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November 3, 2015

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

RE: XXXXXXXX and  
Similarly-Situated Students  
at the XXXXXXXXXXXXXXXXXXXX  
Reference: #15-083

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 above-referenced group of students. This correspondence is the report of the final results of the investigation.

**ALLEGATIONS:**

On May 28, 2015, the MSDE received a complaint from Grace Reusing, Esq., Office of the Public Defender, hereafter “the complainant,” on behalf of the above-referenced named student and all other similarly-situated students placed at the XXXXXXXXXXXXXXXXXXXX (XXXXXX), a Maryland State Department of Education Juvenile Services Education (JSE)<sup>1</sup> school. In that correspondence, the complainant alleged that the JSE violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced students.

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<sup>1</sup> Formerly known as the MSDE, Juvenile Services Program (JSEP) and also known as the Juvenile Services Education Schools (JSES).

There is a sixty (60) day timeline for completion of the complaint investigation process. Due to the large number of allegations and students covered by this complaint, it was necessary to extend the timeline for completion of this Letter of Findings, pursuant to (34 CFR §300.152).

The MSDE investigated the following allegations:

1. The JSE has not ensured that educational instruction has been provided that meets the MSDE's educational standards since December 9, 2014, in accordance with 34 CFR §§300.2, .18, .101, .149, and COMAR 13A.03.02.03, .07, and .09, 13A.05.11.03 and .07, and 13A.12.01.01. The complainant specifically alleged the following:
  - a. That students are not provided with access to instruction in core courses that allows them to achieve credit requirements and assessments necessary to progress towards the standards for graduation;
  - b. That students are not provided with the opportunity to work towards obtaining student service requirements necessary for graduation;
  - c. That students are not provided with the opportunity to participate in a program that prepares them to successfully obtain a Maryland High School Diploma by examination through the General Educational Development (GED) Testing Program; and
  - d. That students are not provided with special education instruction from teachers who hold a valid Maryland certification in the areas of instruction provided.
2. The JSE has not ensured that students are provided with accommodations and supplementary aids and services in the placement required by the Individualized Education Program (IEP), in accordance with 34 CFR §§300.2, .101, .103, and .323.
3. The JSE has not ensured that students are provided with the speech/language services required by the IEP, in accordance with 34 CFR §§300.101 and .323.
4. The JSE has not followed proper procedures to ensure the continuance of educational services when students are transferred out of XXXXXXXX, including maintaining and transferring accurate educational records in a timely manner, in accordance with 34 CFR §300.624, COMAR 13A.08.02 and *The Maryland Student Records System Manual*.

**INVESTIGATIVE PROCEDURES:**

1. On June 2, 2015, the MSDE sent correspondence to the complainant that acknowledged receipt of the correspondences containing allegations of violations of the IDEA and identified the allegations subject to this investigation. On the same date, the MSDE notified the JSE of the allegations and requested that JSE review the alleged violations.
2. On June 8 and 25, 2015, July 22, 2015, August 8, 2015, and October 19, 2015, the MSDE requested documents from the JSE.
3. On June 11, 2015, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, and Ms. Sharon Floyd, Education Program Specialist, MSDE, met with Ms. Beth Hart, Director, JSE, Ms. Crystal Fleming-Brice, Field Director, Instruction and Support, JSE, and Dr. Kim Lewis, MSDE consultant, to discuss the allegations. On that date, the MSDE requested that the JSE provide documents for review in order to conduct the investigation.
4. On June 24, 2015, Ms. Mandis met with Ms. Fleming-Brice to discuss the allegations being investigated.
5. On June 25, 2015, Ms. Mandis conducted a telephone interview with the complainant about the allegations being investigated.
6. On July 14, 2015, Ms. Mandis, Dr. Nancy Birenbaum, Family Support Services Specialist, MSDE, and Ms. Vicky Ciulla, Monitoring and Accountability Specialist, MSDE, conducted a site visit at the XXXXXXXXXXXXXXXXXXXXXXXX (XXXXXX). At that time, interviews were conducted with Mr. XXXXXXXXXXX, Special Education Teacher, and Mr. XXXXXXXXXXX, Principal. Ms. Fleming-Brice participated in the site visit as a representative of the JSE and to provide information on the JSE's policies and procedures, as needed.
7. On July 20, 2015 and October 19 and 21, 2015, the JSE provided the MSDE with documents.
8. On July 29, 2015, Ms. Mandis and Ms. Bonwyn Preis, Compliance Specialist, MSDE, met with Ms. Anna Lisa Nelson, Field Director, School Administration Services, JSE, at the MSDE to review documents.
9. On September 14, 2015, Ms. Mandis met again with Ms. Nelson at the MSDE to review documents. On the same date, Ms. Mandis conducted a telephone interview with Ms. LaSandra Diggs, Program Specialist, Resource Office, Maryland State Department of Juvenile Services, and requested information, which was provided on September 18, 2015.

10. On September 28, 2015, Ms. Mandis met with Ms. Fleming-Brice and Dr. Lewis to review documentation.
11. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP, dated December 19, 2013;
  - b. Sample of a student certificate of completion of a career technology education course, dated July 24, 2014;
  - c. The report of the Multidisciplinary Assessment and Staffing Team (MAST) psychosocial evaluation, completed on November 10, 2014;
  - d. School schedule for XXXXXX dated December 1, 2014;
  - e. Progress report for the named student, dated January 16, 2015;
  - f. Report card for the third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) quarters of the 2014-2015 school year for the named student;
  - g. IEP, dated January 26, 2015 and written summary of the IEP team meeting;
  - h. Reports of the student's progress towards achievement of the annual IEP goals, dated February 4, 2015 and April 17, 2015;
  - i. Written summary of a June 1, 2015 IEP team meeting;
  - j. Related Service Log for the named student from January 26, 2015 to April 27, 2015;
  - k. Service learning plans;
  - l. The Maryland Department of Juvenile Services timeline of efforts to transition the named student back into the community;
  - m. *The JSE Program of Studies – Course Offerings and Descriptions*;
  - n. *The Maryland Department of Juvenile Services Data Resource Guide, Fiscal Year 2014*;
  - o. *The JSE General Educational Development (GED) Checklists for Skills and Content in Reading/Language Arts, Writing, Mathematics, Social Studies, Science, and Technology*;
  - p. Correspondence from the complainant containing allegations of violations of the IDEA, received by the MSDE on May 28, 2015;
  - q. *The JSE Special Education Policy and Procedures*;
  - r. Records of textbook purchases;
  - s. The JSE Staff Day Agenda, dated October 14, 2015;
  - t. The Youth Center's Professional Development Agenda, dated September 11, 2014;
  - u. Sample service learning reflection forms and lesson plan from August 2015 and September 2015; and
  - v. Student record card 7s (SR 7s) and student record card 3 (SR 3) for the named student.

**BACKGROUND:**

The named student is nineteen (19) years old, is identified as a student with a Specific Learning Disability under the IDEA, and has an IEP that requires the provision of special education instruction and related services (Docs. a, g, and i).

The Maryland Department of Juvenile Services (DJS) placed the named student at XXXXXX on December 9, 2014, where he remained until he was released into the community on May 4, 2015. He is currently enrolled in XXXXXXXXXXXX in Prince George's County (Doc. c, e, f, h, l, and p).

**ALLEGATION #1:                    EDUCATION PROGRAM THAT MEETS  
STATE STANDARDS**

**FINDINGS OF FACTS:**

**Allegation #1a                    Access to Instruction in Core Courses**

1. A report of the Multidisciplinary Assessment Staffing Team (MAST)<sup>2</sup> reflects that at the time that the student was placed at XXXXXX, he was six (6) credits away from earning a Maryland High School Diploma. However, when a reevaluation was conducted at XXXXXXXXXXX on January 26, 2015, the student was found to be performing at the third (3<sup>rd</sup>) grade level in reading and written language and the fourth (4<sup>th</sup>) grade level in math, and there is no documentation that he had passed any of the required High School Assessments (Docs. c and g).
2. When placed at XXXXXXXXXXX, the student was enrolled in English 12, United States history, and environmental science courses that he was taking when he entered the facility. While he was taking conceptual algebra in his previous placement, he was placed in algebra II upon his enrollment at XXXXXXXXXXX because it was noted that he had already received a credit in algebra I and did not need to complete conceptual algebra (Doc. v).
3. The *JSE Program of Studies – Course Offerings and Descriptions* includes core courses in English, mathematics, science, social studies, and technology education. It does not include physical education, health, fine arts, and world languages. However, the named student's report card reflects that he was provided with instruction in a health course that he required (Docs. e, f, and m).

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<sup>2</sup> This is a meeting of a specialized diagnostic team convened by the DJS for the purpose of assessing youth who are detained and at risk of placement in a DJS facility at the disposition phase of the Juvenile Court procedure. The diagnostic team includes a psychologist, social worker, community case manager, detention facility case manager supervisor, resource specialist, school (JSE) staff, and other disciplines needed (Doc. n).

4. Instruction is provided using a combination of text books and resources obtained by the teachers from the internet. The JSE has developed a uniform curriculum that is aligned with the College and Career Readiness Standards in order to ensure consistency of the coverage of material in each course provided at all DJS facilities. This curriculum was distributed to all JSE teachers at a staff meeting held on October 14, 2015. The JSE has also ordered textbooks to be used uniformly in all DJS facilities (Docs. r, s, review of text books and resource materials, and review of the JSE curriculum maps for core subject areas).
5. The school schedule at XXXXX, in effect since December 1, 2014, reflects that students are provided with one (1) hour of instruction in math, one (1) hour of instruction in social studies, one (1) hour of instruction in Science, one (1) hour of instruction in Career Research and Development, and two (2) hours of instruction in English each day (Doc. d).
6. A review of the educational records of students placed at XXXXX since December 9, 2014 reflect that, upon arrival at XXXXXX, the students were enrolled in classes in which they had been receiving instruction, but did not complete in their previous placement (Review of educational records).

**Allegation #1b**

**Opportunity to Obtain Student Service Requirements**

7. Students placed at the DJS Youth Camps, including XXXXX, have been provided with service learning opportunities since July 2013, although not consistently. Since July 1, 2015, the JSE staff have been meeting with the DJS staff in order to improve the consistency of service learning opportunities (Docs. t and u).
8. The service learning plan indicates that students participate in activities through their environmental science and biology classes, including learning how to care for fish and maintain eco-systems. They also participate in activities through their English classes, including assisting in harvesting crops to be donated to areas with significant need. Samples of student reflection sheets and the lesson plan reflect that students discuss the importance of recognizing service beyond their individual communities and the impact of thinking globally. The student reflection sheets also document the numbers of service learning hours earned by each student (Docs. k, t, and u).

**Allegation 1c**

**Opportunity to Prepare for General Educational Development (GED) Testing**

9. There is evidence that students placed at XXXXX have been provided with the opportunity to prepare for the GED test as described below.

- The JSE compared the College and Career Readiness Standards against the material covered on the GED test and developed a list of the skills that are tested within each course. Students consult with the guidance counselor and when ready, are provided with the opportunity to take an on-line "GED Ready Test" that provides information about whether they are likely to pass each area tested and the specific skills they need to focus on to improve their scores.
- While instruction continues to be provided in all academic areas of the general curriculum, the teachers are provided with instructional booklets to correspond to work books for students to engage in practice activities in the specific areas of identified need for improvement. Therefore, the students who choose not to take the GED test will be able to continue to make progress in the general curriculum (Doc. o and review of instructional booklets and work books).

10. There is evidence that students placed at XXXX are provided with the opportunity to take the GED Ready Test and that there are instructional booklets and student work books to allow them to engage in practice activities in the specific areas of identified need for improvement. The students take a paper version of the GED Ready Test, which is submitted by mail for analysis (Review of lists of students who have taken the GED Ready Test and instructional booklets and work books).

**Allegation #1d          Provision of Special Education Instruction from Teachers  
Holding Maryland Certification in the Areas of Instruction  
Provided**

11. The teachers providing instruction in English, math, and social studies at XXXXXX since December 9, 2014 have not held certification in the areas in which they provide instruction. All other teachers are certified in their areas of instruction (Review of staffing documents).
12. There is one (1) special education teacher, who holds certification in special education (Review of staffing documents).
13. There is no evidence of supervision of non-certified teachers by certified teachers prior to February 26, 2015 (Review of staffing documents).

**LEGAL FRAMEWORK:**

The implementing regulations of the IDEA explain that the federal requirements related to the education of students with disabilities apply to all political subdivisions of a State that are involved in the education of students with disabilities, including juvenile correctional facilities. These regulations require that each educational program for students with disabilities meet the educational standards of the State Education Agency (SEA) (34 CFR §§300.2 and .149).

In order to implement the State law mandating the development and implementation of educational programs in the DJS residential facilities, regulations were promulgated requiring the JSE to provide a comprehensive education program for youth in these facilities in order to meet their special needs and circumstances (Ann. Code of Md. Ed. Art. §§22-306 and COMAR 13A.05.11).

### **DISCUSSION/CONCLUSIONS:**

#### **Allegation #1a**

#### **Access to Instruction in Core Courses**

The IDEA requires that a Free Appropriate Public Education (FAPE) be provided to students with disabilities through an IEP that meets the needs that result from the disability and enable them to be involved in and make progress in the general curriculum (34 CFR §§300.101, .103, .320, and .323). Therefore, the JSE must ensure that students in each DJS facility have access to instruction to allow them to achieve credit requirements and assessments necessary to progress towards the State standards for graduation from a public high school (COMAR 13A.05.11.03).

To be awarded a Maryland High School Diploma, a student must have earned a minimum of 21 credits, including core credits in English, fine arts, mathematics, physical education, health education, science, social studies, and technology education. Core credits must also be earned in world language or American Sign Language, and in advanced technology education or a career and technology program (COMAR 13A.03.02.03).

The term “credit” means the successful demonstration of a specified unit of study (COMAR 13A.03.02.02). Credit instruction must meet the aggregate time requirements specified by each local school system (COMAR 13A.03.02.04).

In order to provide students with sufficient time to meet these requirements, the JSE must ensure that its schools operate at least 220 school days per year and a minimum of 1,320 school hours during a 12-month period. The JSE must have a written schedule for each school that states that the beginning and end of the 6-hour school day and the specific time periods during the day when the areas of instruction are implemented (COMAR 13A.05.11.04).

In this case, the complainant asserts that the JSE does not offer students the opportunity to take core courses such as physical education, health, fine arts, and world languages or American Sign Language (Doc. p).

Based on the Finding of Fact #3, the MSDE finds that, while the JSE does not regularly provide instruction in these core courses, there is evidence that instruction has been provided when the student required a specific course. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.





Grace Reusing, Esq.  
Ms. S. Beth Hart  
November 3, 2015  
Page 10

and the United States Department of Education, and various websites that offer practice tests ([www.prattlibrary.org](http://www.prattlibrary.org)).

In this case, the complainant alleges that students with disabilities placed at XXXX who wish to take the GED test do not have access to materials and instruction to assist them in preparing for the test (Doc. p)

Based on the Findings of Facts #9 and #10, the MSDE finds that the documentation does not support the allegation. Therefore, a violation is not found with respect to the allegation.

**Allegation #1d**                      **Provision of Special Education Instruction from Teachers Holding Maryland Certification in the Areas of Instruction Provided**

The IDEA requires that the SEA establish and maintain qualifications to ensure that personnel necessary to carry out the requirements of the IDEA are appropriately and adequately prepared and trained, including those personnel who have the content knowledge and skills to serve students with disabilities. These qualifications must be designed to ensure that highly qualified personnel provide special education and related services to students with disabilities. However, this requirement does not create a right of action on behalf of an individual student or class of students for the lack of the provision of instruction by an individual who is not highly qualified (34 CFR §§300.18, .101, .156, .323).

The JSE is required to ensure that instruction is provided by personnel with valid Maryland Educator Certificates so that educational staff possess the minimum essential knowledge and skills needed to achieve outcomes for public education and maintain competent practice through career-long engagement with their content area (COMAR 13A.05.11.07 and 13A.12.01.01).

The *JSE Special Education Policy and Procedures* in effect since August 10, 2014 state that, in the event that a content area teacher is not available to provide instruction for an extended period of time, a highly qualified teacher will provide oversight to the staff designated to provide instruction. This involves “regular collaborative planning” with the staff providing instruction and “periodic classroom observations by the Principal to ensure instruction is aligned with College and Career Ready Standards” (Doc. q and review of staffing documents).

In this case, the complainant acknowledges the challenges faced by the JSE in recruiting and maintaining certified staff, and asserts that the public agency has developed procedures to strengthen recruitment efforts and to obtain substitute teachers who are supervised by certified teachers while vacancies are being filled. However, the complainant alleges that these procedures are not being implemented (Doc. p).

Based on the Findings of Facts #11 - #13, the MSDE finds that the JSE has not ensured that all of the teachers at XXXXXXXX have been certified in the areas in which they provide instruction.

Based on the Finding of Fact #13, the MSDE further finds that the JSE did not ensure that teachers who do not hold certification were supervised by teachers holding certification in those areas, in accordance with its procedures, until February 2015. Therefore, this office finds that a violation occurred.

However, because the teacher qualification requirements do not create a right of action on behalf of an individual student or class of students, no student-specific corrective action is required to remediate them.

## **ALLEGATION 2 PROVISION OF SPECIAL EDUCATION INSTRUCTION**

### **FINDINGS OF FACTS:**

14. The named student's IEP requires the provision thirty (30) hours of special education instruction per week in a separate special education classroom due to his need for "extensive modifications to the general education curriculum in English, science, social studies and math" (Docs. a, g, and i).
15. The reports of the named student's progress towards achievement of the annual IEP goals made in February 2015 and April 2015 document that the student was provided with special education instruction to assist him with achieving the goals. However, there is insufficient special education teacher staff to provide the amount of special education instruction in a separate special education class that was required by the named student's IEP (Docs. d, h, and review of staffing documents).
16. Ongoing recruitment efforts have been made and continue to be made in order to hire additional special education teaching staff at the DJS facilities across the State (Review of staffing documents and <https://www.jobaps.com/MD>).

### **DISCUSSION/CONCLUSIONS:**

Each public agency must ensure that students are provided with the special education and related services in the educational placement required by the IEP (34 CFR §§300.101 and .323 and COMAR 13A.05.11.06).

If a student with an IEP transfers to a new public agency within the State, 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 this case, the complainant alleges that, due to a lack of adequate staff, students have not been provided with the accommodations and supplementary aids and services by the staff and in the educational placement required by each student's IEP (Doc. p).

Based on the Findings of Facts #14 - #16, the MSDE finds that while the JSE has been making recruitment efforts to obtain additional special education teaching staff, the named student was not provided with the special education instruction in the educational placement required from December 9, 2014 to May 4, 2015. Therefore, this office finds that a violation occurred with respect to the allegation.

### **ALLEGATION #3                      PROVISION OF SPEECH/LANGUAGE SERVICES**

#### **FINDINGS OF FACTS:**

17. On January 26, 2015, the named student's IEP was revised to require the provision of one (1) hour of speech/language therapy twice per month as a related service. The IEP states that the service was to be provided by a speech/language pathologist in a separate special education classroom (Doc. g).
18. The related services log maintained by the speech/language pathologist for the named student was provided with only two (2) hours of speech/language therapy on April 27, 2015. The log states that no other services were provided due to the unavailability of a speech/language pathologist (Doc. j).
19. On June 1, 2015, the IEP team convened and determined that the student would be provided with speech/language therapy in order to remediate the loss of services during the school year (Doc. i).

#### **DISCUSSION/CONCLUSIONS:**

As stated above, each public agency must ensure that students are provided with the special education and related services in the educational placement required by the IEP (34 CFR §§300.101 and .323 and COMAR 13A.05.11.06).

In this case, the complainant alleges that, due to lack of availability of appropriate resources, students at XXXXX have not been provided with the amount of speech/language services required by the IEP (Doc. p).

Based on the Findings of Facts #17 - #19, the MSDE finds that the named student was not provided with the related speech/language services required by the IEP from January 26, 2015 to May 4, 2015 and that a violation occurred with respect to the allegation.

**ALLEGATION #4: MAINTENANCE AND TRANSFER OF STUDENT EDUCATIONAL RECORDS**

**FINDINGS OF FACTS:**

20. The DJS records reflect that on Wednesday, April 15, 2015, a request for the named student's educational records was made by the DJS Transition Specialist to the school staff at XXXXXX in preparation for the student's release back into the community (Doc. 1).
21. Those records also reflect that on Monday, April 20, 2015, the school staff at XXXXXX provided the DJS with the named student's educational records (Doc. 1).
22. The DJS records reflect that, on April 27, 2015, the DJS sent the named student's educational records to XXXXXXXXXXXX, a Prince George's County public school, in anticipation of his enrollment upon his return to the community on May 4, 2015 (Doc. 1).
23. The DJS records also reflect that there was a delay in getting the named student enrolled in the XXXXXXXXXXXX following his release into the community on May 4, 2015 until August 24, 2015 as a result of the inability of the student's parent to provide documentation of residency required for enrollment. The records indicate that on May 8, 2015, the DJS requested that the Court Liaison provide the parent with assistance in obtaining the necessary documentation, and that the documentation provided by the parent June 8, 2015 resulted in the student's assignment to Dr. XXXXXXXXXXXXXXXXXXXX. Following the parent's move to Laurel, Maryland in July 2015, the student was transferred to XXXXXXXXXXXXXXXXXXXX (Doc. 1 and review of the Maryland on-line IEP system).
24. The DJS Transition Specialist reports that the JSE provides student educational records within three (3) days of requests for records when transitioning students back into the community (Doc. 1).

**DISCUSSION/CONCLUSIONS:**

Student records provide information about a student's academic performance; thus, the proper maintenance of these records is necessary to ensure that accurate information is available to plan for a student's education. All student educational records are to be maintained in accordance with the Family Educational Rights and Privacy Act (FERPA) (34 CFR §§300.610 - .627).

In order to ensure proper student records management, the local public agencies in the State are required to maintain educational records consistent with the Maryland Student Records System Manual (COMAR 13A.08.02.01 and .02). The JSE is required to implement procedures to obtain, maintain, and share student records consistent with this requirement (COMAR 13A.05.11.09).

Grace Reusing, Esq.  
Ms. S. Beth Hart  
November 3, 2015  
Page 14

As indicated above, if a student with an IEP transfers to a new public agency within the State, 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). 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).

Upon exiting a student, schools have ten (10) consecutive school days to ensure that the student is receiving educational service. The sending school is held accountable for the student until the receiving school provides acceptable documentation. However, the sending school is not to send the records until receiving an official request from the receiving school (*Maryland Student Records System Manual*, 2011, 2016).

The Maryland Department of Juvenile Services *Data Resource Guide, Fiscal Year 2014* states that youth returning home from a committed placement are supervised by DJS case managers, who assist the youth with school re-entry, employment, and other services. It states that the case management specialist "is responsible for linking services for the youth and family" and monitoring the youth's adjustment back to the community. The Guide further indicates that a needs assessment is conducted prior to a youth's release into the community, which provides guidance to the case managers as they coordinate and plan for community-based services.

The complainant alleges that the JSE did not follow through with the DJS caseworker to ensure that the student was enrolled in a community-based program and had records transferred to that program when he was transferred from XXXXXX (Doc. p).

Based on the Findings of Facts #20 - #24, the MSDE finds that the student's educational records were sent to the DJS within three (3) school days of the request for them from the DJS. Based on those Findings of Facts, the MSDE finds that there is no documentation that the JSE delays providing educational records to the DJS in order to assist with student transition back into the community. Therefore, this office does not find that a violation occurred.

## **CORRECTIVE ACTIONS/TIMELINES:**

### **Student-Specific**

The MSDE requires the JSE to provide documentation by January 1, 2016 that it has taken the steps necessary to ensure that services are provided to the student to remediate the loss of the provision of special education instruction in the educational program required and the opportunity to earn service learning hours as well as the loss of speech services. The JSE must

Grace Reusing, Esq.  
Ms. S. Beth Hart  
November 3, 2015  
Page 15

collaborate with the PGCPS or any other school system in which the student is currently enrolled in order to have an IEP team held to determine the services to be provided.

### **Similarly-Situated Students**

The MSDE requires the JSE to provide documentation by February 1, 2016 of the identification of all students who were placed at XXXXX during periods of time between December 9, 2014 and May 4, 2015 when there were no opportunities to earn service learning hours.

The MSDE also requires the JSE to provide documentation by February 1, 2016 of the identification of all students placed at XXXXX from December 9, 2014 to May 4, 2015 who:

- a. had an IEP that required special education instruction in a separate special education classroom and did not receive services in that setting; or
- b. did not receive speech services required by their IEP.

For each student identified, the JSE must provide documentation that services were offered to compensate the student for the violations identified.

If a student is enrolled in a school system, the JSE must provide documentation that an IEP team meeting was held, in collaboration with the other school system, to determine the services to be provided.

If an identified student cannot be located, the JSE must provide documentation that appropriate efforts were made to locate the student.

### **System-Based**

The MSDE requires the JSE to provide documentation by February 1, 2016 of the steps taken to ensure that sufficient staff will be assigned to XXXXX if a student is placed at the facility who requires special education instruction in a separate special education classroom.

The MSDE further requires the JSE to provide documentation by February 1, 2016 of the steps taken to ensure that speech/language services are provided to students in all DJS facilities when an assigned provider is not available.

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.

Grace Reusing, Esq.  
Ms. S. Beth Hart  
November 3, 2015  
Page 16

**TECHNICAL ASSISTANCE:**

Technical assistance is available to the parties through Dr. Nancy Birenbaum, MSDE. Dr. Birenbaum may be contacted at (410) 767-0255.

Please be advised that the complainant and the JSE 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 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 of facts, conclusions, and corrective actions contained in this letter should be addressed to this office in writing. The students' parents and the MSDE, JSEP maintain the right to request mediation or to file a due process complaint, if they disagree with the identification, evaluation, placement, or provision of a Free Appropriate Public Education for the students, including issues subject to this State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or due process.

Sincerely,

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

MEF/am

c:	XXXXXXXXX	Dori Wilson	Elliott L. Schoen
	Jack R. Smith	Anita Mandis	Alan Dunklow
	Henry Johnson	Memuna Bangura	
	Karen Salmon	Vicky Ciulla	
	Crystal Fleming-Brice	Janet Jacobs	
	Anna Lisa Nelson	Nancy Birenbaum	
	XXXXXXXXXXX	Elizabeth Kameen	