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December 10, 2015

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Ms. Rebecca Rider
Director of Special Education
Baltimore County Public Schools
The Jefferson Building
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: XXXXX
Reference: #16-031

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 October 14, 2015, the MSDE received a complaint from Mr. XXXXXX and Mrs. XXXXXX, hereafter, collectively “the complainants,” on behalf of their daughter, the above-referenced student. In that correspondence, the complainants alleged that the Baltimore County Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The BCPS has not ensured that the student’s Individualized Education Program (IEP) has addressed her needs based on the evaluation data since July 16, 2015, in accordance with 34 CFR §§300.101, .320 and .324.
2. The BCPS has not ensured that the student’s IEP has been implemented since the start of the 2015-2016 school year, in accordance with 34 CFR §§300.101 and .323.

INVESTIGATIVE PROCEDURES:

1. On October 14, 2015, the MSDE provided a copy of the State complaint, by facsimile, to Ms. Rebecca Rider, Director of Special Education, BCPS. On the same date, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, conducted a telephone interview with the student's mother to clarify the allegations to be investigated.¹
2. On October 20, 2015, the MSDE sent correspondence to the complainants that identified the allegations subject to this investigation. On the same date, the MSDE notified the BCPS of the allegations and requested that the BCPS review the alleged violations.
3. Throughout the course of the investigation period, the complainants have provided additional documentation to the MSDE for consideration.
4. On October 28, 2015, Ms. K. Sabrina Austin, Education Program Specialist, conducted a review of the student's educational record at XXXXXXXXXXXX. Ms. XXXXXXXX, IEP Team Chairperson and Special Education Teacher, XXXXXXXXXXXX, was present during the file review. On the same date, the MSDE requested documentation from the BCPS.
5. On October 28, 2015, and November 4, 5, 9, 12 and 13, 2015, the BCPS provided the MSDE with documentation for consideration.
6. On November 6, 2015, Ms. Mandis and Ms. Austin conducted a telephone interview with Ms. XXXXXXXX, General Education Teacher, XXXXXXXXXXXX (XXXXXXX). Ms. XXX and Ms. XXXXXXX, Assistant Principal, XXXXX MS, were also present on the telephone interview. Ms. Conya Bailey, Compliance Supervisor, Department of Student Services, Office of Special Education, BCPS, participated in the telephone interview as a representative of the BCPS.
7. On November 6, 2015, Ms. Mandis and Ms. Austin conducted a telephone interview with the student.
8. On November 9, 2015, Ms. Austin and Ms. Mandis conducted a site visit at XXXXX MS and interviewed the following school system staff:
 - a. Ms. XXXXXXX, Assistant Principal, XXXXXXXXXXX;

¹ Prior to the filing of the State complaint, on September 22, 2015 and October 5, 2015, Mr. Kenneth Hudock, Family Support Specialist, MSDE, and Ms. Karla Marty, Section Chief, Accommodations and Assessments Section, MSDE, spoke with the student's mother by telephone about her concerns. The student's mother provided documentation to Mr. Hudock for consideration by the MSDE prior to filing the State complaint.

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- b. Ms. XXXXX, Special Education Case Manager, XXXXXXXX;
- c. Ms. XXXXXXXXXXX, Language Arts Teacher, XXXXXXXXXXXX;
- d. Ms. XXXXXXXXXXX, Social Worker Itinerant, XXXXXXXXXXXX;
- e. Ms. XXXXXXXXXXX, Speech-Language Pathologist, XXXXXXXX;
- f. Ms. XXXXXXXXXXX, Team Leader, Social Work Services; XXXXXXXX;
- g. Ms. XXXXXXXXXXX, IEP Chair and Special Education Teacher, XXXXXXXX;
- h. Ms. Maren Townsend, Speech-Language Pathologist, Team Leader, BCPS; and
- i. Ms. XXXXXXX, Principal, XXXXXXXX.

Ms. Bailey participated in the site visit as a representative of the BCPS and to provide information on the school system's policies and procedures, as needed.

- 9. On November 24, 2015, Ms. Austin and Ms. Mandis conducted a telephone interview with Dr. Linda E. Spencer, speech-language pathologist.
- 10. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Electronic mail (Email) messages between the complainants and the school system staff, dated between July 2015 and December 2015; and Email messages among the school system staff, dated between July 2015 and November 2015;
 - b. Notice and written summary of the July 16, 2015 IEP team meeting, and determination of specific learning disability, dated July 16, 2015;
 - c. IEP, dated August 21, 2015, and written summary of the August 21, 2015 IEP team meeting;
 - d. Report of the independent neuropsychological evaluation conducted in June 2015;
 - e. Report of the independent speech-language evaluation conducted in April and May 2015;
 - f. Written summary of the September 11, 2015 IEP team meeting, and Permission for Assessment, dated September 11, 2015;
 - g. The student's class schedule for the 2015-2016 school year;
 - h. Reports of classroom observations conducted on September 30, 2015;
 - i. Amended IEP, dated October 6, 2015 and written summary of the October 6, 2015 IEP team meeting;
 - j. Correspondence from the complainants alleging violations of the IDEA, received by the MSDE on October 14, 2015;
 - k. Amended IEP, dated November 9, 2015, and meeting agenda and written summary of the November 9, 2015 IEP team meeting;
 - l. The school staff's list identifying required accommodations for the student prepared for substitute teachers;
 - m. Log and notes of the speech-language pathologist, dated August-November 2015;
 - n. Log and notes of the social worker, dated August-November 2015;

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- o. Report of the student's progress towards achievement of the annual IEP goals, dated November 6, 2015, and the breakdown of the student's grades in her reading intervention class, dated October 30, 2015;
- p. The student's report card for first quarter of the 2015-2016 school year;
- q. Matrix of accommodations for students provided to substitute teachers, undated;
- r. The school staff's plan of locations for the student to use to access a setting with reduced distractions, undated;
- s. The case manager's schedule and notes describing morning and afternoon checks-ins with the student;
- t. The reports of home/school communications, September-November 2015;
- u. Documentation of the student's visits to the counseling office;
- v. Documentation of the student's performance in the i-Ready reading lessons;
- w. The school staff's checklists of the provision of accommodations and supplementary supports to the student in language arts, science, social studies, math and health classes;
- x. The data showing monitoring of the student's performance in language arts class in September and October 2015; and
- y. Samples of the student's classwork and homework assignments, graded assignments, study guides, completed graphic organizers, vocabulary homework sheets and word sheets with visuals and definitions, list of reading comprehension strategies, use of the "post-it" strategy, pages from the student's planner, assignment rubrics, calendars showing due dates for long-term assignments.

BACKGROUND:

The student is thirteen (13) 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 and related services. Following two (2) years of home instruction, the student was enrolled in XXXXXXXXXXXXXXXX where she has attended school since the start of the 2015 - 2016 school year (Docs. b - d). During the period of time addressed by this investigation, the complainants participated in the education-making process and were provided with written notice of the procedural safeguards (Docs. f and i).

FINDINGS OF FACTS:

July 16, 2015 IEP Team Meeting

1. In anticipation of the student's re-enrollment in the BCPS for the 2015 - 2016 school year, the IEP team convened on July 16, 2015 to conduct an initial evaluation of the student. Prior to the meeting, the complainants expressed concern that the student requires "instruction that confirms comprehension and builds language skills to enable

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[her] to evaluate, retrieve, plan, organize and revise her ideas” in order to access the curriculum (Docs. a and b).

2. There is documentation that the IEP team considered the private report of a neuropsychological evaluation conducted in June 2015. The report states that the student was referred for evaluation “subsequent to longstanding concerns regarding language skills, executive functions, and anxiety symptoms.” The report reflects that the student has weaknesses in oral and reading comprehension, nonverbal problem solving and memory. It also reflects that the student has weak executive functioning skills, including in the areas of planning, organization, and self-monitoring, as well as weaknesses in attention and symptoms of anxiety (Docs. b and d).
3. The evaluator concluded that the student is a “complex youngster with co-occurring developmental disabilities impacting language, executive functioning, and mood regulation.” He diagnosed the student with a Specific Learning Disorder with an impairment in reading comprehension, Attention-Deficit/Hyperactivity Disorder, and an Anxiety Disorder based on her long history of low-frustration tolerance, irritability, worry and rumination. The evaluator also diagnosed the student with a Mixed Receptive-Expressive Language Disorder, and specifically noted that “her primary language disorder is exacerbated by symptoms of anxiety” (Doc. d).
4. The report includes several recommendations by the evaluator, including the following:
 - Direct special education services to address the student’s reading comprehension, writing skills, and study skills;
 - Direct evidenced-based interventions to address the student’s social skills; pragmatic language skills and peer relationships; and
 - Various classroom supports, including pre-reading rubrics, pre-writing rubrics and graphic organizers; access to math vocabulary/formula sheets, access to word banks, copies of all classroom materials presented; frequent checks to ensure comprehension of oral and written instructions; visual supports and strategies to support concept imagery and comprehension; providing “to-do lists” or a list of steps for activities; and frequent changes or rotations in tasks (Doc. d).
5. There is no documentation that the IEP team considered all of the recommendations for services and supports contained in the neuropsychological report at this meeting (Docs. b and d).
6. There is documentation that the IEP team considered the private report of a speech and language evaluation conducted in April and May 2015. The report reflects the student’s independent ratings that she “always/almost always has trouble” with the following:

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- Following spoken and written directions;
 - Remembering things people say;
 - Understanding what people are saying;
 - Understanding the meanings of words or new ideas;
 - Using a variety of vocabulary words, expressing thoughts;
 - Understanding facial expressions and talking with a group of people;
 - Getting upset when people don't understand her; and
 - Explaining what she reads, expanding answers and providing details (Docs. b and e).
7. The speech and language report reflects that the student "consistently had difficulty" with recalling information, which makes it difficult for the student to respond when language demands are high. The evaluator noted that the student's difficulty with working memory affects her ability to gain meaning from oral and written language (Doc. e).
8. The speech and language report states that there are "significant gaps" in the student's word knowledge, "even in items commonly known by younger children." The report further states that the student has not been able to add words to her vocabulary and recognize semantic relationships as would be expected for her age. The report also reflects that the school system staff who performed a previous speech and language assessment of the student in 2012 noted that she "appeared to stall" when she encountered unknown vocabulary words, and "could not get beyond the unknown term to respond to the questions" (Doc. e).
9. The speech and language report also indicates that the student has weaknesses in pragmatic language, making it difficult for her to understand the reaction that her words have on others, and to understand the intention of the words used by others. The report indicates that this creates a challenge for the student to determine how to write in a manner that will be accurately understood by the reader. The report also indicates that the student's difficulty with semantics and pragmatic language further affects her ability to interpret instruction in the manner intended by the provider of the instruction (Doc. e).
10. The speech and language evaluator diagnosed the student as having a receptive-expressive language disorder in the areas of social communication, semantic development and word retrieval. The student was also diagnosed with a written language disorder, a reading disorder, and executive dysfunction (Doc. e).
11. The speech and language report contained several recommendations by the evaluator, including the following:
- Improve semantic organization by expanding word knowledge;

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- Use of visual representations of collections of words and analyzing them for frequency of usage, semantic relatedness, and social nuances;
 - Specific instruction to support the student's oral and written language, and her need to develop skills to understand the scope of tasks and then to formulate an appropriate execution plan;
 - Embed new vocabulary in simple language, using short sentences and simple syntax, then increase the length and complexity of the sentences as the student becomes more secure in the understanding of new words;
 - Explicit instruction, using an evidence-based intervention, to teach conversational skills that will allow her to recognize and adjust to the needs and expectations of different settings and audiences. This instructions is also needed to teach the student how to respond with the amount and type of content that is requested/expected, to stay on topic, and to switch topics using appropriate strategies; and
 - Use of techniques, such as drama and video modeling, that provide the student with opportunities to assume different roles and practice appropriate interactions with others, to improve her social skills and social understanding (Doc. e).
12. Based on the results of the neuropsychological and the speech and language assessments, the IEP team determined that the student is eligible for special education services as the result of an identified Specific Learning Disability (Doc. b).
13. There is no documentation that the IEP team considered all of the recommendations for services and supports contained in the speech and language evaluation at this meeting (Docs. b and e).

August 21, 2015 IEP Team Meeting

14. On August 21, 2015, the IEP team convened to develop an IEP for the student. There is documentation that the school staff requested and obtained extensive input from the complainants prior to the meeting. The complainant's input included information about specific strategies and interventions that had been used with the student during home instruction and that were reported to have been helpful to her (Docs. a and c).
15. The IEP developed on August 21, 2015 states that the student needs direct supports for memory organization and written language due to her weaknesses in expressive and receptive language, anxiety, memory, and characteristics of Attention Deficit Hyperactive Disorder (ADHD). The IEP describes the impact of the student's disability on her involvement in the general education curriculum as follows:

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- Her difficulties with pragmatic language negatively impact her peer relations and the way that she perceives her ability to interact with her peers which contributes to her anxiety during the school day;
 - Her difficulty with semantic (word meaning) vocabulary development and word retrieval makes it difficult for her to understand key information across all content areas as well as to use such vocabulary in communicating her ideas when speaking as well as writing;
 - Her difficulties with short-term memory negatively impact her ability to comprehend written as well as orally presented information, making understanding lengthy directions, teacher-directed lessons, and reading assignments challenging without the use of note-taking strategies and re-teaching;
 - Her difficulties with implicit (inferential) comprehension negatively impact her ability to grasp higher level meaning at grade level and her ability to make connections between her prior knowledge and currently presented information across content areas; and
 - She also experiences difficulty in demonstrating her understanding (comprehension) of ideas and/or concepts in her written language without the support of graphic organizers, note-taking devices, and the opportunity to discuss her ideas with a peer or adult (Doc. c).
16. The August 21, 2015 IEP also documents that the student has communication needs in the areas of social pragmatic communication, semantic development, and word retrieval (Doc. c).
17. A review of the August 21, 2015 IEP reflects that the IEP team used the data about the student as reported in the private reports of the neuropsychological and speech and language evaluations, previously considered by the team at the July 2015 IEP team meeting as the basis for identifying her levels of performance and needs. However, there is no documentation that the IEP team considered all of the recommendations for services and supports contained in the private reports at this meeting (Docs. b - e).
18. The IEP includes reading, writing, behavioral and language goals. The reading vocabulary goal requires the student to understand, acquire, and use new vocabulary at grade level and across content areas. The reading comprehension goal requires her to use strategies to demonstrate understanding of grade level text, along with objectives that require direct instruction in reading strategies. The written expression goal requires the student to develop and organize clear and coherent writing that is appropriate to the task, purpose and audience. The behavioral goal requires the student to identify anxiety producing situations, identify coping strategies, and use the steps to problem solve such situations. The social-pragmatic language goal requires the student to express her ideas,

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feelings and needs in discussions with peers and adults, given visual supports and verbal prompts (Doc. c).

19. In language arts and reading intervention classes, the August 21, 2015 IEP requires that the general education teachers provide the student with daily direct instruction, and that a special education teacher also provide daily support and indirect services to support the IEP goals in reading and writing. In math, science, and social studies classes, the IEP requires that a special education teacher consult with the general education teachers and provide indirect services during these classes to support the student's progress towards goals and the implementation of supports and accommodations required by the IEP (Doc. c).
20. The August 21, 2015 IEP requires that the student be provided with supports and program modifications on a daily basis, including frequent checks and other strategies to support the student's comprehension, reduce anxiety, and sustain attention; checks to ensure she understands assignments; visual aids to support comprehension and vocabulary development. The IEP clarifies that the student is to be provided a copy of content vocabulary for home review prior to instruction. In addition, the IEP requires that the student be provided with accommodations during instruction, including graphic organizers to support her writing, extended time, options to have text read aloud to her, and a setting with reduced distractions (Doc. c).
21. The August 21, 2015 IEP also requires that the student be provided with additional supports and program modifications "periodically as needed," which include organizational aids and visual models for math word problems and extended writing, "word banks" for vocabulary, chunking of text and assignments, and pictures to support reading. It also states that the student will be provided additional adult support "for all reading and writing assignments and to clarify expectations of assignments" (Doc. c).
22. In order to address the student's anxiety and social-pragmatic language skills, the August 21, 2015 IEP requires that she be provided social skills training twice a month by a social worker and a speech language pathologist, as well as individual counseling services twice a month by a social worker (Doc. c).
23. The August 21, 2015 IEP documents the complainants' "constant question" about the manner in which the IEP will provide "instruction that confirms [the student's] comprehension and builds language skills" (Doc. c).
24. At the end of August 2015, the complainants began expressing concern that the student's IEP was not being implemented and that she was struggling with expressing her thoughts in writing. In numerous emails to the school staff, the complainants specifically questioned how the supplementary supports, accommodations, and instruction addressing

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the annual IEP written language goal would be “articulated” in classroom and homework assignments, and the need to address the student’s expressive language and written language needs (Doc. a).

25. There is documentation that, beginning as early as August 27, 2015 and continuing into December 2015, the complainants sent more than fifty (50) emails to the school system staff, and in many cases sending up to five (5) emails per day. The emails indicate that the student is having difficulty with completing written classroom and homework assignments due to her weaknesses in vocabulary, reading comprehension, and receptive and expressive language. The emails reflect the complainants’ belief that the student’s needs are not being met, and that the student’s IEP is not being fully implemented, and on a consistent basis, in all of the student’s classes. In the emails, the complainants suggested the use of specific methodologies, supports, and strategies. The complainants’ requests included vocabulary and other supports needed for writing, and direct instruction in the student’s reading intervention class (Doc. a).

September 11, 2015 IEP Team Meeting

26. The IEP team convened on September 11, 2015 to review the IEP supports and accommodations and to address the complainants’ concerns about the student’s needs in language comprehension and written language. The complainants reported that the student was experiencing anxiety with aspects of her school work and the counseling services, and that her anxiety was “most significant” with respect to her inability to recall and understand homework and long term assignments. The complainants also expressed concern that they were not “seeing evidence of implementation of the IEP.” The school staff explained that the differentiation that occurs in the classroom for the student “will not always be readily evident,” and agreed to continue discussion on this topic at the next IEP meeting (Doc. f).
27. The school staff reported that the student was engaged and positively participating in all of her classes, earning A’s and B’s, that she has friends at lunch in the cafeteria, and that the special education teacher checks in with the student for approximately ten (10) minutes at the end of the day to ensure that she understands homework assignments (Doc. f).
28. The IEP team referred the student for an assistive technology assessment, and the complainants provided consent at this meeting (Doc. f).
29. There is documentation that the IEP team discussed the existing supplementary supports required by the IEP. However, the written summary of the meeting states that the school staff would meet with the complainants outside of the IEP meeting to determine whether any changes are needed to those IEP supports (Doc. f).

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October 6, 2015 IEP Team Meeting

30. The IEP team reconvened on October 6, 2015. The complainants expressed concern about the student's ability to complete independent work, and requested that the student be provided with graphic organizers in all core content classes to assist her in answering reading comprehension questions and independent writing assignments, and for vocabulary supports to be consistently provided in class and at home (Doc. i).
31. The IEP team discussed the complainants' request to discontinue the individual counseling services required by the IEP based on the student's reported difficulty with concentration and missed work when returning to class following counseling sessions. The written summary of the meeting reflects disagreement on this issue. The school staff noted that the increase in anxiety both at school and at home, and the lack of data, support a continuation of the service. There is documentation that the school staff offered to schedule the counseling before the start of the school day, or at the end of the day. The complainants indicated that the student would receive private counseling services outside of school in order to address her anxiety (Docs. a and i).
32. The complainants questioned the meaning of the specialized instruction required by the IEP in the student's language arts and reading intervention classes to support the reading and writing IEP goals. The school staff explained that the general education teachers in these classes are required to provide the student with "direction instruction for the reading comprehension and written language components of the IEP goals in the form of teacher-led whole group instruction, small group teaching, re-teaching, remediation, and through 1:1 support." The complainants expressed concern about the amount of time during which the student was actually receiving individualized instruction or 1:1 support, based on work samples from the student's reading intervention class (Doc. i).
33. The IEP team considered the report of an observation of the student in her reading intervention class. The report reflects that the school staff provided several supports to the student, including checks for understanding of assignments and homework, strategies to support comprehension and address attention, use of organizational aids, suggestions for visualization, and the use of modeling as a vocabulary strategy. The report states that the student had difficulty when attempting to answer questions to explain her understanding of a story, and that no strategies to assist the student with her social pragmatic skills were observed. The observer noted that the student requires more visuals than were observed, and that word banks, assistance with sub-vocalizing through tasks, as well as breaks would be beneficial to assist the student with her language processing and memory. While the IEP team discussed ways to individualize vocabulary supports for the student in each class, the written summary of the meeting reflects that the school staff would meet with the student's teachers to review the observer's recommendations (Docs. h and i).

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34. While the IEP team did not revise the student's IEP, they agreed to continue the meeting on November 9, 2015, and documented that the IEP team would address the complainants' concerns that the IEP team has not considered the recommendations contained in the private report of the neuropsychological evaluation at the next meeting (Doc. i).

November 9, 2015 IEP Team Meeting

35. The IEP team reconvened on November 9, 2015. The written summary of the meeting reflects that the IEP team reviewed the results of the assistive technology assessment and agreed to trial the use of an assistive technology device with specific software for writing assignments of more than one (1) paragraph (Doc. k).
36. At the request of the complainants, the IEP team revised the present levels of performance and the documentation of the student's eligibility for special education. These changes were based on additional information about the student's needs as identified in the reports of the private neuropsychological and speech and language evaluations. The IEP team also added an accommodation to the IEP allowing the student to read passages aloud to herself to assist with her comprehension (Docs. a and k).
37. The IEP team discussed the manner in which the student was being provided the IEP supports and accommodations, as well as the speech and social work services. In response, the IEP was amended to clarify that the student requires content vocabulary and learning objectives for core and health classes for home review prior to instruction. The IEP team documented that there is no data to support the complainant's request for removal of social work services from the IEP. While the student has refused to participate in counseling by the social worker, the school staff noted that she has demonstrated the need for counseling based on the frequency of her visits with the school counselor. The IEP team amended the IEP to require counseling services four (4) times a month to be provided by the guidance counselor. Speech and language services were increased to four (4) times a month (Docs. k and u).
38. The complainants expressed continued concern about the use of the i-Ready² program in the student's reading intervention class, and the lack of direct instruction by the student's teacher. The written summary of the meeting reflects the school staff's explanation that the program is intended for students to work independently, but the school staff would

² i-Ready is a reading intervention program that provides explicit online instruction in several reading domains through tutorial lessons with practice to reinforce skills and understanding, followed by a quiz that assesses the student's performance on the skill addressed by the particular tutorial. i-Ready also provides teacher-led lessons to reinforce the same skills taught through the online instruction but that may not have been mastered (See the i-Ready website: www.curriculumassociates.com).

collaborate with the Central Office staff in order to provide “blended instruction” (Docs. a and k).

39. There is no documentation that the IEP team considered all of the recommendations for services and supports contained in the report of the private neuropsychological evaluation at this meeting (Docs. d and k).
40. On the same date as the November 9, 2015 IEP team meeting, the complainants sent an email to the school staff indicating that the written summary of the October 6, 2015 IEP team meeting was incomplete and included inaccurate information. The complainants requested that the school staff amend the student’s educational record. There is no documentation of the school staff’s response to this request (Doc. a).

IEP Implementation

41. There is documentation, between August 2015 and December 2015, of numerous email communications between the school staff and the complainant, almost daily, about the student’s needs and implementation of the student’s IEP. The emails reflect the complainants’ belief, based on the student’s accounts of what occurred during the school day, that the student is not consistently being provided with all of supports, modifications, accommodations and specialized instruction that are required by the IEP. However, the emails also reflect that the student’s accounts differ from the school staff’s reported accounts of occurrences at school (Doc. a).
42. There is documentation that the student was placed in a reading intervention class in order to address her needs in reading and writing. The school staff report that the class consists of alternating days of instruction which is delivered through the i-Ready² reading intervention program and direct classroom instruction to support the content and requirements in the student’s language arts class (Doc. a and interview with the school staff).
43. There is documentation that the student failed three (3) out of four (4) i-Ready² lessons, and that she was only able to pass one (1) lesson when she was provided significant assistance, clarification, and prompting by the teacher (Docs. a and v, and interview with the school staff).
44. There is no documentation that the student regularly receives direct teacher instruction³ to support the areas of need identified based on her performance on the i-Ready² lessons (Doc. k and interview with the school staff).

³ The school staff report, and have documented, that the i-Ready program is intended to be used independently by a student, and that instruction is provided through the online tutorial prior to assessment of the skill addressed by the tutorial. However, in November 2015, the school staff documented their intent to consult with the BCPS Central Office staff about delivering “blended instruction” with the i-Ready lessons (Docs. a and k).

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45. With the exception of math class, the student's classes are either co-taught by a general education teacher and a special education teacher, or taught by a general education teacher with the support of an instructional assistant. The school staff report that there is no additional adult assigned to the student's math class to assist the general educator teacher or provide support to the student. The documentation reflects that the student was not consistently provided with supports and accommodations in math class (Docs. g and w, and interview with the school staff).
46. There is documentation that the student is provided a daily check-in and check-out by the case manager in order to discuss homework for the day, and to ensure that she understands and has the materials necessary to complete homework assignments. There is also documentation that the student's classroom teachers provide frequent check-ins with the student for understanding of assignments and to provide strategies to support comprehension, and have the student repeat or paraphrase information. However, there is also documentation of continuous reports by the complainants that the student does not understand the directions and expectations of assignments, and how to approach the completion of assignments (Docs. a, s, and w).
47. There is documentation that the student is permitted to sub-vocalize, and that she is provided opportunities to perform this strategy in a setting outside of the classroom. In addition, the school staff have identified specific locations with reduced distractions for the student to access at all times of the school day if needed. However, there is documentation that on November 6, 2015, the student was not permitted to sub-vocalize during a class taught by a substitute teacher, and that a room with reduced distractions was not available for her to access. While there is documentation that the school staff have developed a sheet for substitute teachers that identifies the student's accommodations, there is no documentation that the substitute teacher was provided with this information on November 6, 2015 (Docs. a, h, q and r).
48. The documentation reflects that the student is periodically provided graphic organizers, organizational aids, extended time for classwork, homework and projects, classroom breaks, assignments broken down into smaller units, pictures to support text, and preferential seating in science, social studies and language arts classes. The documentation also reflects that the student is provided strategies to reduce anxiety, checks for clarification and understanding, and repeats or paraphrases information on a daily basis in these classes (Docs. n, o, s, t, and w - y).
49. While the student is occasionally provided "word banks" during extended writing, there is no documentation that the student has been consistently provided with content vocabulary for home review prior to instruction in all of her classes (Docs. a, w and y).

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DISCUSSION/CONCLUSIONS:

Allegation #1: IEP Development

A Free Appropriate Public Education (FAPE) means special education and related services that are provided in conformity with an IEP. In order to provide a student with a FAPE, the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data. 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 parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student (34 CFR §§300.17, .101, .320, .323 and .324).

The public agency is required to provide the parent of a student with a disability with written notice before proposing or refusing to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. This notice includes a description of the action proposed or refused, an explanation of the action, a description of each evaluation procedure, assessment, record, or report used as a basis for the decision, a statement that the parents of a student with a disability have protection under the procedural safeguards and the means by which a copy of the description of the safeguards can be obtained, sources for parents to contact to obtain assistance in the understanding the provisions, a description of other options that the IEP team considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal (34 CFR §300.503).

Based on the Findings of Facts #1, #23 - #26, #32 and #41, the MSDE finds that the complainants communicated numerous concerns to the BCPS school system staff that the student's identified needs, as particularly described in the private reports of the neuropsychological and speech and language evaluations, were not being addressed. Based on the Findings of Facts #2 - #13, #34 and #39, the MSDE finds that there is no documentation that the BCPS has considered all of the recommendations for services and supports to address the student's need as contained in the private reports of the neuropsychological and speech and language evaluations. Therefore, the MSDE finds an ongoing violation with regard to this allegation.

Allegation #2: IEP Implementation

The public agency is required to ensure that the student is provided with the special education and related services required by the IEP (34 CFR §300.101).

Based on the Findings of Facts #23 - #26, #30 and #41, the MSDE finds that the complainants communicated numerous concerns to the BCPS that the student was not being provided with the specialized instruction and all of the supplementary supports required by the IEP. Based on the Findings of Facts #14, #15, #18 - #22, #29, #33, #37, and #45 - #49, the MSDE finds that there is documentation that the BCPS has periodically provided the student with many of the supports and accommodations required by the IEP. However, based on the same Findings of Facts, the MSDE finds that there is documentation that the BCPS has not ensured that the student has consistently been provided all of the supports and accommodations required by the IEP in all of her classes, and that the student was not provided with a setting with reduced distractions on November 6, 2015.

Based on the Findings of Facts #20, #22 and #49, the MSDE further finds that the BCPS has not consistently provided the student with word banks and content vocabulary for home review prior to instruction. Therefore, the MSDE finds that violations occurred with regard to this aspect of the violation, and that the violations are ongoing.

Based on the Findings of Facts #19, #32, #38, and #41 - #44, the MSDE finds that the BCPS has not ensured that the student has been provided with specialized instruction in reading in the manner required by the program chosen by the BCPS to address her reading needs. Therefore, the MSDE finds an ongoing violation with regard to this aspect of the violation.

Additional Violation:

A parent who believes that information in the student's educational record is inaccurate or misleading may request that the public agency amend the information. Upon receipt of such a request, the public agency must decide, within a reasonable period time of the receipt of the request, whether to amend the information. If the public agency refuses to amend the information, it must inform the parent of the refusal and advise the parent of the right to a hearing before school system personnel to challenge the information (34 CFR §§300.618 and .619).

Based on the Finding of Fact #40, the MSDE finds that while the complainants requested the BCPS to amend the written summary of the October 6, 2015, there is no documentation that the BCPS has ensured that proper procedures have been followed in response to the complainant's request, and that a violation occurred.

CORRECTIVE ACTIONS/TIMELINE:

Student-Specific

The MSDE requires the BCPS to provide documentation, by February 1, 2015, of the following:

1. The IEP team has convened an IEP team meeting with the complainants that meets the following requirements:
 - a. The BCPS must request permission from the complainants, and contact information needed, to invite Dr. Linda Spencer, the private speech language pathologist who conducted the private speech and language evaluation of the student, to participate in the IEP team meeting. With the complainants' permission, the BCPS must invite Dr. Spencer to participate in the meeting. The BCPS must provide documentation of sufficient efforts made to conduct the IEP team meeting an agreeable time and manner in order to allow participation by Dr. Linda Spencer.
 - b. The IEP team must consider all of the recommendations for services and supports contained in the reports of the private neuropsychological and speech and language evaluations. If participating in the meeting, the IEP team must also consider the input and any additional recommendations of Dr. Spencer.
 - c. The IEP team must review and revise the IEP, as appropriate.
 - d. The IEP team must determine whether the violations identified in this Letter of Findings had a negative impact on the student's ability to benefit from the education program. If the IEP team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.
2. The BCPS must provide documentation that specialized instruction in reading is being provided as required by the IEP.
3. The BCPS has followed proper procedures to respond to the complainant's request to amend the student's educational record.

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.

XXX
XXX
Ms. Rebecca Rider
December 10, 2015
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TECHNICAL ASSISTANCE:

Technical assistance is available to the parties by contacting Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE at (410) 767-7770.

Please be advised that both the complainants and the BCPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of 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 requirement as reported in this Letter of Findings.

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The parties 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 this State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

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

c: S. Dallas Dance
XXXXXXXXXX
Anita Mandis
Kenneth Hudock

Conya Bailey
Dori Wilson
Karla Marty
K. Sabrina Austin