE, dated May 4, 2012.

BACKGROUND:

The student is seventeen (17) years old, is identified as a student with an emotional disability under IDEA, and receives special education instruction and related services. He is under the state-supervised care of the XXXXX XXXX, XXXX XXXX, and is residentially placed at XXXXXXXXXXX, located in XXXX, Maryland.

The student attends the XXXXXXXXXXXXXXXXXXXX (XXXXXXXXXXXXXXXX), a nonpublic separate special education school, where he was placed by the BCPS. There is documentation that, during the time period of this investigation, the student's mother participated in the education decision making process (Docs. a, b, c, and d).

FINDINGS OF FACTS:

The BCPS Transportation Procedures

1. The BCPS staff report that, when the IEP team determines that transportation is necessary for a student being placed at a nonpublic separate special education school, the nonpublic separate special education school staff (school staff) are expected to contact the BCPS Office of Transportation to request that transportation be arranged once the student is accepted into the school (Doc. k and interview with Central Office staff).
2. The BCPS staff report that once the request for transportation is received by the BCPS Office of Transportation, the office is responsible for placing the student on a bus route and providing information about the transportation arrangements to the school staff (Doc. k and interview with Central Office staff).
3. The BCPS staff further report that once the school staff receives this information, school staff then shares the information with the student's custodian in order to ensure that the student knows when and where the transportation will be provided (Doc. k and interview with Central Office staff).

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Provision of Transportation Services to the Student

4. On February 8, 2012, the IEP team met and determined that the least restrictive environment in which the student's IEP can be implemented is a nonpublic separate special education school. The team also determined the student requires transportation to and from school, as a related service (Doc. c).
5. On February 21, 2012, the student began attending the XXXXXXXXXXXXXXXX. The XXXXXXXXXXXXXXXX staff began transporting the student to and from school on this date. However, there is no documentation that the XXXXXXXXXXXXXXXX contacted the BCPS Office of Transportation to request transportation for the student (Docs. a, e, and interview with the complainant).
6. On March 6, 2012, the XXXXXXXXXXXXXXXX contacted the BCPS Office of Transportation by electronic mail, requesting transportation for the student and providing the student's name and the name, address, and telephone number of the student's XXXX XXXX. A review of this electronic mail indicates that, due to a typographical error, the BCPS Office of Transportation was not provided with the correct address for the XXXX XXXX (Doc. f).
7. On March 7, 2012, the BCPS Office of Transportation requested that the XXXXXXXX XXXXXXXX provide information on a contact person at the XXXXXXXXXXXXXXXX, but there is no documentation of a response to this request from the XXXXXXXXXXXXXXXX (Doc. g).
8. On March 22, 2012, the XXXXXXXXXXXXXXXX staff again contacted the BCPS Office of Transportation to inquire about the provision of transportation for the student and provided a correct address for the XXXX XXXX at that time. The BCPS Office of Transportation forwarded this information, on March 27, 2012, to the BCPS staff responsible for placing the student on a bus route (Docs. h and j).
9. On March 27, 2012, the BCPS Office of Transportation staff again requested that the XXXXXXXXXXXXXXXX provide information on a contact person at XXXXXXXX XXX. The BCPS Office of Transportation staff also requested a telephone number for the XXXX XXXX, despite the fact that this information was provided by the XXXXXXXX XXXXXXXX staff on March 6, 2012 (Doc. i).
10. On April 5, 2012, school staff notified XXXXXXXXXXXXXXXX staff of the bus route for the student (Interview with complainant).
11. On April 6, 2012, the BCPS began transporting the student to and from the XXXXXXXX XXXXXXXX (Interview with the complainant).
12. The BCPS staff report that the process for arranging transportation for a student attending a nonpublic separate special education school is addressed in a BCPS Nonpublic Manual being completed by the school system (Doc. k).

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DISCUSSION/CONCLUSION:

The public agency must ensure that each student is provided with the special education instruction and related services in accordance with the student's IEP (34 CFR §§ 300.101 and .323).

Based on the Finding of Fact #4, the MSDE finds that the student requires transportation as a related service. Based on the Findings of Facts #1 - #3 and #5 - #12, the MSDE finds that the BCPS did not ensure that its procedures for arranging transportation were followed, and as a result, did not ensure the student was provided with transportation services required by the IEP from February 21, 2012 until April 6, 2012. Therefore, this office finds that a violation occurred with respect to the above allegation.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the BCPS to provide documentation that the BCPS has offered to reimburse the student's XXXX for the transportation services they provided, on behalf of the student, from February 21, 2012 to April 6, 2012.

The MSDE further requires the BCPS to provide the MSDE with documentation of the steps taken to ensure that transportation services are provided to students in nonpublic separate special education schools. The BCPS must also provide the MSDE with a copy of the completed BCPS Nonpublic Manual.

All corrective actions must be completed by the start of the 2012 – 2013 school year.

TECHNICAL ASSISTANCE:

Technical assistance is available to the parties through Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

Please be advised that both the complainant and the BCPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of fact or conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

If additional information is provided, it will be reviewed and the MSDE will determine if a reconsideration of the conclusions is necessary. Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, set forth additional findings and conclusions, or enter new findings and conclusions. Pending the decision on a request for reconsideration, the school system must implement any corrective actions consistent with the timeline requirements as reported in this Letter of Findings.

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Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The student's mother and the school system 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 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 due process.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Special Education/
Early Intervention Services

MEF/tw

cc: Joe A. Hairston
Stephen Cowles
Sharon Floyd
Pamela Weitz
XXXXXXXX
XXXXXXXXXX
Anita Mandis
Martha J. Arthur
Tyra Williams