

**PENNSYLVANIA DEPARTMENT OF EDUCATION
BUREAU OF SPECIAL EDUCATION
COMPLAINT INVESTIGATION REPORT**

LOCAL EDUCATION AGENCY: School District of Philadelphia (SDP)

DATE RECEIVED: April 30, 2015

DATE OF REPORT: June 29, 2015

COMPLAINANT: Attorney Advocate

NAME: Gabe Labella, Esquire

ADDRESS: Philadelphia Coalition of Special Education Advocates
Disability Rights Network of Pennsylvania
1315 Walnut Street, Suite 500
Philadelphia, PA 19107

RE: Multiple Children

SPECIFIC COMPLAINT(S):

Issue: The SDP failed to provide transportation as a related service as required by the Individuals with Disabilities Education Act (IDEA) to those students whose Individualized Education Programs (IEP) or Chapter 15 504 Service Plan Agreements require transportation.

APPLICABLE REGULATORY AUTHORITY:

IDEA - §300.34 Related services.

(a) *General. Related services* means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

(c) *Individual related services terms defined.* The terms used in this definition are defined as follows:

(16) *Transportation* includes—

(i) Travel to and from school and between schools;

(ii) Travel in and around school buildings; and

(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

22 Pa Code §14.131. IEP. (a) (6)

(a) In addition to the requirements incorporated by reference (see 34 CFR 300.320—300.324),

(6) The IEP of each student shall be implemented as soon as possible, but no later than 10 school days after its completion.

SOURCES OF INFORMATION:

This Adviser:

- A. Reviewed the complaint letter sent to the Bureau of Special Education (BSE), which was signed by the Complainant and spoke with the Complainant by phone on May 4, 2015.
- B. Corresponded by e-mail with Maya Sherin, Executive Director for the Office of Specialized Services in the SDP, (Executive Director) on May 6, 2015; May 11, 2015; May 27, 2015; June 4, 2015; June 12, 2015; June 17, 2015; June 18, 2015; and June 22, 2015, and spoke by telephone on May 6, 2015; May 20, 2015; and May 27, 2015.
- C. Corresponded by e-mail with James Davis, General Manager of the Office of Transportation Services in the SDP, (Transportation Manager) on May 27, 2015; June 4, 2015; June 17, 2015; and June 18, 2015, and spoke by telephone on May 20, 2015.
- D. Spoke with Charles Heston, Special Education Liaison (SEL) for the Webster School, and Jennifer Sanabria, Counselor for the Webster School, on May 13, 2015.
- E. Spoke with Awilda Aguila, Principal for the Sheridan School, on May 13, 2015.
- F. Spoke with Lisa Bell-Chiles, Principal for the Jay Cooke Middle School, on May 13, 2015.
- G. Corresponded by e-mail with the following personnel:

<u>Name/Position</u>	<u>School</u>	<u>Date</u>
Connie Carnivale, Principal	Henry A. Brown School	May 13, 2015
Kala Johnstone, Principal	Morris E. Leeds Middle School	May 13, 2015
Nolita Pettus, SEL	Laura H. Carnell School	May 14, 2015
Kimberly Alburger, SEL	William McKinley School	May 14, 2015
Ximena Carreno, Principal	Luis Munoz-Marin School	May 14, 2015
Karen White, Principal	Anna B. Day School	May 15, 2015
Pamela Taylor, SEL	Hill Freedman World Academy	May 15, 2015
Gina Hubbard, Principal	Joseph Greenberg School	May 18, 2015
David Lugo, Principal	James R. Lowell School	May 18, 2015
Candace Lord, SEL	J. Hampton Moore School	May 18, 2015
Cecilia Bradbury, SEL	Olney Elementary School	May 18, 2015
Rosalyn Cox-Holloway, SEL	Woodrow Wilson Middle School	May 18, 2015
Dr. Dawn Moore, Principal	Paul L. Dunbar School	May 19, 2015
Yancy Bright, Assistant Principal	Aloysius L. Fitzpatrick School	May 19, 2015
Katy McClure, SEL	Kensington Health Sciences Academy	May 19, 2015
Lynn Nai, SEL	Swenson Arts and Technology High School	May 19, 2015
Geoffrey Axe, Director	Valley Day School	May 19, 2015
Lisa Mesi, Principal	AMY at James Martin	May 20, 2015
Jodan Floyd, Principal	AMY Northwest	May 20, 2015
Arthurea Smith, Principal	Joseph H. Brown School	May 20, 2015
Louis Burkett, Director of Transportation	Delta School	May 20, 2015

Robin Perri-Hoyt, SEL	Louis H. Farrell School	May 20, 2015
William Griffin, Principal	John Hancock School	May 20, 2015
Fatima Rogers, Principal	Charles W. Henry School	May 20, 2015
Eileen Hoffman, Principal	Shawmont School	May 20, 2015
Dylan James, Education Director	NHS School – Philadelphia	May 20, 2015
May Johnstone, Principal	General Louis Wagner Middle School	May 20, 2015
Diane Bryant, SEL	William H. Ziegler School	May 20, 2015
Leigh McLinden, SEL	Bache-Martin School	May 21, 2015
Mindy Hantman, Secretary	Fox Chase School	May 26, 2015
Terri Miller, SEL	James R. Ludlow School	May 26, 2015
Joann McNamee, Transportation Coordinator	Overbook School for the Blind	May 26, 2015
Bethany Bates, Principal	Devereux Cares	May 27, 2015
Lisa Wood, Head of School	Green Tree School	May 27, 2015
Kathryn Lajara, SEL	Richmond School	May 28, 2015
Katherine Kircher, Director of Special Programs	Delaware County Intermediate Unit 25	May 29, 2015
Mickey Komins, Principal	Anne Frank School	June 8, 2015
Lucy Singh	Woods Services	June 8, 2015
Rachel Pickens, SEL	The Workshop School	June 8, 2015
David Schultheis, President	Pathway School	June 15, 2015

H. Reviewed the following numbered documents:

Ref.	Document	Date	Source
1.	Complaint Letter	Received April 30, 2015	Complainant
2.	BSE Transportation Complaint Investigation Survey (Transportation Survey)	May 1, 2015	BSE
3.	E-mail from Executive Director to SDP Assistant Superintendents	May 11, 2015	District
4.	Letter from Ruth Furman, Special Education Adviser (Adviser) to Private Schools	May 15, 2015	BSE
5.	List of Schools	Undated	BSE
6.	Letter from Executive Director to bus attendants	May 1, 2015	District
7.	SDP Professional Development Agenda	Undated	District
8.	Sign-in Sheets	May 19, 2015, and June 19, 2015	District

FINDINGS:

1. The Adviser sent out a Transportation Survey to the principals of each school in the SDP and to every school outside of the District where a SDP student is assigned. The survey requested information about bus or cab route numbers, the transportation company providing the transportation, and whether or not there was a transportation issue on any of the routes to their school and if so, a description of the transportation issue.

2. The survey was sent to 254 schools. Thirty-seven percent or 93 of the surveys were returned resulting in the following:
 - Twenty-six schools reported no transportation issues during the 2014-15 school year.
 - Fifty schools reported transportation issues, but they did not result in compensatory education.
 - Seventeen schools reported transportation issues which resulted in compensatory education.
3. The following are transportation issues that were identified in the surveys:
 - No attendants on the bus.
 - Inconsistent attendant on the bus.
 - No harnesses available for specific students
 - Parents didn't get called back when they placed calls to the transportation department to inform them of a problem.
 - Students have been removed from the bus and required to walk home.
 - Buses arrive late in the morning.
 - Buses arrive late at the end of the school day.
 - Delays on assigning 1:1 bus assistants to students.
 - No car seats for specific students.
 - No air conditioning on certain buses.
 - No heat on certain buses.
 - Drivers' family members show up in the cabs that take students to and from school.
 - Delays in receiving copies of bus videos when requested.
 - Sometimes bus videos are not available at all.
 - Drivers make unscheduled stops.
 - Fighting on buses between students.
 - Drivers and assistants antagonize students.
 - Assistants use cell phone while on the bus with Students.
4. Bus attendants are assigned to support the bus driver in managing all of the students on a particular bus. 1:1 bus assistants are assigned to support individual students on the bus as required by the student's IEP.
5. The Executive Director reported that transportation trainings were provided to bus attendants and bus drivers. Bus attendants attended professional development meetings on May 19, 2015, and June 19, 2015. Bus Drivers attended professional development meetings on June 22, 2015.
6. The Professional Development Agenda indicates that the meetings covered the following topics:
 - Rules and guidelines for picking up and dropping students off on time.
 - Common disability characteristics.
 - Potential behaviors and ways to deescalate these behaviors.
 - The importance of structure.
 - How to recognize and respond to bullying.
7. The SDP did not provide any information regarding the District's procedures for responding to parent phone calls in regards to transportation issues.

8. The following buses/cabs were late to school in the morning, resulting in a denial of a Free and Appropriate Public Education (FAPE), on the indicated dates:

<u>SCHOOL</u>	<u>ROUTE #</u>	<u>DATE LATE</u>	<u>MINUTES LATE</u>
Amy Northwest	2644	May 14, 2015, and May 15, 2015	Bus never came on either date
Bache-Martin School	1233	September 22, 2014 September 23, 2014 September 24, 2014 September 29, 2014 September 30, 2014 October 1, 2014 October 2, 2014 October 3, 2014 October 6, 2014 October 7, 2014 October 8, 2014 October 9, 2014 October 10, 2014 October 14, 2014 October 15, 2014 October 16, 2014 October 20, 2014 October 21, 2014 October 22, 2014 October 23, 2014 October 24, 2014 October 27, 2014 October 28, 2014 October 29, 2014 October 30, 2014 October 31, 2014 November 5, 2014 November 6, 2014	15 5 5 15 5 5 15 20 10 20 35 5 15 20 25 20 25 20 20 25 25 20 25 20 25 25 20 25 15 30 30
Laura H. Carnell School	2713	September 8, 2014 September 9, 2014 September 10, 2014 September 11, 2014 September 12, 2014 September 15, 2014 September 16 – 18, 2014 September 22, 2014 October 3, 2014 October 6, 2014 October 8 – 10, 2014 October 21 – 31, 2014 November 3 – 10, 2014 November 12, 2014	1 hour and 30 minutes 1 hour and 30 minutes 1 hour 15 15 20 20 (each day) 15 30 5 15 20 15 30

		November 17 – 24, 2014	15 (each day)
		November 25, 2014	20
		November 26, 2014	20
		December 1, 2014	15
		December 2, 2014	20
		December 3, 2014	30
		December 4, 2014	15
		December 5, 2015	5
		December 8 – 17, 2014	30 (each day)
		December 18, 2014	15
		December 23, 2014	15
		January 5, 2015	15
		January 6, 2015	45
		January 7, 2015	20
		January 8, 2015	30
		January 13, 2015	20
		January 14, 2015	20
		January 15, 2015	15
		January 16, 2015	15
		January 20, 2015	10
		January 21 – 22, 2015	15 (each day)
		January 23, 2015	10
		January 25, 2015	25
		January 28, 2015	10
		January 30, 2015	30
		February 2 – 6, 2015	15
		February 9 – 20, 2015	15 (each day)
		February 23 – 24, 2015	15 (each day)
		February 25 – 27, 2015	30 (each day)
		March 3, 2015	35
		March 10, 2015	40
		March 11, 2015	30
		March 12, 2015	30
		March 13 – 16, 2015	15 (each day)
		March 17 – 27, 2015	30 (each day)
		March 30, 2015	50
		March 31, 2015	30
		April 8 – 15, 2015	30 (each day)
		April 16, 2015	1 hour
		April 17, 2015	45
		April 20 – May 1, 2015	30 (each day)
Delaware County Intermediate Unit 25	6396	May 4, 2015	2 hours
Delta School	5457	September 24, 2014	Bus did not pick up new student
		September 25, 2014	1 hour 45 minutes
		October 16, 2014	1 hour
		October 23, 2014	1 hour 20 minutes
		December 1, 2014	4 hours

	5545	September 29, 2014 October 1, 2014	1 hour 1 hour
	5550	November 3 – 4, 2014 December 1 – 2, 2014	Bus did not pick up two students on either day. Bus did not pick up two students on either day.
Devereux CARES	6322	January 12, 2015 January 14, 2015 January 16, 2014 January 22, 2015 January 23, 2015 January 26, 2015 February 2, 2015 February 5, 2015 February 11, 2015 February 12, 2015 February 20, 2015 February 23, 2015 February 24, 2015 February 26, 2015 March 2, 2015 March 10, 2015 March 11, 2015 March 17, 2015 March 19, 2015 March 23, 2015 March 27, 2015 April 6, 2015 April 7, 2015 April 10, 2015 April 13, 2015 April 14, 2015 April 20, 2015 May 19, 2015 May 21, 2015 May 22, 2015	1 hour 15 min 30 15 2 hours 35 minutes 15 25 1 hour and 30 minutes 10 20 5 35 10 20 10 35 15 15 25 20 5 15 2 hours 15 15 20 55 45 15 5 1 hour 30 minutes
Louis H. Farrell School	8380	May 11, 2015 May 12, 2015 May 13, 2015 May 14, 2015 May 15, 2015 May 18, 2015 May 19, 2015 May 20, 2015 May 21, 2015	25 20 20 25 15 25 20 20 25
Aloysius L. Fitzpatrick School	2829	February 23, 2015 February 24, 2015 February 25, 2015	20 12 14

		February 26, 2015	11
		February 27, 2015	40
Fox Chase School	2881	September 9, 2014	15
		September 16, 2014	25
		October 6, 2014	35
		October 7, 2014	35
		October 10, 2014	10
		October 20, 2014	45
		October 23, 2014	10
		November 16, 2014	15
		November 18, 2014	10
		November 19, 2014	15
		November 20, 2014	15
		December 5, 2014	15
		January 6, 2015	10
		January 7, 2015	30
		January 9, 2015	10
		January 16, 2015	5
		January 23, 2015	10
		January 30, 2015	15
		February 2, 2015	Bus did not show up
		February 6, 2015	5
		February 13, 2015	25
		February 24, 2015	25
		March 2, 2015	10
		March 4, 2015	10
		March 9, 2015	15
		March 10, 2015	Bus did not show up
		March 19, 2015	15
		March 26, 2015	10
		March 27, 2015	10
		April 6, 2015	15
		April 7, 2015	10
		April 10, 2015	20
		April 17, 2015	10
		April 20, 2015	20
		April 21, 2015	20
		April 23, 2015	10
		April 27, 2015	30
		April 28, 2015	30
		April 29, 2015	15
		April 30, 2015	15
		May 1, 2015	15
		May 8, 2015	20
		May 11, 2015	25
		May 15, 2015	25
		May 20, 2015	20
		May 21, 2015	15
		May 22, 2015	15
		May 26, 2015	20

		May 27, 2015 May 28, 2015	25 15
Joseph Greenberg School	2809	March 2, 2015 March 4, 2015 April 20, 2015	2 hours 20 min 30 20
	2811	March 2, 2014 March 31, 2015	2 hours 40
Hill Freedman World Academy	1644	October 20, 2014 October 21, 2014 October 22, 2014 October 23, 2014 October 24, 2014 October 27, 2014 October 28, 2014 October 29, 2014 October 30, 2014 November 12, 2014 November 13, 2014 November 14, 2014 November 17, 2014 November 18, 2014 November 24, 2014 November 25, 2014 November 26, 2014 December 1, 2014 December 2, 2014 December 3, 2014 December 4, 2014 January 12, 2015 January 13, 2015 February 11, 2015 February 12, 2015 February 13, 2015 February 18, 2015 February 25, 2015 March 3, 2015 March 10, 2015 March 11, 2015 March 12, 2015 March 13, 2015 March 16, 2015 April 6, 2015 May 7, 2015 May 8, 2015 May 14, 2015 May 15, 2015	25 15 50 20 30 15 5 20 10 30 10 10 20 20 20 25 20 10 5 25 15 30 20 30 15 35 40 35 25 55 30 10 50 20 20 55 1 hour 1 hour 50
Kensington Urban Education Academy	2501	April 30, 2015	Bus did not pick up student

NHS Philadelphia	5553	December 9, 2014	40	
		January 12, 2015	40	
		January 15, 2015	30	
		January 28, 2015	1 hour 20 minutes	
		February 4, 2015	50	
		February 11, 2015	45	
		March 3, 2015	1 hour	
		March 4, 2015	45	
		March 9, 2015	1 hour 10 minutes	
		April 13, 2015	1 hour	
		April 14, 2015	1 hour 10 minutes	
		April 20, 2015	45	
		April 21, 2015	35	
		April 23, 2015	50	
		April 24, 2015	45	
		5554	December 9, 2014	45
			December 12, 2014	35
January 7, 2015	45			
January 8, 2015	30			
January 9, 2015	55			
January 12, 2015	1 hour 10 minutes			
January 15, 2015	1 hour			
January 22, 2015	55			
January 28, 2015	1 hour 20 minutes			
February 4, 2015	50			
February 11, 2015	45			
February 18, 2015	1 hour 25 minutes			
February 20, 2015	1 hour 10 minutes			
February 24, 2015	55			
March 3, 2015	1 hour			
March 4, 2015	1 hour 15 minutes			
March 9, 2015	1 hour 10 minutes			
April 13, 2015	1 hour			
April 14, 2015	1 hour 10 minutes			
April 17, 2015	30			
April 21, 2015	45			
April 23, 2015	50			
April 24, 2015	45			
5555	November 18, 2014	1 hour 20 min		
	November 21, 2014	50		
	November 26, 2015	40		
	January 6, 2015	30		
	January 16, 2015	30		
	February 18, 2015	55		
	March 10, 2015	30		
	March 23, 2015	55		
5556	November 12, 2014	40		

		November 13, 2014	40
		November 17, 2014	35
		November 19, 2014	40
		November 24, 2014	30
		November 26, 2014	30
		December 9, 2014	30
		December 10, 2014	45
		December 11, 2014	45
		December 23, 2014	30
		January 5, 2015	50
		January 6, 2015	1 hour 5 minutes
		January 7, 2015	1 hour 15 minutes
		January 8, 2015	45
		January 9, 2015	55
		January 12, 2015	55
		January 13, 2015	35
		January 21, 2015	30
		January 22, 2015	30
		January 23, 2015	30
		February 2, 2015	45
		February 9, 2015	30
		February 10, 2015	30
		February 23, 2015	1 hour 30 minutes
		February 25, 2015	50
		February 26, 2015	30
		March 2, 2015	1 hour 45 minutes
		March 3, 2015	1 hour
		March 10, 2015	45
		March 11, 2015	55
		March 12, 2015	45
		March 16, 2015	1 hour
		March 17, 2015	50
		March 18, 2015	50
		March 23, 2015	40
		March 24, 2015	35
		March 25, 2015	40
		March 27, 2015	35
		April 10, 2015	35
		April 15, 2015	30
		April 16, 2015	45
		April 20, 2015	40
		April 21, 2015	30
		April 27, 2015	40
		April 28, 2015	30
	6368	February 10, 2015	25
		February 20, 2015	30
		February 23, 2015	30
Olney Elementary School	2701	October 20, 2014	1 hour 5 minutes
		October 21, 2014	1 hour 30 minutes

		October 22, 2014 October 23, 2014 October 24, 2014	2 hours 1 hour 45 minutes 1 hour
Overbrook School for the Blind	5401	December 9, 2014	2 hours 20 minutes
	5410	October 2, 2014 January 5, 2015	3 hours 35 minutes 3 hours 20 minutes
Pathway School	5637	March 20, 2015	50
		March 23, 2015	40
March 28, 2015		20	
May 19, 2015		30	
June 2, 2015		30	
	5638	April 15, 2015 May 1, 2015 May 4, 2015 June 2, 2015	1 hour 20 minutes 35 40 35
Richmond School	1586	May 21, 2015	20
		May 22, 2015	20
		May 26, 2015	20
		May 27, 2015	20
		May 28, 2015	15
	1587	May 21, 2015	10
		May 22, 2015	15
		May 26, 2015	15
		May 27, 2015	10
		May 28, 2015	10

CONCLUSION:

The SDP is out of compliance with the regulation cited above. The SDP did not provide transportation as a related service, as required on students' IEPs or 504 plans. Specifically, the SDP did not provide transportation on a timely schedule during the 2014-15 school year. All special education students who are assigned to the bus routes listed in the findings are eligible for compensatory education to remedy the educational loss when they did not receive a FAPE due to the lateness of their bus in the morning.

CLOSURE/CORRECTIVE ACTION:

- A. The Superintendent or his designee will convene a meeting with the parents of each special education student who is assigned to the bus or cab routes indicated in the findings above. The purpose of this meeting is to develop a plan for compensatory education as a remedy to the educational loss, and to issue a Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN) to each parent to approve or disapprove of the compensatory education agreement.

Should the parent and SDP be unable to come to an agreement, the District will submit a written request for assistance from the Bureau of Special Education by **September 30, 2015**, to include a list of the proposals for compensatory education from each party, and signed by both parties. This

request is to be sent to: Maria Mardula, Chief, Division of Monitoring and Improvement - East, Bureau of Special Education, 333 Market Street, 7th Floor, Harrisburg, PA 17126-0333, Fax (717) 783-6139.

If one or both parties do not agree with the Bureau of Special Education's compensatory education plan, the matter is subject to the available remedies to resolve any disagreement, including mediation or a due process hearing, on the same issues addressed in the complaint.

B. The Superintendent or his designee is ordered to:

- Develop a system for responding to parents' transportation concerns and issues.
- Issue a memorandum/e-mail to all relevant staff, regarding the SDP's policies and procedures for responding to parents' transportation concerns.

VERIFICATION OF COMPLETION OF CORRECTIVE ACTION:

A. The Superintendent or his designee will forward a copy of the plan for compensatory education and a copy of the Compensatory Education NOREP/PWN, which has been issued to the parent of each student who was assigned to the bus or cab routes indicated in the findings above during the 2014-15 school year to this Special Education Adviser at: Pennsylvania Department of Education, Bureau of Special Education, 333 Market Street, 7th Floor, Harrisburg, PA 17126-0333, on or before **September 30, 2015**. The SDP may use the attached compensatory education plan agreement format for the corrective action.

B. The Superintendent or his designee will forward:

- A written report of the SDP's system for responding to parents' transportation concerns and issues.
- A copy of the memorandum/e-mail regarding the system for responding to parents' transportation concerns.

The documents must be provided to this Adviser at: Pennsylvania Department of Education, Bureau of Special Education, Division of Monitoring and Improvement - East, 333 Market Street, 7th Floor, Harrisburg, PA 17126, on or before **September 30, 2015**.



Ruth B. Furman
Special Education Adviser
Division of Monitoring and Improvement - East
(610) 642-1237

NOTICE: In accordance with federal regulations, this report constitutes the Pennsylvania Department of Education's final decision with regard to this complaint.

If either party disagrees with the conclusions in the complaint investigation report (CIR), the party has the right to submit a written request for reconsideration with additional information *either not considered or not available at the time of the investigation*. The written request for

reconsideration must be submitted within ten (10) calendar days of the date of the CIR. The Bureau of Special Education will determine if the additional information is sufficient to warrant a review of the conclusions reached as a result of the investigation. Upon determining the sufficiency of the information, the Bureau of Special Education will notify the parties in writing of its decision to reconsider the conclusions reached. The Bureau of Special Education will issue its decision on the request for reconsideration within 30 calendar days from Bureau of Special Education's receipt of the request.

A local educational agency must implement any corrective actions ordered in the CIR without waiting for the Bureau of Special Education's decision on the request for reconsideration.

Enclosure: Compensatory Education Agreement Format
 Form - Completion of Corrective Action
 Basic Education Circular – Special Education Compliance

cc: Dr. William Hite, Jr., Executive Director, Intermediate Unit 26
 Kimberly Caputo, Esquire, Deputy Chief, Office of Specialized Services
 Maya Sherin, Executive Director, Office of Specialized Services
 James Davis, General Manager, SDP Office of Transportation Services
 Alison Paul, Administrative Assistant, SDP Office of Transportation Services
 Maria Mardula, Chief, Division of Monitoring and Improvement – East
 Robert Moore, Special Education Adviser
 Stephen Weitzenhoffer, Special Education Adviser
 Katrina Sexton, Special Education Adviser
 Central File