



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

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December 30, 2013

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

RE: XXXXX  
Reference: #14-034

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 the investigation.

**ALLEGATIONS:**

On November 1, 2013,<sup>1</sup> the MSDE received a complaint from Ms. XXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, 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 allegations listed below.

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<sup>1</sup> On October 28, 2013, the complainant provided the MSDE with correspondence containing allegations of violations of the IDEA, which did not contain all of the necessary information to initiate a State complaint investigation. On November 1, 2013, the complainant provided the required information and a complaint investigation was initiated (34 CFR §300.153).

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1. The BCPS has not followed proper procedures when disciplinarily removing the student from school since November 1, 2012,<sup>2</sup> in accordance with 34 CFR § 300.530, .534, and COMAR 13A.08.03.
2. The BCPS has not ensured that the student has been consistently been provided with the special education and related services required by the Individualized Education Program (IEP) because he has not been permitted to consistently attend school for the entire school day since November 2012,<sup>2</sup> in accordance with 34 CFR §§300.101 and .323.
3. The BCPS has not ensured that the student's IEP addresses his social/emotional/behavioral needs since November 1, 2012,<sup>2</sup> in accordance with 34 CFR §§300.101, .320, and .324.
4. The BCPS has not ensured that the student has been provided with the transportation services required by the IEP since November 2012,<sup>2</sup> in accordance with 34 CFR §§300.101 and .323.
5. The BCPS did not ensure that the student was provided with the one-to-one adult assistance, required by the IEP from November 2012,<sup>2</sup> through December 2012, in accordance with 34 CFR §§300.101 and .323.
6. The BCPS did not ensure that the student was provided with Extended School Year services, as required by the IEP, during the summer of 2013, in accordance with 34 CFR §§300.101 and .323.

#### **INVESTIGATIVE PROCEDURES:**

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On November 1, 2013, Ms. Anita Mandis, Chief, Complaint Investigation Section, MSDE conducted a telephone interview with the complainant to clarify the complainant's concerns and discussed the need for her to provide a proposed remedy in order for a State complaint investigation to be initiated. On the same date the complainant provided the MSDE with a proposed remedy and the investigation was initiated.

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<sup>2</sup> The complaint included allegations of violations that occurred more than a year before the date it was received. The complainant was advised, in writing, that this office may only investigate allegations of violations which occurred not more than one year prior to the receipt of the State complaint (34 CFR §300.153).

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3. On November 4, 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.
4. On November 19, 2013, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified Dr. Hoffmann of the allegations and requested that her office review the alleged violations.
5. On December 6, 2013, Ms. Moyo reviewed the student's educational record at the BCPS Central Offices. Mr. Darnell Henderson, Legal Counsel, BCPS, was present at the review as a representative of the BCPS and to provide information on the BCPS policies and procedures, as needed.
6. On December 14, 2013, the BCPS provided the MSDE with documentation from the student's educational record.
7. 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 October 28, 2013 and November 1, 2013;
  - b. Independent Psychological Assessment, dated August 9, 2012;
  - c. Independent Speech Language Assessment, dated August 16, 2012;
  - d. Child Find Referral and Consent for Assessment, dated September 6, 2012;
  - e. BCPS Occupational Therapy Assessments, dated September 25, 2012 and October 9, 2012;
  - f. Educational Assessment Report, October 8, 2012;
  - g. Teacher Progress Report, dated October 10, 2012;
  - h. Student Observation conducted from October 10, 2012 to November 7, 2012;
  - i. IEP, dated October 18, 2012;
  - j. Functional Behavioral Assessment and BIP, dated October 18, 2012;
  - k. Evaluation Report, dated October 18, 2012;
  - l. Placement Letter, dated November 1, 2012;
  - m. Transportation Request Form, dated November 1, 2012;
  - n. Receipt of IEP Forms signed since November 8, 2012;
  - o. Enrollment Form, dated November 12, 2012;
  - p. Teacher Progress Report, dated January 9, 2013;
  - q. IEP, dated January 9, 2013;
  - r. Counseling Service Progress Report, dated February 14, 2013;
  - s. Teacher Progress Report, dated February 15, 2013;
  - t. IEP, dated February 27, 2013;

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- u. Teacher Progress Reports, dated April 23, 2013;
- v. Counseling Services Progress Report, dated April 29, 2013;
- w. IEP, dated May 28, 2013;
- x. ESY Progress Reports, dated July 26, 2013;
- y. Correspondence from the BCPS to the Complainant, dated September 17, 2013;
- z. Autism Diagnostic Observation Schedule-2, dated September 25, 2013;
- aa. Counseling Services Progress Report, dated September 30, 2013 and November 19, 2013;
- bb. IEP, dated October 14, 2013;
- cc. Report of Progress Toward Achieving the IEP Goals, dated November 1, 2013;
- dd. Attendance Report for the 2012-2013 School Year;
- ee. Report Card for the 2012-2013 School Year;
- ff. Communication Logs for the 2012-2013 and 2013-2014 School Years;
- gg. Counseling Services Encounter Logs from November 9, 2012 to October 30, 2013; and
- hh. Disciplinary Action Log for the 2013-2014 School Year.

**BACKGROUND:**

The student is six (6) years old and he is identified as a student with an Other Health Impairment (OHI) under the IDEA related to Attention Deficit Hyperactivity Disorder (ADHD) and has an IEP that requires the provision of special education instruction and related services. From the start of the 2012-2013 school year until November 12, 2012, the student attended XXXXXXXXXXXX.

Since November 12, 2012, the student has been attending XXXXXXXXXXXXXXXXXXXXXXXXXXXX (XXXXXXXXXX). During the time period covered by this investigation, the complainant has been provided with a copy of the procedural safeguards (Docs. a, d, h, i, k, l, n, o, q, t, w, x, y and bb - hh).

**ALLEGATIONS #1 AND #2:**

**DISCIPLINE PROCEDURES AND THE PROVISION OF THE AMOUNT OF SPECIAL EDUCATION INSTRUCTION REQUIRED BY THE IEP**

**FINDINGS OF FACTS:**

1. There is no documentation that the IEP team has determined that the student is unable to access a full day of instruction (review of the educational record).
2. There is no documentation that formal disciplinary action has been taken with the student (Doc. hh and review of the educational record).

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3. While the student was attending XXXXXXXXXXXXXXXX, from November 1, 2012 to November 12, 2012, the school staff documented that on one (1) occasion the family was contacted prior to the end of the school day due to the student's behavior and that the student was informed that he was being sent home early. (Docs. h and dd).
4. While school staff maintained a computer generated report of the number of absences the student had, there is no documentation of the student's schedule or his daily attendance at XXXXXXXXXXXXXXXX since November 12, 2012 (Doc. dd and review of the educational record).

### **DISCUSSION/CONCLUSIONS:**

#### **Allegation #1                      Disciplinary Procedures Since November 1, 2012**

The IDEA provides specific protections to students who are disciplinarily removed from school in excess of ten (10) school days during the school year (34 CFR § 300.530(d)(3)). In order to ensure that students are provided with services in accordance with the requirements of IDEA, such as the disciplinary procedural protections, each public agency must accurately record information, including student attendance and disciplinary removals, as specified in the Maryland Student Records System Manual (COMAR 13A.08.02.04).

Based on the Findings of Facts #2 - #4, the MSDE finds that school staff have not maintained records of the student's attendance and disciplinary removals in accordance with the legal requirements. Therefore, the MSDE finds that the BCPS has not taken steps to ensure that the student was provided with the disciplinary procedures for removals in excess of ten (10) school days and a violation occurred with respect to this allegation.

#### **Allegation #2                      Provision of the Amount of Instruction Required by the IEP**

The public agency must ensure that special education and related services are available to each student in accordance with the IEP (34 CFR §§300.101 and .323).

In this case, the complainant alleges that the student was unilaterally placed on a half day school schedule by the school staff due to his behavior, and that as a result, he was not provided with the amount of special education and related services required by the IEP. As stated above, based on the Finding of Fact #3, the MSDE finds that from November 1, 2012 to November 12, 2012, the student was not provided with a full day of instruction, on one (1) occasion.

Based on the Findings of Facts #1 - #4, the MSDE finds that there is no documentation that the student was permitted to attend a full day of school that would enable him to be provided with the amount of special education and related services required by the IEP. Therefore, the MSDE finds that a violation occurred with respect to this allegation.

**ALLEGATION #2:**                    **IEP THAT ADDRESSES THE STUDENT'S  
SOCIAL/EMOTIONAL/BEHAVIORAL NEEDS SINCE  
NOVEMBER 1, 2012**

**Findings of Facts:**

October 18, 2012 IEP team meeting

5. The IEP in effect on November 1, 2012 was developed on October 18, 2012. On that date, the IEP team met to complete an initial evaluation under the IDEA. At the meeting, the team considered the results of the educational, speech/language, occupational, and Functional Behavioral Assessments, a classroom observation, and information from the student's parents and teachers. The educational assessment report indicated that the student's overall cognitive skills are in the "upper limits of the superior range" as compared to his peers and that he has well developed verbal and nonverbal abilities. The results indicate that the student is able to learn and retain new information more quickly than other students. However, during the testing the student exhibited distracted behavior and refused to do some of the subtests indicating that the student may require behavioral and environmental supports such as preferential seating, visual cues, frequent breaks, and a Behavioral Interventions Plan (BIP) (Docs. f and i).
6. The Speech/Language assessment report indicated that the student has average to above average receptive, articulation, and expressive language skills and is able to use and understand language effectively. The Occupational Therapy (OT) assessment report indicated that the student's fine motor and visual perceptual motor performance scores are in the "average to above-average range." However, the report indicates that the student exhibited sensory processing problems including "sensory seeking behaviors" and "sensitivity to stimuli," such as sensitivity to touch, changes in the classroom environment, changes in his daily routine, and loud noises. The sensory input can cause the student to fidget, get in and out of his seat, become distracted, avoid class work, disrupt his ability to cope, withdraw, or have an emotional outburst (Docs. c and e).
7. The OT assessment report further indicates that the student does not require occupational therapy services because he has "average to above average visual perceptual motor skills." However, it does recommend that the student be provided with sensory interventions in the classroom by the teacher in order to create a safe sensory environment. The report recommended sensory strategies for the classroom, including weight bearing tasks, like push-ups or carrying heavy loads, deep pressure, or play dough or putty activities, a predictable schedule, a quiet area in the classroom with reduced visual distractions, tactile manipulatives that he can hold during class time, opportunities to snack on chewy or crunchy foods, and a system that the student can be used to signal the teacher when he needs a break (Docs. c and e).

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8. The social/emotional/behavioral assessment and classroom observation reports indicate that the student demonstrates behaviors related to aggression and emotional self-control and struggles with relating to peers and adults. The reports indicate that the student has difficulty communicating socially, has a short attention span, and struggles with impulse control both at home and in school which impacts his availability for learning (Docs. b, h, k, and i).
9. The team also considered the results of the Functional Behavioral Assessment (FBA) which indicates that the student will leave the classroom to walk around the school and hide from adults. The report also indicates that the student displays aggressive behaviors, such as hitting and throwing things around the classroom. The report suggests that the student displays these behaviors when he does not receive individual adult attention, if he is not prepared for a transition, or if he experience “sensory overstimulation” (Doc. j).
10. The FBA further indicates that the student seems to do better if he is provided with one-to-one adult support or if he is in a small group and the teacher is reading to the group. The report recommends that the student be prepared for transitions or changes in routine in advance, provided with choices when required to complete a non-preferred activity, be provided with opportunities for breaks, have limited exposure to “over stimulating situations and be provided with “positive adult attention” (Doc. j).
11. The team also considered information from the complainant and the student’s father regarding their concern about the student’s safety due to him eloping from school and from them, as well. The student’s teachers report that the student has kicked staff when given direction and displays aggressive behavior towards peers and adults. The teacher also reports that the student has difficulty following rules and sitting still. The teacher further notes that the student does not respond well to “classroom management strategies” (Docs. g, i, and k).
12. Based on its review the IEP team determined that the student is a student with an Other Health Impairment under the IDEA related to ADHD. The team developed an IEP and BIP at the meeting (Docs. i and k).
13. The IEP that was developed included social/emotional/behavioral goals for the student to improve his behavior by increasing compliance with authority figures, following school rules, and verbalizing the different roles of adults and students. The IEP also includes a goal for the student to improve his ability to identify and manage his feelings with the provision of social skills instruction. The IEP included a goal for the student to improve his personal and interpersonal relationships by increasing his positive interactions with peers (Doc. i).
14. The team determined that the IEP could be implemented in a separate special education classroom with the provision of supplementary aids and services, in a public school

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program designed to address the needs of students with behavioral issues. The IEP required that the student be provided with twenty-five (25) hours of special education instruction per week and counseling as a related service for thirty (30) minutes, two (2) times per week by the school social worker. The IEP indicates that at the discretion of the special education teacher the student can spend time in the general education classroom to work on transitioning back into the general education setting (Doc. i).

15. The IEP and BIP required the provision of behavioral supports, including reduced distractions to assist the student with focusing and remaining on task, frequent breaks during testing, frequent or immediate feedback, as needed, monitoring of his work during instruction, changes in activities or opportunities for movement, verbal and non-verbal reminders of the rules, a choice of tasks, access to a designated quiet area, use of noise controlling headphones, access to a quiet area where the student can “cool down” following an acts of aggression, advance preparation for changes in the schedule, encouragement and reinforcement of appropriate behaviors, and a sensory diet limiting excessive visual, tactile, or auditory distractions, as needed (Docs. i and j).
16. The IEP also requires that the student be provided with one-to-one adult support to assist with redirecting the student, assisting with transitions, ensuring that the student does not elope from the school, and modeling appropriate behavior (Doc. i).

#### January 9, 2013 IEP Team Meeting

17. On January 9, 2013, an IEP team meeting was convened. At the meeting, the team considered information from the student’s parents, school staff and progress reports that the student has had safety issues since the start of the 2012-2013 school year including eloping from school and exhibiting physical aggression toward school staff (Docs. p and q).
18. Based on this information, the team revised the IEP to include the use of physical restraint with the student “in order to ensure the safety of all students and staff” and “as a last resort to prevent the student from harming himself and others or putting himself in a dangerous situation” (Docs. i and j).

#### February 27, 2013 IEP team meeting

19. On February 27, 2013, the IEP team convened to discuss the student’s progress. At the meeting, the team received an update from the student’s teachers, counselor, and benchmark assessments indicating that the student was making progress and exhibiting improved behavior. The team also considered whether the student required ESY service for the summer of 2013. The team agreed that the student’s IEP goals are related to critical life skills and that due to the nature and severity of the student’s disability, the student required ESY services (Docs. r - t).



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May 28, 2013 IEP team meeting

20. On May 28, 2013, the IEP team convened to review the student's progress and placement. At the meeting, the complainant and the student's father indicated that the while the student had informed them that the bus aide was raising her voice at him, they notices that he was doing better behaviorally and socially and was even sleeping better at night. School staff reported that the student's behavior has improved a great deal since the start of the school year and he is making progress with his social issues as well. The progress reports completed by the student's teachers on April 23, 2013 documents that the student has been provided with supports, including extended time, reduced distractions, chunking of tasks, one-to-one adult support, and the "behavior modification system/BIP" (Docs. u - w).
21. The report completed by the school social worker indicates that the student has made progress with developing relationships with his peers with the provision of individual and group counseling services. The report indicates that when the student first transferred into the new school he displayed "very aggressive behaviors," including hitting, kicking and spitting. The report indicates that behavior interventions were used with the student to address these behaviors, however once one-to-one adult support was assigned to the student he began to experience success in the classroom. The report indicates that the student has done well in the program as a result of the structure and praise for making good choices. He also likes to receive rewards, such as stickers as reinforcement for displaying appropriate behaviors (Doc. v).
22. At the IEP meeting, the team considered whether the student could be placed in a less restrictive environment since he was making progress. However, based upon their review the team determined that the student continued to require the behavioral supports and structure provided in the separate special education classroom in order to make progress toward achieving the annual goals (Doc. w).

October 14, 2013 IEP Team Meeting

23. On October 14, 2013, the IEP team convened and considered information from the student's parents that the student seems to have difficulty transitioning between tasks, that he was refusing to follow directions, and that he requires constant supervision. The student's parents expressed concern about the number of students that were in the student's ESY class during the summer 2013. However, the student's father indicated that the student's behavior has improved since he transferred to XXXXXXXXXX ES (Doc. bb).
24. The team considered a report from the student's teacher indicating that the student is progressing satisfactorily and that he has been provided with supports and the assistance

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of his one-to-one support to ensure he remains on task, to provide prompts, immediate feedback and limited choices (Docs. aa and bb).

25. The team considered an independent *Autism Diagnostic Observations Schedule-2* assessment obtained by the complainant due to reports from the student's teachers regarding his "limited interaction with peers and rigid behaviors" The assessment report indicates that the student struggled with engaging in conversation and exhibited speech that was "somewhat routinized." The report concludes that the student's score is consistent with a diagnosis of moderate Autism Spectrum Disorder (Doc. z).
26. The team considered a progress report completed by the counselor which documents that the student has had "mixed progress" in the six weeks since the school year began. The report further indicates that the student has displayed aggressive behaviors, including hitting his one-to-one adult support. The student also often refuses to work with other students preferring to work alone or with his one-to-one. He also has been displaying disruptive behaviors during transitions, including making attempts to elope from his assigned area (Docs. aa and bb ).
27. Based on its review, the team added an additional goal to assist the student with improving his personal and interpersonal relationships by improving his ability to relate to his peers by recognizing the feelings of others. The team also revised the objectives for the annual goal for the student to manage his feelings when he becomes overwhelmed. The team revised the IEP to require that the student be provided with a picture schedule to assist with transitions (Doc. bb).

### **Discussion/Conclusions:**

The public agency must ensure that an IEP is developed that includes a statement of the student's present level of academic achievement 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 (34 CFR §§300.101 and .320).

In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parent for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student. In the case of a student whose behavior impedes the student's learning or that of others, the team must consider the use of positive behavioral interventions and supports and other strategies, to address that behavior (34 CFR §300.324).

Based on the Findings of Facts #5 - #27, the MSDE finds that when developing the IEP in effect in since November 2012, the IEP team considered information from the complainant, reports

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from the student's teachers and related service providers, evaluation data, and based on this information, developed the annual goals. Based on the same Findings of Facts, the MSDE further finds that the team determined the special education instruction, and the supports needed to address the student's identified social and emotional needs and the placement where the IEP could be implemented, consistent with the data. Based on the Findings of Facts #17 - #27, the MSDE finds that the BCPS has continuously monitored the student's progress with the provision of the services and supports, and determined strategies to address the student's identified behavioral needs and interfering behaviors. Therefore, the MSDE does not find that a violation occurred with regard to this allegation.

**ALLEGATION #4:**                    **PROVISION OF TRANSPORTATION SERVICES SINCE  
NOVEMBER 1, 2012**

**FINDINGS OF FACTS:**

2012-2013 School Year

28. On November 1, 2012, the Hampstead Hill Academy staff completed a transportation request form including the information from the IEP. The school staff submitted the request to the BCPS Transportation Office to make arrangements for transportation for when the student began attending XXXXXXXXXXXX (Doc. m and review of the educational record).
29. On November 12, 2012, the student was transferred to XXXXXXXXXXXX. However, there is no documentation that transportation services were provided until November 19, 2012, when the student began attending XXXXXXXXXXXX (Docs. l, o, v, t, and review of the educational record).

2013-2014 School Year

30. There is documentation that transportation services were not consistently provided from the start of the school year until September 6, 2013 (Docs. a, and y).
31. On September 17, 2013, the BCPS notified the complainant of a change in the bus route and pick-up and drop-off times, but there is no documentation that the student was assigned to a new bus route (Doc. y and review of the educational record).
32. There is documentation that the student was removed from a bus on October 23, 2013 due to his behavior (Docs. aa and gg).
33. The school staff have not maintained documentation of the student's school attendance since the start of the 2013-2014 school year (review of the educational record).

**DISCUSSION/CONCLUSIONS:**

The public agency must ensure that special education and related services are available to each student in accordance with the IEP (34 CFR §§300.101 and .323). In this case, the complainant alleges that there were delays in the provision of transportation services. Based on the Findings of Facts #28 - #33, the MSDE finds that there is no documentation that the student has consistently been provided with transportation services as required. Therefore, the MSDE finds that violations occurred with respect to this allegation.

**ALLEGATION #5:                    PROVISION OF THE SUPPORT OF A ONE-TO-ONE ASSISTANT FROM NOVEMBER 1, 2012 THROUGH DECEMBER 2012**

**FINDINGS OF FACTS:**

34.     The IEP in effect on November 1, 2012 required that the student be provided with the support of a one-to-one assistant (Docs. i, q, t, w, and bb).

2012-2013 School Year

35.     The social worker at XXXXXXXXXX documented in that the student was provided with the services of a one-to-one assistant at XXXXXXXXXXXXXXXXXXXX, but that this staff member did not transfer with the student when he began attending XXXXXXXXXX (Doc. v).

2013-2014 School Year

36.     There is no documentation that the student was consistently provided with the services of a one-to-one assistant at XXXXXXXXXX until January 4, 2013 (Doc. gg and review of the educational record).

**Discussion/Conclusions:**

As stated above, the public agency must ensure that special education and related services are available to each student in accordance with the IEP (34 CFR §§300.101 and .323). Based on the Findings of Facts #34 - #36, the MSDE finds that there is no documentation that the student was consistently provided with the support of a one-to-one assistant in accordance with the IEP from November 12, 2012 to January 4, 2013. Therefore, the MSDE finds that a violation occurred with regard to this allegation.

**ALLEGATION #6:                    PROVISION OF ESY SERVICES DURING THE  
SUMMER OF 2013**

**FINDINGS OF FACTS:**

37. The IEP required that the student be provided with ESY services during the summer of 2013 (Docs. t, w, and x).
38. There is no documentation that all of the school staff responsible for providing ESY services during the summer of 2013 were provided with a copy of the student's IEP or were otherwise informed of their roles in implementing the IEP (review of the educational record).

**DISCUSSION/CONCLUSIONS:**

As stated above, the public agency must ensure that special education and related services are available to each student in accordance with the IEP (34 CFR §§300.101 and .323). In order to ensure implementation of each student's IEP, the public agency must take steps to have each student's IEP accessible to the individuals responsible for its implementation (34 CFR §300.323).

In this case, the complainant alleges that the school staff assigned to provide ESY services were not aware of the IEP. Based on the Findings of Facts #37 and #38, the MSDE finds that there is no documentation that school staff received the IEP and were aware of the services required by the IEP. Therefore, the MSDE finds that a violation occurred with regard to this allegation.

**CORRECTIVE ACTIONS/TIMELINES:**

**Student-Specific**

The MSDE requires that the BCPS provide documentation by March 1, 2014 that the IEP team, including the complainant, has met to determine the amount of services missed for all the time periods the student was not provided with services. After making this determination, the team must also determine the nature and amount of *compensatory services*<sup>3</sup> or other remedy needed for the violations identified during this investigation.

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<sup>3</sup> 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).

The BCPS must provide the complainant with proper written notice of the determinations made at the IEP team meeting including a written explanation of the basis for the determinations, 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.

**School-Based**

The MSDE requires the BCPS to provide documentation by March 1, 2014, of the steps taken to determine if the violation identified in the Letter of Findings is unique to this case or if it represents a pattern of noncompliance at XXXXXXXXXXXXXXXX and XXXXXXXXXXXXXXXXXXXXXXXX.

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 OSEP. Additionally, the findings in the Letter of Findings will be shared with the MSDE's Policy and Accountability Branch, Accounting and Monitoring Section, for its consideration during present or future monitoring of the BCPS.

Documentation of all corrective actions 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 BCPS and the complainant have the right to submit additional written documentation to this office 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

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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.

Questions regarding the findings, conclusions and corrective actions contained in this letter should be addressed to this office in writing. The complainants 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 the 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/km

cc : Tisha Edwards  
Charles Brooks  
Nancy Ruley  
Darnell Henderson  
XXXXXXXXXX  
Dori Wilson  
Anita Mandis  
Koliwe Moyo  
Martha J. Arthur