



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

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November 19, 2013

Ms. XXXXXXXXXXXX
XXXXXXXXXX
XXXXXXXX, XXXXXX XXX

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

Ms. Beth Hart
Director/Juvenile Services Education Program
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

RE: XXXXXX
Reference: #14-009

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention Services (MSDE, 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 the investigation.

ALLEGATION:

On August 27, 2013, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her grandson, 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) and related State requirements with respect to the above-referenced student.

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There is a sixty (60) day timeline for completion of the complaint investigation process. During the course of the investigation, this office determined that an additional public agency may have had educational responsibility for the student. Therefore, in order to obtain the needed information to complete the investigation, it was necessary to extend the timeline for completion of this Letter of Findings, pursuant to (34 CFR §300.152).

This office investigated the allegation that the BCPS and the Maryland State Department of Education, Juvenile Services Education Program (MSDE, JSEP) have not ensured that the student has been provided with a Free Appropriate Public Education (FAPE) since February 2013, in accordance with 34 CFR §§300.17 and .323 and COMAR 13A.05.02.13.

INVESTIGATIVE PROCEDURES:

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On August 14, 2013, the MSDE sent a copy of the complaint, via facsimile, to Dr. Kim Hoffmann, Executive Director of Special Education, BCPS, and Ms. Nancy Ruley, Associate Counsel, BCPS.
3. On August 20 and 22, 2013, Ms. Williams spoke with the complainant by telephone to clarify the allegation to be investigated.
4. On August 27, 2013, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the BCPS of the allegation and requested that the BCPS office review the alleged violation.
5. On August 29, 2013, October 11, 2013, and November 4 and 18, 2013, the MSDE requested documentation from the BCPS to be considered during the investigation.
6. On September 9, 2013, Ms. Williams reviewed the student's educational record at the BCPS Central Office. Ms. Ruley was present at the record review.
7. On September 13, 2013, Ms. Williams and Mrs. Koliwe Moyo, Education Program Specialist, MSDE, conducted a site visit at the XXXXXXXXXXXXXXXX High School to review the student's educational record, and interviewed the following school staff:
 - a. Ms. XXXXXX, Registrar;
 - b. Ms. XXXXXXX, Social Studies Teacher; and
 - c. Ms. XXXXXXXXXXXX, Principal.

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Ms. Ruley attended the site visit as a representative of the BCPS and to provide information on the BCPS policies and procedures, as needed.

8. On September 16, 2013 and November 6 and 7, 2013, the BCPS sent the MSDE documentation to be considered in conducting the investigation.
9. On September 19, 2013, the MSDE sent correspondence to the complainant that informed her that the MSDE, JSEP may have had educational responsibility for the student and that the timeline for completion of the investigation would be extended.
10. On September 20, 2013, the MSDE notified the MSDE, JSEP of the allegation subject to this State complaint investigation and requested that the MSDE, JSEP review the alleged violation.
11. On September 20 and 30, 2013 and November 1 and 5, 2013, the MSDE, JSEP sent the MSDE information and documentation to be considered during the investigation.
12. On October 7, 2013, Ms. Williams conducted a telephone interview with the Maryland State Department of Juvenile Services (DJS) case manager.
13. On October 30, 2013, Ms. Williams and Ms. Anita Mandis, Section Chief, Family Support and Dispute Resolution Branch, MSDE, conducted a site visit at the XXXXXXXXXXXXXXXX to review the student's educational record, and interviewed Ms. XXXXXXXX, Principal and Ms. XXXXXXXX, Teacher. Ms. XXXXXXXX, Field Director, MSDE, JSEP, and Mr. XXXXXX, Special Education Coordinator, MSDE, JSEP attended the site visit as representatives of the MSDE, JSEP and to provide information on the MSDE, JSEP policies and procedures, as needed.
14. On November 5 and 15, 2013, Ms. Williams unsuccessfully attempted to contact the complainant in order to obtain additional information.
15. On November 6, 2013, Ms. Williams conducted an interview with the Ms. XXXXXXXX, Transition Specialist, XXXX, regarding the allegation in the complaint.
16. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Correspondence and attachments from the complainant to the MSDE, received on August 27, 2013;
 - b. The BCPS enrollment history for the student, dated September 1, 200 through August 28, 2013;
 - c. The MSDE, JSEP student special education log, dated May 10, 2011 through June 14, 2013;

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- d. Individualized Education Program (IEP), dated November 8, 2012;
- e. The BCPS attendance summary for the student, dated August 20, 2012 through April 25, 2013;
- f. Report card and transcript for the student, dated February 4, 2013;
- g. The BCPS notice of school assignment, dated February 19, 2013;
- h. Correspondence among the BCPS staff, dated February 25, 2013;
- i. School communication log, dated February 25, 2013 through June 17, 2013;
- j. IEP team meeting notice, dated February 25, 2013;
- k. Registration form, dated February 26, 2013;
- l. IEP team meeting notice, dated February 28, 2013;
- m. School staff receipt of the IEP, signed and dated February 28, 2013;
- n. Receipt of Parental Rights Document, dated March 5, 2013;
- o. Consent for assessments, signed and dated March 5, 2013;
- p. IEP, dated March 5, 2013;
- q. Notice of the IEP team's decisions, dated March 5, 2013;
- r. School staff receipt of the IEP, dated and signed March 14, 2013;
- s. IEP, dated March 5, 2013, amended April 25, 2013;
- t. IEP team meeting notice, dated April 25, 2013;
- u. Student registration form, dated August 28, 2013;
- v. IEP team meeting notice, dated September 27, 2013;
- w. IEP, dated October 11, 2013;
- x. IEP, dated October 11, 2013 and amended October 25, 2013;
- y. IEP, dated November 5, 2013;
- z. IEP team meeting notice, dated November 6, 2013;
- aa. IEP, amended November 11, 2013; and
- bb. The BCPS procedures for transitioning students involved with the DJS back to school, undated.

BACKGROUND:

The student is nineteen (19) years old, is identified as a student with an intellectual disability under the IDEA and requires special education instruction. During the time period covered by this investigation, the student was committed to the custody of the Maryland Department of Juvenile Services (DJS).

During the time period addressed by this investigation, the student had the following residential and educational settings:

- From February 11, 2013 to April 22, 2013, the student was placed by the DJS in the home of the complainant in Baltimore City after the Baltimore City Juvenile Court ordered that he be placed on home detention. On February 28, 2013, the student began

attending the XXXXXXXXXXXXXXXX Alternative High School (XXXXXXXXXXXX)¹ in Baltimore City. Prior to returning the student to the XXXXXXXX, the DJS had placed him at XXXXXXXXXXXX, a residential treatment center in XXXXXXXX, which has an education program on the grounds.

- From April 22, 2013 until May 2, 2013, the DJS placed the student at the XXXXXXXXXXXX (XXXX). While placed there, the student participated in the education program located on the grounds of the facility, operated by the MSDE, JSEP.
- On May 2, 2013, the DJS returned the student to the home of the complainant. There is no documentation that the student was enrolled in school from May 3, 2013 through the end of the 2012-2013 school year.
- At the beginning of the 2013-2014 school year, the complainant re-enrolled the student at the XXXXXXXXXXXX.¹

During the period of time addressed by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. n, p, x, y, and interviews with the DJS staff).

FINDINGS OF FACTS:

February 26, 2013 to April 22, 2013

1. On February 26, 2013, the complainant enrolled the student at the XXXXXXXXXXXX,¹ after the DJS had placed him in her home following his discharge from a residential treatment center in XXXXXXXXXXXX (Docs. b, e, g, and k).
2. There is correspondence between the school's Registrar and Principal that documents that the school staff were informed that the student's previous educational placement was in XXXXXXXXXXXX at the time that the complainant enrolled him at the school (Docs. b, h, and interviews with the complainant and the DJS staff).
3. There is no documentation that the XXXXXXXXXXXX,¹ staff requested documents from the student's educational record from his previous educational program in XXXXXXXXXXXX, including an IEP that was developed on November 8, 2012 (XX IEP). The XXXXXXXXXXXX,¹ staff report that because the complainant provided them with these documents, they were not requested (Interview with school staff).

¹This program provides initiatives for improving school attendance (<http://www.baltimorecityschools.org>)

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4. On February 27, 2013, the XXXXXXXXXXXXXXXX staff sought on-line access to documents from the student's educational record that were maintained electronically by XXXXXXXXXXXXX High School, the last BCPS school that the student attended. These documents included an IEP developed in 2011 when the student was placed in a DJS facility (Docs. c and h).
5. On February 28, 2013, the student began attending the XXXXXXXXXXXXX.¹ On the same date, the student's teachers signed a document indicating that on that date, they began providing special education services required by an IEP, dated November 8, 2012 (Docs. d, e, g, i, and m).
6. On March 5, 2013, the BCPS IEP team met and began the reevaluation process. The IEP team recommended that cognitive, social/emotional, educational, and functional/adaptive assessments be conducted, as well as a classroom observation, and the complainant provided consent. On the Notice and Consent for Assessment, the IEP team documented that the student was "returning to BCPSS from XXXXXXXXXXXXX," and that they had "access to previous documents" (Docs. j, l, and n - q).
7. At the March 5, 2013 IEP team meeting, the IEP team transferred information from the 2011 IEP onto a new IEP document, and changed the date of the IEP to March 5, 2013. There is no documentation that the IEP team considered the current information about the student's present levels of performance from the XX IEP, which states that the student had "shown a 1.3 grade level increase in Reading and a 1.0 grade level increase in Math" from his performance on assessments conducted in 2011. The IEP that was revised also reflects that transition planning was based on the student's interests from 2011, instead of the interests he expressed on November 8, 2012 (Docs. d, f, p, and r).

April 22, 2013 to May 2, 2013

8. On April 22, 2013, the DJS placed the student at the XXXXX. The MSDE, JSEP operates the education program at this facility. Students at the XXXXX are initially placed on an "orientation unit," where they receive information and services necessary to ensure their ability to participate in an education program. Once a student completes the orientation program, the DJS transfers them to the "education unit." The MSDE, JSEP staff review a list of students placed on the "education unit" each day to ensure that those students are provided with education services on the date they are placed on the unit (Docs. c, s, bb, and interviews with the MSDE, JSEP staff).
9. On April 23, 2013, the MSDE, JSEP requested the student's educational record from the BCPS. As a result, the BCPS amended the IEP to reflect that the student had returned to a DJS facility (Docs. c and s).

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10. On April 25, 2013, the MSDE, JSEP received the student's educational record that included the IEP, dated March 5, 2013. On the same date, the MSDE, JSEP scheduled an IEP team meeting for May 23, 2013 in order to consider the results of assessments that were recommended by the BCPS IEP team on March 5, 2013 (Docs. c, p, and t).
11. On April 29, 2013, the DJS transferred the student from the "orientation unit" at the XXXX to the "education unit," and the student began receiving special education instruction in accordance with the IEP, dated March 5, 2013 (Doc. c, review of the educational record, and interview with the MSDE, JSEP staff).

May 2, 2013 to June 6, 2013

12. On May 2, 2013, before the MSDE, JSEP could convene its scheduled IEP team meeting, the DJS again placed the student in the home of the complainant (Doc. c and interviews with the complainant and DJS staff).
13. There is no information or documentation that the DJS contacted the BCPS in order to facilitate the student's re-enrollment in school (Doc. bb and review of the educational record).
14. While the complainant reports that she made unsuccessful attempts to re-enroll the student in the BCPS upon his return to her home in May 2013, the BCPS staff deny that such attempts were made and there is no documentation to support the complainant's assertion (Doc. a and review of the educational record and interview with school staff).

Since the Start of the 2013 – 2014 School Year

15. On August 28, 2013, the complainant re-enrolled the student at the XXXXXXXXXXXX,¹ (Docs. b and u).
16. On September 20, 2013, the IEP Chairperson completed a Verification/Certification form, indicating that special education services were initiated on that date, in accordance with the March 5, 2013 IEP (Doc. u)
17. On October 11, 2013, the BCPS IEP team met and discussed that the student had been unavailable for the administration of assessments recommended at the March 5, 2013 meeting. The IEP team documented that the reasons for his unavailability were "either because he was XXXXXX, because he was absent or because he refused to cooperate with testers." While the student was only placed at the XXXXX from April 22, 2013 to May 2, 2013, the IEP team documented that "the student was placed in a XXX XXXXXX" and that the MSDE, JSEP, "in turn, failed to conduct the assessments ordered during the time he was XXXXX to XXXX XXXXX XXXX." The IEP team further documented that the student did not return to the BCPS until August 28, 2013, and that

since that time, he had not been attending school or class regularly, and thus had been unavailable for the assessments to be conducted (Docs. v and w).

18. At the October 11, 2013 meeting, the IEP team revised the IEP, documenting that present levels of performance were obtained from teacher reports of the student's classroom performance and an IEP record review. However, there is no information or documentation that the BCPS requested the educational record from the MSDE, JSEP. In addition, the IEP reflects that transition activities were determined based on information about a student other than the student who is the subject of this complaint investigation (Doc. w).
19. At the October 11, 2013 meeting, the IEP team also considered the complainant's concerns about the student's lack of regular school attendance. The IEP team decided that as a result of his "cognitive difficulties," the student "is easily frustrated with the workloads being presented to him, which in turn leads to his skipping classes." The IEP team decided to conduct a Functional Behavioral Assessment (FBA) and to reconvene on October 25, 2013 to review a proposed Behavior Intervention Plan (BIP) (Doc. w).
20. The IEP team reconvened on October 25, 2013, documenting that the purpose of the meeting was to review "new information that came to the IEP team from the XXXXXXXX program" in XXXXXXXXXXXX. However, the IEP team did not document the new information that was considered and there is no documentation that the results of a FBA were considered. At the meeting, the IEP team decided that the student's schedule would be revised to provide additional resource period time and that it would reconvene on November 5, 2013 to complete the reevaluation (Doc. x).
21. On November 5, 2013, the IEP team reconvened and considered results of assessments that had been conducted. The IEP team documented that while the student "has not been fully compliant" with respect to attending school regularly, some of the assessment data was obtained. The student's current levels of performance were revised based on assessment data and reports of the student's class performance and the annual goals were revised based on that data. However, there is no documentation that the educational record was sought from the XXXXX. The IEP was also revised to reflect transition planning based on updated information from the student (Doc. y).
22. At the November 5, 2013 IEP team meeting, the complainant expressed concern that the student may require a change in educational placement and the IEP team decided to reconvene with staff from the BCPS Central office to consider the educational placement. The IEP team also documented that it will "begin collecting data formally in order to conduct a FBA and develop a BIP" (Doc. y).
23. On November 5, 2013, an IEP team meeting was scheduled for December 6, 2013 to consider a proposed BIP (Doc. z).

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24. On November 6, 2013, the BCPS amended the IEP to reflect that the student had been exited from the school system, noting “moved, known to be continuing” (Doc. aa).

LEGAL REQUIREMENTS:

In order to ensure the provision of a Free Appropriate Public Education (FAPE) to students with disabilities, each public agency is required to make sure that they are provided with the special education and related services required by their IEPs (34 CFR §§300.101 and .103). The term “public agency” is defined as a State Education Agency, local school system, and any other political subdivisions of the State that are responsible for providing education to students with disabilities. The State of Maryland requires each local school system to ensure the provision of a FAPE to students with disabilities residing within the jurisdiction of the local school system (COMAR 13A.05.02.13). The MSDE, JSEP is the public agency in the State of Maryland with the responsibility to ensure the provision of a FAPE to students who are residing in the DJS facilities (COMAR 13A.05.01.03 and Md. Code Ann., Educ. §22-303).

The public agency must ensure that each IEP includes a statement of the student’s present levels of academic and functional performance, including how the disability affects the student’s progress in the general curriculum, which is based on the evaluation data. The IEP must also include measurable annual goals designed to meet the needs that arise out of the student’s disability, and the special education instruction and related services required to assist the student in achieving the goals. Therefore, in order to ensure that the IEP is designed to provide the student with the special education instruction and related services needed to enable the student to make progress in the general curriculum, the annual IEP goals must be aligned with the student’s present levels of academic and functional performance (34 CFR §§300.101, .320, and Analysis of Comments and Changes to IDEA, Federal Register, Vol. 71, No. 156, p. 46662, August 14, 2006).

If a student with an IEP transfers to a new public agency, the new public agency (in consultation with the parents) must provide the student with a FAPE, including services comparable to those described in the student’s IEP from the previous public agency, until the new public agency either adopts the IEP from the previous public agency or revises the IEP (34 CFR §300.323). “Comparable services” is defined as services that are similar or equivalent to those that are described in the IEP from the previous public agency, as determined by the IEP team in the new public agency [emphasis added] (Analysis of Comments and Changes to the IDEA, *Federal Register*, Vol. 71, No. 156, p. 46681, August 14, 2006).

In order to ensure the provision of appropriate services to a transferring student, the new public agency must take reasonable steps to promptly obtain the student’s educational record, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the student, from the previous public agency in which the student was enrolled (34 CFR §300.323).

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Within two school days after receiving notice that a student in State-supervised care seeks to enroll, the public agency in which the student is seeking enrollment must make a written request for the educational record of the student in State-supervised care from the public agency in which the student was previously enrolled. Within three school days after receiving notice, the public agency in which the student in State-supervised care was previously enrolled must send the student's educational record to the public agency in which the student is seeking enrollment (COMAR 13A.08.07.03).

A student in State-supervised care is a child who is in the custody of, committed to, or otherwise placed by a placement agency. A placement agency includes local departments of social services and juvenile services (Md. Code Ann., Educ. §8-501).

Each public agency must ensure that assessments for students who transfer from one public agency to another are coordinated between the prior and subsequent schools as expeditiously as possible in order to ensure the prompt completion of the evaluation (34 CFR §300.304).

DISCUSSION/CONCLUSIONS:

February 26, 2013 to April 22, 2013

Based on the Findings of Facts #1, #2, and #8, the MSDE finds that from February 26, 2013 to April 22, 2013, the BCPS was the public agency responsible for the provision of a FAPE to the student.

Based on the Findings of Facts #1 and #2, the MSDE finds that the student was a student in State-supervised care, and thus, the BCPS was required to request the educational record within two school days after notification of the student's enrollment. Based on the Findings of Facts #3 and #4, the MSDE finds that there is no documentation that the school system requested the educational record.

Based on the Findings of Facts #3, #5 - #7, the MSDE finds that while the school staff may have provided special education services, there is no documentation that those services were based on the student's present levels of performance and were designed to provide the student with a FAPE. Therefore, the MSDE finds that a violation occurred with respect to the provision of a FAPE by the BCPS from February 26, 2013 to April 22, 2013.

April 22, 2013 to May 2, 2013

Based on the Findings of Facts #8 and #12, the MSDE finds that from April 22, 2013 to May 2, 2013, the MSDE, JSEP was the public agency responsible for the provision of a FAPE to the student.

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Based on the Findings of Facts #9, #10, and #11, the MSDE finds that the MSDE, JSEP took the steps needed to obtain all necessary documents from the student's educational record in a timely manner and began implementing the IEP that was provided by the BCPS. However, as stated above, the BCPS did not ensure that the IEP that was provided to the MSDE, JSEP was designed to provide the student with a FAPE.

Based on the Finding of Fact #10, the MSDE finds that the MSDE, JSEP took appropriate steps to ensure the completion of the reevaluation that was started by the BCPS in order to ensure that the IEP addressed the student's needs. However, based on the Finding of Fact #12, the MSDE finds that the student was placed by the DJS back into the XXXXXXXX before the IEP team meeting could be held.

Therefore, while the MSDE does not find that a violation occurred with respect to the procedures followed by the MSDE, JSEP, this office finds that the violation related to the BCPS not ensuring that an appropriate IEP was implemented continued during this time period.

May 2, 2013 to August 28, 2013

Based on the Findings of Facts #12 - #14, the MSDE finds that, while the BCPS was responsible for the provision of a FAPE to the student, there is no documentation that the student was re-enrolled in the BCPS upon his return to the XXXXXXXX. Therefore, no violation is found for this time period.

Start of the 2013 – 2014 School Year to October 25, 2013

Based on the Finding of Fact #15, the MSDE finds that during this time period, the BCPS was the public agency responsible for the provision of a FAPE to the student.

Based on the Findings of Facts #16 - #18 and #20, and the MSDE finds that the BCPS did not take the steps needed to obtain all necessary documents from the student's educational record from the MSDE, JSEP.

Based on the Findings of Facts #6, #17, and #19, the MSDE finds that the BCPS did not complete the reevaluation within the required timelines or ensured that the IEP team has considered positive behavioral interventions to address the student's lack of regular school attendance that was impacting the ability to conduct assessments. Therefore, this office finds that the BCPS has not ensured that the student has been provided with the special education and related services in accordance with an IEP that is designed to provide the student with a FAPE, and that a violation occurred during this time period.

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October 25, 2013 to November 5, 2013

Based on the Findings of Facts #15 and #24, the MSDE finds that the BCPS continued to be the public agency responsible for the provision of a FAPE to the student.

Based on the Findings of Facts #21 - #24, the MSDE finds that the IEP team added supports to enable the student to improve his school attendance and for assessments to be conducted. However, based on the Findings of Facts #18, #21, and #22, the MSDE finds that the BCPS did not take the steps needed to obtain all necessary documents from the student's educational record from the MSDE, JSEP, and did not ensure that the IEP was reviewed and revised based on the student's current levels of performance. Therefore, this office finds that a violation occurred during this time period.

Since November 5, 2013

Based on the Findings of Facts #21 and #22, the MSDE finds that the IEP team reviewed and revised the IEP based on current information from the student's classroom performance and the review of portions of the educational record. However, based on the Findings of Facts #18, #21, and #22, the MSDE finds that there is no documentation that the BCPS has taken steps to obtain the student's educational record from the MSDE, JSEP, and continues to find a violation related to this requirement.

ADDITIONAL DISCUSSION: DJS RESPONSIBILITY

When a Court "commits" a child to a local department of social services or the DJS, it transfers custody of the child to that agency (Md. Cts. & Jud. Proc. Code Ann. §§3-801 and 3-8A-01). "Custody" is defined as both a right and an obligation to provide ordinary care for a child and to determine a residential placement for the child. The purposes of a commitment to the local department of social services or the DJS includes to secure for the child custody, care, and discipline as nearly as possible equivalent to that which the child's parents should have given (Md. Cts. & Jud. Proc. Code Ann. §§3-802). Therefore, when a child is committed to the custody of a local department of social services or the DJS, that agency has the responsibility to ensure that the child is enrolled in school, just as the child's parents would be responsible for doing if the child remained in the parents' custody.

On its website, the DJS states that as part of a youth's aftercare plan, the DJS Case Managers create "transition plans" to assist youth returning to the XXXXXXXX with transitioning back to their local XXXXXXXX school. The website further states that the "transition plan" is developed in collaboration with local school system officials and teachers and focuses on ways to bring a youth back into the educational environment with as little disruption as possible. Once a youth returns to the XXXXXXXX and is re-enrolled in school, the DJS Case Managers reportedly track the youth's attendance and progress at the school through the XXXXXXXX XX Schools Program (<http://www.djs.state.md.us/education-jobs.asp>).

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Based on the Findings of Facts #12 and #13, the MSDE finds that there is no documentation that the DJS developed and implemented a transition plan for the student upon his return to the XXXXXX on May 2, 2013 in order to ensure that he was appropriately enrolled in school, consistent with the State law and the DJS procedures.

As a State Education Agency, the MSDE is required to ensure that public agencies carry out their responsibilities for the provision of a FAPE to Maryland students (34 CFR §300.149). However, in this case the DJS did not serve as a public agency responsible for the provision of education services. Therefore, this office may not investigate concerns related to the DJS' enrollment of the student in school during this time period. However, by copy of this Letter of Findings, the MSDE is informing the DJS officials of our serious concerns about this matter, and is asking that they take immediate steps to ensure that students placed in their custody are properly enrolled in school.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the BCPS to provide documentation by January 1, 2014 that it has made attempts to locate the student, and if he is enrolled in the BCPS or any other public education agency, steps have been taken to ensure that an IEP team is convened to complete the re-evaluation and review and revision of the IEP. If the student is enrolled in a public education agency, the BCPS must also document that it has offered the student *compensatory services*² or another remedy to redress the violations identified during this investigation. If the student is enrolled in another public education agency, the documentation must reflect that the remedy was developed after consultation and in collaboration with that public agency.

The BCPS must ensure that the complainant is provided with proper written notice of the determinations made at the IEP team meeting, including a written explanation of the basis for the determinations, as required by 34 CFR §300.503. If the complainant disagrees with the IEP team's determinations, she maintains the right to request mediation or file a due process complaint, in accordance with IDEA.

² Compensatory services, for the purposes of this letter, mean the determination by the IEP team as to how to remediate the denial of appropriate services to the student (34 CFR §300.151).

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School-Based

The MSDE requires the BCPS to provide documentation by January 1, 2014, of the steps it has taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern of noncompliance at the XXXXXXXXXXXX.¹

Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine if the regulatory requirements are being implemented and must provide documentation of the results of this review to the MSDE. If the school system reports compliance with the requirements, the MSDE staff will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented, the school system must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the initial date that the school system determines non-compliance.

Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the United States Department of Education, Office of Special Education Programs. Additionally, the findings in the Letter of Findings will be shared with the MSDE's Policy and Accountability Branch for its consideration during present or future monitoring of the BCPS.

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

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 the complainant and the school system 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 Facts 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

Ms. XXXXXXXXXXXX
Dr. Kim Hoffmann
Ms. Beth Hart
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request for reconsideration, the BCPS must implement any Corrective Actions consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the Findings, Conclusions and Corrective Actions contained in this letter should be addressed to this office in writing. The complainant 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 FAPE for the student, including issues subject to a 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 : Sam J. Abed
Tisha S. Edwards
Nancy Ruley
XXXXXXXXXX
XXXXXXXXXX
Dori Wilson
Anita Mandis
Martha J. Arthur
Tyra Williams

bc: Demetria Tobias
Marjorie Shulbank