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February 19, 2016

Ms. XXXXXXXXXXXX
P.O. Box 1178
Temple Hills, Maryland 20757

Mrs. Joan Rothgeb
Director of Special Education
Prince George's County Public Schools
John Carroll Elementary School
1400 Nalley Terrace
Landover, Maryland 20785

RE: XXXXX
Reference: #16-064

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 December 22, 2015, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, "the complainant," on behalf of the above-referenced student, and Ms. XXXXXXXX, his grandmother. In that correspondence, the complainant alleged that the Prince George's County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The PGCPS did not follow proper procedures, from December 2014 to September 2015, to fulfill its Child Find obligation to ensure that the student was evaluated and identified as a student with a disability under the IDEA, in accordance with 34 CFR §§300.8 and .111. and COMAR 13A05.02.13.
2. The PGCPS has not ensured that the Individualized Education Program (IEP) team considered the results of the Independent Educational Evaluation (IEE), in accordance with 34 CFR §§300.324 and .502.

INVESTIGATIVE PROCEDURES:

1. On December 23, 2015, the MSDE provided a copy of the State complaint, by facsimile, to Mrs. Joan Rothgeb, Director of Special Education, PGCPs; Dr. LaRhonda Owens, Supervisor of Compliance, PGCPs; Ms. Gail Viens, Deputy General Counsel, PGCPs; and Ms. Kerry Morrison, Special Education Instructional Specialist, PGCPs.
 2. On January 6, 2016, Ms. K. Sabrina Austin, Education Program Specialist, MSDE, conducted a telephone interview with the complainant to clarify the allegations to be investigated. On the same date, the complainant provided documentation for consideration.
 3. On January 8, 2016, the MSDE sent correspondence to the complainant that identified the allegations subject to this investigation. On the same date, the MSDE notified the PGCPs of the allegations and requested that the PGCPs review the alleged violations.
 4. On February 2 and 17, 2016, the complainant provided documentation to the MSDE.
 5. On February 3, 2016, Ms. Austin and Ms. Anita Mandis, Section Chief, Complaint Investigation Section, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX XXXXX to review the student's educational record, and interviewed the following school system staff:
 - a. Ms. XXXXXXXX, Child Find Specialist;
 - b. Dr. XXXXXXXX, Occupational Therapist; and
 - c. Ms. XXXXXXXX, Special Education Teacher, XXXXXXXX XXXXXXXXXXXXXXXXXXXX.
- Ms. Morrison participated in the site visit as a representative of the PGCPs and to provide information on the school system's policies and procedures, as needed. On the same date, the PGCPs provided documentation to the MSDE for consideration.
6. On February 4 and 8, 2016, the MSDE requested documentation from the PGCPs.
 7. On February 5, 2016, the PGCPs provided documentation for consideration.
 8. On February 8, 2016, Ms. Austin conducted a telephone interview with Dr. XXXXXXXX, XXXXXXXXXXXX, PGCPs.

9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. The PGCPS Department of Special Education Process Guide, dated May 2012;
 - b. The child find brochure developed by the PGCPS School Aged Child Find Office, maintained on the PGCPS website;
 - c. Correspondence from the PGCPS inviting representatives of private and religious affiliated schools to a consultation meeting scheduled for April 28, 2015, concerning child find and services for students that are parentally placed in private schools, dated March 30, 2015;
 - d. The agenda for the PGCPS Child Find Annual Consultation Meeting on April 28, 2015, and the sign in sheets of attendees at the meeting;
 - e. The materials presented at the April 28, 2015 Annual Consultation Meeting with representatives of private and religious schools;
 - f. Sample of a child find referral to the PGCPS completed by the XXXXXXXXX XXXXXXXXXXXX in May 2015;
 - g. The student's report card from the XXXXXXXXXXXXXXXXXXXXXXXX for the first, second and third quarters of the 2014 -2015 school year, and the withdrawal form, dated April 22, 2015;
 - h. Correspondence from the XXXXXXXXXXXXXXXXXXXXXXXX to the complainant noting the student's placement on academic probation, dated April 2015;
 - i. The MSDE Informational Update 11, Parentally Placed Private Students with Disabilities, dated May 2005;
 - j. Correspondence from the PGCPS Home Schooling Office acknowledging the student's admission to home schooling, dated April 23, 2015, and the student's home schooling report card for the fourth (4th) quarter of the 2014-2015 school year;
 - k. The student's application for admission to the PGCPS following home school instruction, signed by the student's grandmother on July 29, 2015;
 - l. The PGCPS Administrative Procedure No. 5113.5 on Home Schooling, dated July 1, 2011, and the PGCPS Home Schooling Notification form, undated;
 - m. The PGCPS report of the student's enrollment history;
 - n. The report of a privately obtained neuropsychological evaluation conducted by the XXXXXXXXXXXXXXXXXXXXXXXX on July 30, 2015, and August 7 and 14, 2015;
 - o. The student's Child Find Referral Form, dated September 8, 2015;
 - p. The school staff's report of an observation performed on September 8, 2015;
 - q. The PGCPS report documenting the IEP team's finding of a Specific Learning Disability, dated September 15, 2015;
 - r. Prior Written Notice, dated September 18, 2015;
 - s. Audio tape recordings of the October 14, 2015 and November 24, 2015 IEP team meetings;

- t. IEP, dated October 14, 2015, and written summary of the October 14, 2015 IEP team meeting;
- u. Notice of the IEP team meeting scheduled for November 24, 2015; Prior Written Notice of the November 24, 2015 IEP team meeting; and IEP, dated December 2, 2015;
- v. Notice and Consent for Assessment, dated November 24, 2015;
- w. Notice of the IEP team meeting scheduled for January 19, 2016, and Prior Written Notice of the January 19, 2016 IEP team meeting;
- x. The school staff's report of an occupational therapy assessment conducted on December 8 and 15, 2015, and January 7, 2016;
- y. Amended IEP, dated January 8, 2016; and
- z. Correspondence from the complainant, alleging a violation of the IDEA, received by the MSDE on December 22, 2015.

BACKGROUND:

The student is eight (8) years old and attends XXXXXXXXXXXXXXXXXXXXXXXX. He 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. At the start of the time period covered by this investigation, the student was not identified as a student with a disability (Docs. m, q, y and z).

During the period of time addressed by this investigation, the student's grandmother participated in the education-making process and was provided with written notice of the procedural safeguards (Doc. r).

ALLEGATION #1

CHILD FIND PROCEDURES

FINDINGS OF FACTS:

Child Find Activities -- Parentally Placed Private School Students

1. For the first three (3) quarters of the 2014 - 2015 school year, the student attended the XXXXXXXXXXXXXXXXXXXXXXXX, a private religious school. The student's report card reflects that he achieved progressively declining grades each quarter in language arts, math, and reading. The report card also includes comments from the student's teacher that while he uses work time efficiently, he has weak reading and writing skills, has low test and quiz scores, and does not participate in class. In April 2015, the XXXXXXXXXX XXXXXXXXXXXXXXXX placed the student on academic probation (Docs. g and h).
2. The PGCPSS has developed a Special Education Process Guide (the PGCPSS Guidelines) that address the evaluation process and services available to students with disabilities attending private and religious schools. The PGCPSS Guidelines provide that requests for evaluation and services for students attending private and religious schools are to be

made to the PGCPS Child Find for Private and Religious Schools Office (the Child Find Office), and that “the evaluation process should take place if the student is referred through the Child Find for Private and Religious Schools Office” (Doc. a).

3. The school system staff report that they conduct child find activities, with respect to students attending private and religious schools, by making information available on the PGCPS website (Interview with the school system staff).
 - The school system maintains information on its website describing its child find process for students who attend private and religious schools. Consistent with the PGCPS Guidelines, the information on the PGCPS website directs “parents seeking Child Find or Special Education Services” to contact the Child Find Office, and that once all of the documents required from the parent and the private school are received, the Child Find Office will forward the information to the neighborhood public school for further discussion and decisions (Review of the PGCPS website).
 - The PGCPS website also includes a link to a “Child Find Brochure” about the identification and evaluation of children who are parentally placed in private, religious, or home schools located within Prince George’s County. The brochure indicates that a parent must call the Child Find Office, and register the student with the office, after which the parent will be invited to a meeting to discuss the child (Doc. b and review of the PGCPS website).
4. The school system staff also report that information about child find activities, with respect to students attending private and religious schools, is also provided during annual child find consultation meetings that are held with representatives of private and religious schools. There is documentation that the PGCPS held a child find consultation meeting on April 28, 2015. The meeting sign-in sheets¹ document that individuals from private and religious schools were in attendance. The agenda reflects that the meeting included a discussion on child find (Docs. c - e, and interview with the school system staff).
5. There is documentation that, for the 2014 - 2015 school year, the Child Find Office received 101 referrals for IDEA evaluations of parentally placed students attending private schools. There is also documentation that, in May 2015, the XXXXXXXXXXX XXXXXXXXXXX made a referral to the Child Find Office (Docs. e and f).
6. The materials presented at the April 28, 2015 annual consultation meeting reflect that the Child Find Office received referrals for IDEA evaluations of parentally placed students attending private schools as follows:

¹ The sign-in sheets do not indicate that any individual parents of parentally placed private school students attended the meeting (Doc. d).

- 2014 - 2015: 101 Referrals.
- 2013 - 2014: 132 Referrals.
- 2012 - 2013: 118 Referrals (Doc. e).

Child Find Activities -- Students Receiving Home School Instruction

7. On April 23, 2015, the student's grandmother registered the student with the PGCPs for home school instruction. There is documentation that the student received home school instruction from his grandmother until July 31, 2015 (Doc. j).
8. The school system has developed a written procedure that addresses home school instruction (the Home School Procedures). The Home School Procedures require a parent to complete the Home Schooling Notification Form (HS Form) and submit it to Home Schooling Office in order to register a student. The HS Form collects limited information about the student's address, race, gender, date of birth, current grade, and the school that the student would attend. The HS Form does not inquire whether a student is struggling academically or whether the parent suspects that the student may have a disability, nor does it include information about how a parent may request evaluation if he/she suspects that the student may have a disability (Doc. l and interview with the school system staff).
9. Other than the completed HS Form, the Home School Procedures do not require any information about a student for registration in home school instruction. The school system staff in the Homeschooling Office report that no information about a student's current or prior academic performance is requested, reviewed or considered when a student is registered for home school instruction (Doc. l and interview with the school system staff).
10. The school system staff report that they conduct child find activities, with respect to students receiving home school instruction, by including information on the PGCPs website (Interview with the school system staff).
 - The PGCPs website includes a list of resources at the bottom of its Home Schooling Office webpage. Among the resources is a link to Frequently Asked Questions, which direct parents who believe a student receiving home school instruction should be evaluated for special education services to contact the PGCPs Special Education Office (Review of the PGCPs website).
 - The PGCPs website also includes the Child Find Brochure indicating that parents of students receiving home school instruction must contact the Child Find Office in order to begin the child find process (Doc. b and review of the PGCPs website).

11. The Child Find Office school system staff also report that the Homeschooling Office staff are included in the annual child find consultation meetings that are convened with representatives of private and religious schools. There is documentation that the PGCPs convened a child find consultation meeting on April 28, 2015. However, the meeting sign-in sheets do not indicate that school system staff from the Home Schooling Office were in attendance. Additionally, the sign-in sheets do not reflect that any parents of students receiving home school instruction were in attendance (Docs. c and d, and interview with the school system staff).
12. The Homeschooling Office staff report that they do not make any referrals to the Child Find Office for evaluation of students receiving home instruction. The Home Schooling Office staff report that if a parent of a home schooled student expresses concerns about a student's progress, indicates that he/she suspects that a student has a disability, or inquires specifically about evaluation of a student for special education, the parent is referred to the Child Find Office (Interview with the school system staff).
13. The Homeschooling Office staff report that they did not conduct a portfolio review² of work samples produced by the student during the time that he received home school instruction from April to July 2015 (Docs. j and k, and interview with the school system staff).
14. There is no documentation that the Child Find Office received referrals for IDEA evaluations of students receiving home school instruction during the time period covered by the investigation (Interview with the school system staff).
15. On August 25, 2015, the student's grandmother enrolled him at XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX (Docs. k and m).
16. On September 8, 2015, the student's grandmother made a referral for an IDEA evaluation. The referral form reflects that the student's grandmother had concerns about his academic performance in reading, math and writing language, as well as his difficulty with attention and organization (Doc. o).

DISCUSSION/CONCLUSIONS:

The State of Maryland must ensure that all students with disabilities residing in the State are identified, located, and evaluated (34 CFR §300.111).

² The Home School Procedures require a parent who is providing home school instruction to maintain a portfolio of materials demonstrating instruction to the student, including samples of work produced by the student. The Home School Procedures provide that there can be up to three (3) portfolio reviews conducted during a school year (Doc. l).

The “child find” requirements of the IDEA impose an affirmative obligation on the school system to identify, locate, and evaluate all students residing within its jurisdiction who have disabilities and need special education and related services, or who are suspected of having disabilities and being in need of special education and related services (34 CFR §300.111 and COMAR 13A.05.02.13). This includes students with disabilities who are enrolled by their parents in private and religious schools located within its jurisdiction. In carrying out its child find requirements, the school system must undertake activities similar to the activities undertaken for students attending public schools. This would generally include, but is not limited to, such activities as widely distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs, and other community activities (34 CFR §300.131, COMAR 13A.05.01.16., and *Analysis of Comments and Changes*, *Federal Register*, Vol. 71, No. 156, p. 46593, August 14, 2006).

Based on the Findings of Facts #1 - #4, the MSDE finds that the PGCPS has developed, and implemented, procedures to identify, locate, and evaluate parentally placed students who are attending private and religious schools with Prince George’s County. Based on the Finding of Facts #1, #5 and #6, the MSDE finds that, during the time period covered by the investigation, the PGCPS received referrals for IDEA evaluations of parentally placed private school students, including from the private school in which the student was parentally placed. Therefore, the MSDE does not find a violation with regard to this aspect of the allegation.

Based on the Findings of Facts #10, #11, and #14, the MSDE finds that there is no documentation of the implementation of the school system’s procedures to identify, locate, and evaluate students who are receiving home school instruction. Therefore, the MSDE finds that a violation occurred with respect to this aspect of the allegation.

ALLEGATION #2

**CONSIDERATION OF THE RESULTS OF THE
INDEPENDENT EDUCATIONAL EVALUATION (IEE)**

FINDINGS OF FACTS:

17. On September 15, 2015, the IEP team convened and considered information from the student’s grandmother that he does not complete his work, avoids reading, has difficulty remembering information, and has difficulty with focus, attention, and staying on task, even with the current interventions and strategies being provided of checks for understanding, prompting and read aloud. The student’s teacher also reported that he does not complete work, requires prompting to continue working, does not copy well, and needs assistance with packing needed materials in his book bag. In addition, the IEP team considered the student’s prior school history during kindergarten and first (1st) grade when he was “not being successful in the classroom without one-on-one instruction from the teacher even in a small sized classroom” (Docs. p - r).

18. At the September 15, 2015 IEP team meeting, the IEP team also reviewed the report of a neuropsychological assessment privately obtained by the student's grandmother (the IEE). The report of the IEE reflects that the private evaluator "diagnosed" the student with a Specific Learning Disability with impairment in reading, writing and math. The evaluator concluded that the student has "significant problems with attention and executive skills," consistent with a diagnosis of Attention Deficit Hyperactivity Disorder. The private evaluator also concluded that the student has weaknesses in visual spatial, visual motor, and fine motor skills, consistent with a diagnosis of Developmental Coordination Disorder (Docs. n and r).
19. The report of the IEE reflects that the private evaluator concluded that the student "will not be able to access a general education curriculum in a regular classrooms setting," and recommended that the student be placed in a small group setting³ for all academic instruction with no more than five to seven (5-7) students. The evaluator also recommended that the student receive a minimum of thirty (30) minutes per week of individual occupational therapy services due to his "substantial fine motor and visual motor weakness" (Doc. n).
20. The written summary of the September 15, 2015 IEP team meeting states that the IEP team reviewed and "accepted" the IEE (Doc. r and interview with the school system staff).
21. At the September 15, 2015 IEP team meeting, the IEP team also considered information about the student obtained during an observation conducted on September 8, 2015 by the school system's occupational therapist. The school system staff reported that the student had difficulty reading, and required prodding to continue working. In addition, the school system staff noted that while the student was able to write his name, his writing speed was slow when copying information (Doc. p).
22. The IEP team determined that the student's weaknesses in visual spatial, visual motor, and fine motor skills are related to inattention, and that he does not require an occupational therapy assessment or occupational therapy services. The written summary of the September 15, 2015 IEP team meeting documents that the student's grandmother agreed with this decision (Doc. r).
23. The written summary of the September 15, 2015 IEP team meeting reflects that the student's grandmother expressed concern about the number of students in the student's

³ The report noted that the student's grandmother removed him from public school the previous school year in order to enroll him in a smaller classroom setting in a private school, and that she subsequently began home school instruction to the student. The report reflects that the student's grandmother made these changes in school settings based on her belief that the student requires "significant" one-on-one prompting and attention due to his difficulty with focus and concentration, completing work consistently, and retaining previously learned information (Doc. n).

class and his need for assistance. The written summary of the September 15, 2015 IEP team meeting documents that the IEP team considered that the student would benefit from interventions within the general education classroom, such as prompting, prodding to complete tasks, preferential seating, teacher checks to help him with organization and understanding. The IEP team agreed to reconvene within thirty (30) days to develop a proposed IEP for the student (Doc. r).

24. Based on its review of the IEE, teacher observations, parental concerns identified in the Parental Questionnaire completed by the student's grandmother, and the student's educational history, the IEP team determined that the student is a student with a Specific Learning Disability eligible for special education instruction and services (Docs. q and r).
25. On October 14, 2015, the IEP team reconvened to develop an IEP for the student (Docs. s and t).
26. At the October 14, 2015 IEP team meeting, the student's grandmother requested occupational therapy services for the student. The school staff noted that the IEP team previously determined that the student does not require occupational therapy services at the September 2015 IEP team meeting. A review of the audio recording of the meeting documents that the student's grandmother stated that she did not "have a great understanding of the discussion" concerning occupational therapy services that occurred at the September 2015 IEP team meeting. The school staff offered to reconvene the meeting in order to address occupational therapy services at a time when an occupation therapist from the school system could attend (Docs. s and t).
27. A review of the audio recording of the October 14, 2015 IEP team meeting documents that the student's grandmother expressed concern about the student's need for a small class size, noting that the student is in a general education classroom of thirty-three (33) students. The student's grandmother read aloud the recommendation from the IEE report, which states that "in order to access his curriculum, [the student] needs a small group setting with five to seven students maximum, specifically for any academic instruction" (Doc. s).
28. The audio recording of the October 14, 2015 IEP team meeting documents that the school based members of the IEP team neither accepted nor rejected the grandmother's request for a small class size for the student for all instruction (Doc. s).
29. In response to the grandmother's concern, the school staff explained that, while receiving specialized instruction in a separate special education classroom, the student will be in a small group of four to five (4 - 5) students. The school staff also explained that the student will receive additional assistance in accessing instruction in the general

education classroom through other IEP supplementary aids and supports.⁴ The school staff agreed to monitor the student's progress in the general education classroom through his performance on the proposed IEP goals, and the school staff noted that the student's grandmother could request a meeting if she believes that the student is not making progress after the IEP is implemented (Docs. s and t).

30. The IEP team determined that the student requires five (5) hours per week of specialized instruction in the general education classroom in order to address reading, writing and math, and an additional two and a half (2 1/2) hours per week of specialized instruction in a separate special education classroom in order to address literacy and self-management skills (Docs. s and t).
31. The proposed IEP developed at the October 14, 2015 IEP team meeting reflects that the student requires small group instruction on a daily basis, as a supplementary aid, and clarifies that the student will receive small group instruction "inside or outside the classroom across [the] curriculum." While the audio recording of the meeting establishes that the IEP team did not discuss this support, the school staff report that this small group instruction will be provided to the student at such times when a teacher determines, at his/her discretion, that is appropriate to provide instruction to small groupings of students, rather than to the classroom as a whole (Docs. s and t, and interview with the school staff).
32. A review of the audio recording of the October 14, 2015 IEP team meeting establishes that the IEP team discussed extensive revisions to the draft IEP proposed by the school staff. The audio recording of the meeting also documents that the IEP team did not have sufficient time to consider all of the concerns and requests of the student's grandmother at the October 14, 2015 IEP team meeting (Doc. s).
33. On November 24, 2015, with the participation of an occupational therapist from the school system, the IEP team reconvened to discuss the grandmother's concerns and to complete the development of the IEP. At the start of the meeting, the student's grandmother stated that her concerns "have not changed," and repeated her requests that the student receive occupational therapy services and a small class size (Docs. s and u).
34. The school staff reported that the student continues to have difficulty completing tasks and classwork (Doc. s).
35. The IEP team discussed the recommendation in the IEE report that the student be provided with occupational therapy services to address his fine motor, visual spatial and visual motor weaknesses. The IEP team agreed to perform further assessment of the

⁴ The audio recording of the October 14, 2015 IEP team meeting documents that the IEP team did not discuss all of the proposed supplementary aids and supports (Doc. s).

- student's fine motor skills, using specific subtests designed to determine the impact of the student's inattention as it relates to his visual spatial, visual motor and fine motor skills. The IEP team agreed to reconvene within sixty (60) days to review the assessment results. The student's grandmother provided consent for assessment (Docs. s, u and v).
36. The IEP team discussed the grandmother's concern that the student requires a small class size for all instruction. The school based members of the IEP team concluded that the student requires specialized instruction in the general education classroom five (5) hours per week, and specialized instruction in a separate special education classroom two and a half (2 1/2) hours per week, in order to assist the student with his academics, attention and self management needs (Doc. u).
 37. A review of the audio recording of the November 24, 2015 IEP team meeting establishes that, while expressing her concern about the student's need for a small class size, the student's grandmother made specific reference to the recommendation in the IEE report for a small class size. While acknowledging that the IEE recommendations for a small class size and occupational therapy services for the student had been discussed during the October and November 2015 IEP team meetings, the grandmother's advocate expressly questioned whether the recommendations contained in the IEE would be accepted or rejected. The school system staff answered that while the IEP team has considered the recommendations and the grandmother's input based on the recommendations, the IEP team "does not accept or reject" the recommendations from that data (Docs. s and u).
 38. The proposed IEP developed at the November 24, 2015 IEP team meeting reflects that the student requires daily "small group instruction inside or outside the classroom across curriculum." The proposed IEP also reflects that the student requires supplementary supports to address his inattention, including visual cues, extended time, modified assignments, use of a timer, frequent and immediate feedback to stay on task and to complete work, use of organizational aids and manipulatives, and specific strategies to initiate and maintain attention. Additionally, the proposed IEP includes a behavioral goal in the area of self management to assist the student in completing classwork and homework (Doc. u).
 39. On January 8, 2016, the student's grandmother signed the IEP and consented to the initiation of special education and services to the student (Doc. y).
 40. On January 19, 2016, the IEP team reconvened to review the results of the occupational therapy assessment. The IEP team discussed that the student's fine motor skills do not interfere with his participation in the general education curriculum, and that he therefore does not require direct occupational therapy services. The IEP team discussed ways to decrease the student's distraction in the classroom, and agreed to provide him with preferential seating and movement breaks, on a trial basis. The IEP team agreed that the

student requires the supplementary support of consultation services by an occupational therapist to develop strategies with the school staff to address the student's on-task behavior and participation. The Prior Written Notice documents that the student's grandmother was in agreement (Docs. w and x).

41. The Prior Written Notice of the January 19, 2016 IEP team meeting indicates that the student's grandmother requested the addition of a paraprofessional to the student's classroom in order to reduce the student-teacher ratio. The school staff explained the hiring process for the position and noted that interviews were occurring "which will resolve the issue of the teacher-student ratio." The school system staff report that an individual has been hired and will be assigned to support the student's classroom. However, there is no documentation to support this information (Doc. w).
42. The student's IEP does not reflect that he will have additional adult support, and there is no documentation that the IEP team revised the student's IEP based on the determinations at the January 19, 2016 IEP team meeting (Doc. y and review of the student's educational records through the Maryland Online System).

DISCUSSION/CONCLUSIONS:

If a parent of a student with a disability obtains an Independent Educational Evaluation (IEE) at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of a FAPE to the student (34 CFR § 300.502).

In this case, the complainant alleges that the IEP team did not consider the recommendations contained in the report of the neuropsychological evaluation that the student's grandmother privately obtained (the IEE). The complainant specifically alleges that the IEP team has not considered the requests of the student's grandmother that he receive occupational therapy services and placement in a small classroom setting (Doc. z and interview with the complainant).

Based on the Findings of Facts #21, #22, #25, #26, #33, #35, and #40, the MSDE finds that the IEP team considered the recommendations in the IEE related to the provision of occupational therapy services. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

However, based on the Findings of Facts #17 - #20, #23 - #25, #27 - #34, #36 - #38, #41 and #42, the MSDE finds that, while the IEP team added small group instruction to the IEP, the IEP team did not address the recommendations in the IEE and related concerns of the student's grandmother about the need for small group instruction in all areas of instruction. Therefore, this office finds that a violation occurred.

CORRECTIVE ACTIONS/TIMELINE:

Student-Specific

The MSDE requires the PGCPS to provide documentation, by May 1, 2016, that the IEP team has convened a meeting and taken the following action:

1. Determine whether the data used to identify the student as a student with a disability existed during the time that he was receiving home school instruction from April 2015 to July 2015, and if so, the amount and nature of compensatory services or other remedy to redress the delay in identification.
2. Address the recommendation in the IEE and the related concerns of the student's grandmother for small group instruction in all areas of instruction. If the IEP team determines that the student requires small group instruction in all areas of instruction, the IEP team must determine the amount and nature of compensatory services or other remedy to redress the violation from January 2016⁵ to the date of the IEP team meeting.

The PGCPS must ensure that the student's grandmother is provided with written notice of the determinations made at the IEP team meeting, including a written explanation of the basis for the determinations.

Systemic

The MSDE requires the PGCPS to provide documentation, by May 1, 2016, of the steps it has taken to ensure that the school system staff properly implement the child find requirements for home schooled students. The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and how the school system will monitor to ensure that the violation does not recur.

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

TECHNICAL ASSISTANCE:

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

⁵ On January 8, 2016, the grandmother consented to the initiation of special education and services for the student (Doc. y).

Ms. XXXXXXXXXXXX
Mrs. Joan Rothgeb
February 19, 2016
Page 15

Please be advised that both the complainant and the PGCPS 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 PGCPS and the student's mother 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: XXXXXX
Kevin Maxwell
Shawn Joseph
Gwendolyn Mason
LaRhonda Owens
Kerry Morrison
XXXXXXXX
Anita Mandis
K. Sabrina Austin
Bonnie Preis
Nancy Birenbaum