



Nancy S. Grasmick  
State Superintendent of Schools

200 West Baltimore Street, Baltimore, MD 21201 410-767-0100 410-333-6442 TTY/TDD

January 31, 2011

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Dr. Arleen Rogan  
Executive Director of Professional Services  
Maryland Department of Juvenile Services  
One Center Plaza  
120 West Fayette Street  
Baltimore, Maryland 21201

Dr. Kim Lewis  
Executive Director, Special Education  
Baltimore City Public Schools  
200 East North Avenue, Room 407B  
Baltimore, Maryland 21202

RE: XXXXX  
Reference: #11-036

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention Services (MSDE), 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 2, 2010, MSDE received correspondence from Ms. XXXXXXXXX, the student's mother, hereafter, "the complainant," filed on behalf of the student. In that correspondence, the complainant alleged that the Baltimore City Public Schools (BCPS) and the Maryland Department of Juvenile Services (DJS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student. This office investigated the following allegations:

## **BCPS**

1. BCPS did not ensure that the Individualized Education Program (IEP) addressed the student's academic needs from December 2009<sup>1</sup> to April 2010, in accordance with 34 CFR §300.324;
2. BCPS did not ensure that the IEP addressed the student's behavioral needs or that the IEP included an appropriate transition plan from December 2009<sup>1</sup> until he began attending a DJS school during the 2010-2011 school year, in accordance with 34 CFR §§300.320 and .324; and

## **DJS**

3. DJS has not ensured that the IEP addresses the student's behavioral needs or that the IEP includes an appropriate transition plan since he began attending a DJS school during the 2010-2011 school year, in accordance with 34 CFR §§300.320 and.324.

## **INVESTIGATIVE PROCEDURES:**

1. Ms. Koliwe Moyo, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On December 3, 2010, MSDE provided the complaint, by facsimile to the following:
  - a. Dr. Kim Lewis, Executive Director of Special Education, BCPS;
  - b. Dr. Arleen Rogan, Executive Director of Professional Services, DJS
  - c. Ms. Nancy Ruley, Associate Counsel, Office of Legal Counsel, BCPS;
  - d. Mr. Steven Moyer, Deputy Secretary, DJS; and
  - e. Ms. Pamela Hardy-Cyran, Education Coordinator, DJS.
3. On December 3, 2010, Ms. Anita Mandis, Chief, Complaint Investigation Section, Complaint Investigation and Due Process, spoke with the complainant, by telephone, to clarify the allegations to be investigated.
4. On December 7, 2010, MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this investigation. MSDE also notified Dr. Lewis, Dr. Rogan, Ms. Ruley, Mr. Moyer, and Ms. Hardy-Cyran, of the allegations to be investigated and requested that their offices review the alleged violations.

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<sup>1</sup> The complaint included allegations of violations that occurred more than a year before the date it was received. The complainant was advised, in writing, on December 7, 2010, that this office may only investigate allegations of violations which occurred not more than one year prior to the receipt of the State complaint (34 CFR §300.153).

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5. On December 9, 2010, Ms. Moyo contacted Ms. Hardy-Cyran to request information and documentation from the student's education record.
6. On December 10, 2010, Ms. Hardy-Cyran provided MSDE with information about the student via electronic mail.
7. On December 17, 2010, Ms. Moyo staff contacted Ms. Ruley to request information and documentation from the student's education record.
8. On January 7, 2011, Ms. Hardy-Cyran provided MSDE with additional information from the student education record
9. On January 7, 2011, Ms. Moyo and Mrs. Martha Arthur, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXXXXXX School, to review the student's education record and interview Ms. XXXXXXXXXXXX, Dean of Student Support. Ms. Ruley attended the site visit as a representative of BCPS and to provide information on BCPS policies and procedures, as needed.
10. On January 12, 2011, Ms. Ruley provided MSDE with documentation from the student's education record. On the same day, Ms. Moyo conducted a telephone interview with Mr. XXXXXXXXXXXX, Teacher Supervisor, Baltimore City XXXXXXXXXXXXXXXXXXXXXXXX (XXXXXX). Mr. XXX provided MSDE with documentation regarding the XXXX program, via facsimile, following the telephone interview.
11. On January 19, 2011, Ms. Moyo conducted a telephone interview with the student's DJS case manager.
12. On January 20, 2011, Ms. Moyo conducted a telephone interview with the complainant.
13. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings (LOF) include:
  - a. Correspondence from the complainant to MSDE, received on December 2, 2010;
  - b. Transition Planning Inventory, dated November 26, 2008;
  - c. BCPS class progress report from August 24, 2009 to September 30, 2009;
  - d. IEP meeting notice, November 20, 2009;
  - e. IEP, dated December 2, 2009;
  - f. Spanish class progress report, dated December 2, 2009;
  - g. Biology class progress report, dated December 2, 2009;
  - h. BCPS communication log of the student's education record from December 3 to December 15, 2009;
  - i. IEP, dated December 16, 2009;
  - j. Receipt of procedural safeguards and parental rights, dated December 16, 2009;
  - k. Consent for re-evaluation, dated January 14, 2010;

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- l. BCPS communication log between school staff and the complainant, from January 2, 2009 to April 21, 2010;
- m. Pre-meeting communication log from January 6, 2010 to April 8, 2010;
- n. Education Assessment Report, dated January 15, 2010
- o. BCPS class progress report from January 23, 2010 to February 26, 2010;
- p. School psychologist progress report, dated February 1, 2010;
- q. IEP, dated February 3, 2010;
- r. Maryland student transfer form, dated March 1, 2010;
- s. DJS reports of progress from March 8, 2010 to April 19, 2010;
- t. DJS student service log from March 8, 2010 to April 30, 2010;
- u. Student admission interview, dated March 9, 2010;
- v. BCPS school psychologist progress report, dated March 16, 2010;
- w. IEP team meeting notice, dated March 22, 2010;
- x. Receipt of procedural safeguards and parental rights, dated April 9, 2010;
- y. IEP, dated April 9, 2010;
- z. Specific learning disability team report, dated April 9, 2010;
- aa. IEP team meeting notice, dated April 13, 2010;
- bb. DJS related service referral form, dated April 14, 2010;
- cc. Receipt of procedural safeguards and parental rights, dated April 19, 2010;
- dd. IEP, dated April 28, 2010;
- ee. BCPS student attendance log from August 31, 2009 to April 9, 2010;
- ff. BCPS school psychologist encounter logs from the 2009-201 school year;
- gg. BCPS class schedule for the 2009-2010 school year;
- hh. BCPS communication log between school staff and the complainant from August 30, 2010 to December 2, 2010;
- ii. DJS enrollment log, dated September 8, 2010;
- jj. DJS student service log from September 2010 to December 2010; and
- kk. DJS program description provided to MSDE on January 12, 2011.

### **BACKGROUND:**

The student is eighteen (18) years old. He is identified as a student with a specific learning disability under IDEA and receives special education and related services. During the period of time addressed in this investigation, the student has had the following educational placements:

#### **December 2, 2009 until March 1, 2010**

From December 2, 2009 until March 1, 2010, the student attended XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXX (XXXXXXXXXXXX) a Baltimore City XXXXXXXX.

March 1, 2010 to the end of the 2009-2010 School Year

From March 1, 2010 until the end of the 2009-2010 school year, the student attended DERC, a “structured community based” DJS program, for youth referred by the court. This program is designed as an alternative to detention and provides educational instruction, “character and competency development and recreation activities” for the students.

Start of the 2010-2011 School Year to September 8, 2010

At the start of the 2010-2011 school year, the student was enrolled at the XXXXXXXXXXXX, but did not attend the school.

September 8, 2010 to the Present

On September 8, 2010, the student re-enrolled at DERC and is attending school. The student also participates in CORPS (Continuum of Opportunity Reentry Program and Services) Initiative apprenticeship program, a vocational program operated by DJS that provides the student with training in the construction trade (Docs. a, d, e, i, j, k, m, q, r – u, w – z, aa – ff, hh, jj, kk, and ll).

**FINDINGS OF FACT:**

**BCPS--December 2, 2009 until April 9, 2009**

1. On December 2, 2009, the BCPS IEP team met to review the student’s program, attendance, and progress. However, the meeting summary reports and the complainant confirmed that she was not at the meeting (Doc. e and interview with the complainant).
2. The summary of the December 2, 2009 team meeting also indicates that school staff attempted to contact the complainant by telephone on the date of the meeting, but there is no documentation in the student’s education record or in the communication logs, that school staff attempted to provide the complainant with written notice of the meeting prior to December 2, 2009 (Doc. e and review of the student’s education record).
3. On December 16, 2009, the BCPS IEP team met again to discuss the student’s attendance and to conduct a re-evaluation. The meeting summary indicates that the complainant was not at this meeting; however the student’s education record contains a copy of an invitation to the complainant to attend the meeting, which includes the time, date, place and purpose of the meeting. Additionally, there is documentation that on December 16, 2009, the complainant signed procedural safeguards and received parental rights (Docs. i and j).
4. At the December 16, 2009 meeting the BCPS IEP team considered the following:
  - a. Teacher and related service provider reports indicating that the student was often absent from school. The teachers also reported that when he attended class he often left the classroom and roamed the halls because he was “bored easily.”

Additionally, the teachers reported that the student was able to read at a sixth (6<sup>th</sup>) grade level, that he was able to calculate math at a fourth (4<sup>th</sup>) grade level, and that he was able to communicate in writing at a sixth (6<sup>th</sup>) grade level. Additional reports indicated that the student was performing poorly in the areas of reading comprehension, vocabulary, writing mechanics, such as spelling and punctuation, math problem solving, and calculations. The team discussed the student's interfering behaviors, such as being disruptive during class, not completing class and home work, leaving the classroom during class, and frequent absences from school. The team determined that these behaviors were impacting the student's ability to access the general curriculum;

- b. Reports from the school psychologist that the student was difficult to locate within the school for his counseling sessions and was not making progress due to his absences; and
  - c. A review of a transition planning inventory (TPI) dated November 26, 2008, which indicated that the student hoped to receive vocational training upon completion of high school and to live with his family. Additionally, the report indicated that the student was interested in working and attending college after graduating from high school. Based on the student's answers, the report indicated that the student believed that he has "great communication skills and a high level of self-determination." It also indicated that the student would like to be a truck driver and deliver materials to construction sites (Docs. b, c, e, f, g and i).
5. At the December 16, 2009 IEP meeting, the BCPS team revised the IEP to include annual goals for the student to do the following:
- a. Improve comprehension skills by reading and analyzing a variety of both self selected and assigned literary texts to improve his ability to listen critically, read, and discuss a variety of literary forms and genres;
  - b. Improve his ability to identify, describe, extend and create numeric patterns and functions, and interpret and write a rule for a one-operation function table;
  - c. Compose texts using the prewriting and drafting strategies of effective writers and speakers; and
  - d. Improve his ability to function in the school setting and increase his learning and academic achievement which included objectives for the student to improve attendance and arrive on time, remain in his assigned area while in class, complete assignments while in class, and interact with peers and adults in a socially appropriate manner (Doc. i).
6. At the December 16, 2009 meeting, the BCPS IEP team determined that the student required the following services to assist him in achieving the annual goals:

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- a. Special education instruction in a separate special education classroom by a special educator for math and reading;
- b. Supplementary aids, services and supports such as, an adjusted workload, modified instruction, repetition of directions, preferential seating, kinesthetic exercises<sup>2</sup> included with his instruction;
- c. Counseling services provided by the school psychologist; and
- d. Consultative services between the special educator and the general educator regarding the provision of the supplementary aids and services to the student in the general education classroom.

Additionally, at the meeting the team determined that an educational assessment would be conducted (Doc. i).

7. At the December 16, 2009 BCPS IEP team meeting, the team developed a transition plan that indicates that the student is interested in becoming a truck driver upon completion of school and that he plans to receive training in commercial driving school after graduation from high school. The plan included goals in the areas of employment, training and education related to obtaining a job as a truck driver and attending school to obtain truck driving skills. Additionally, the plan included a course of study that would provide the student with instruction in construction and development and assist the student with achieving his post-secondary goals. It also included transition services such as, among other things, opportunities for job shadowing, assistance with applying for a work permit, learning to complete employment applications, and opportunities to interview a truck driver for insight on the position with support from the student's teachers, the guidance counselor and the transition coordinator (Doc. i).
8. On February 3, 2010, the BCPS IEP team, including the complainant and the student, re-convened. At the meeting, the team reviewed the educational assessment conducted on January 15, 2010 and continued the re-evaluation process. At the meeting, the team considered the following:
  - a. Reports from the student's teachers, indicating that the student was not making progress in his classes as a result of his poor class attendance, and that when he did attend he was tardy to class or left the classroom before the period was finished;
  - b. Information that the student was absent from school on forty-three (43) days and was failing most of his classes;

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<sup>2</sup> A learning style in which the student learns by participating in a physical activity rather than listening to a lecture or watching a demonstration ([www.askkids.com](http://www.askkids.com)).

- c. Report from the school psychologist indicating that while the student was provided with encouragement and positive reinforcement to motivate him to attend school, he continued to be absent and was not participating in counseling. Additionally, the report notes that the student is not making progress towards achieving his IEP goals and objectives due to chronic absenteeism;
- d. The education assessment report which indicates that in the area of reading the student has difficulty identifying double vowel words and though he is able to read simple sentences and determine whether the information is true or false, he struggles with passage comprehension. The report indicates that in math the student scored in the very low range and that while the student is able to solve simple math problems, he has difficulty with analysis, problem solving and quantitative reasoning. With regard to written language, the report indicates that the student scored in the low range and that while he is able to write complete sentences using simple words and spell simple words, he has difficulty with phonemic awareness which impacts his ability to spell words with silent letters or consonant blends. The report indicates that the student's academic skills in reading, math, and written language are all within the very low range. The report also indicates that the student would benefit from a small classroom setting, "hands-on learning," visual and audio supports to assist with understanding, use of a graphing calculator, adjusted workload, extra processing and response time and modified instructional materials during class and testing;
- e. Concerns expressed by the complainant that this is the first IEP team meeting to which she has been invited. She also expressed concerns that student is not making progress and continues not to attend school or class. She inquired about finding an alternative program for the student to attend and indicated that she is requesting that the court order the student to attend school; and
- f. Report from the student indicating that he feels that the school work is too hard for him to complete.

Additionally, after reviewing the educational assessment, the team determined that the student would benefit from a cognitive assessment to ensure that the student's program continued to be appropriate (Docs. l, m, o, p, q and ee).

- 9. At the February 3, 2010 meeting, the IEP was revised as follows:
  - a. A reading fluency goal was added for the student to improve his ability to read a variety of grade-level texts;
  - b. The objectives in the areas of math calculation and written mechanics were revised based on reports of the student's progress;



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- c. The amount of special education instruction was increased; and
- d. The amount of counseling as a related service was increased.

Additionally, the team agreed to conduct a psychological assessment at the complainant's request (Doc. q and interview with the complainant).

10. On April 9, 2010, the BCPS IEP team reconvened and reviewed the following:
  - a. The psychological assessment report which indicates that the student's overall cognitive ability is within the "borderline to low average range;"
  - b. Reports from school staff indicating that the student is performing below grade level in all academic areas. Additionally, school staff indicated that they had been attempting to conduct the psychological assessment on the student since February 2010, but that he did not make himself available for testing until March 16, 2010;
  - c. Reports from the complainant that the court referred the student to XXX because of his truancy and that he has been attending school in this program through DJS on a regular basis, since March 1, 2010. She indicated that the student is making progress in the program;
  - d. Reports from the student which indicate that he is enjoying the DJS education program and doing well in his academics at the XXXX;
  - e. Reports of the student's progress from staff at the XXXXX, the DJS program he was participating in, dated April 2, 2010, indicating that the student is making sufficient progress towards achieving all of the academic goals while attending the XXXX; and
  - f. A review of the student's attendance while at XXXXXXXXXXXX, which indicated that the student had frequent absences since the start of the school year (Docs. q – t, v, ee, and ff).
11. At the April 9, 2010 meeting, the team determined, based on the data, that the student continues to be a student with a disability under IDEA and revised the IEP, as follows:
  - a. The consultative services between the special educator and the general educator were discontinued;
  - b. Special education instruction was to be provided in a separate special education classroom in English, math, science and social studies;
  - c. The amount of special education instruction was increased; and

- d. The amount of counseling services was decreased (Docs. y and z).

### **DJS--2010-2011 School Year**

12. The IEP in effect at the start of the 2010-2011 school year was developed on April 28, 2010, at XXXX. At that meeting, the team reviewed the following:
- a. The IEP developed by BCPS on April 9, 2010, which included a review of the post-secondary goals included in the student's transition plan. The post-secondary goals indicated that the student will seek work as a truck driver and that he will complete a commercial driving course in order to become a truck driver;
  - b. Reports from the student that he feels that he is doing well in class, would like to obtain a high school diploma, and complete a commercial driving course in order to become a truck driver; and
  - c. Reports from the complainant that she and the student have started participating in family group therapy once a week. She also reported that the student is good with working with his hands and that she does not want him to return to XXXXXXXX XXXXX (Docs. s, t, u, y, bb, cc and dd).
13. At the April 28, 2010 meeting, the XXXXX IEP team revised the IEP to increase the amount of counseling services required and determined that the transition plan remained appropriate. The team also determined that the student's DJS case manager would assist in locating a vocational program for the student in which he could learn about truck driving or construction sites (Doc. dd).
14. Reports from school staff, the complainant, and the student's case manager and a review of the student's student service logs from the 2010-2011 school year indicate that the student is attending school and participating in his program, as required and that he has not displayed the same interfering behaviors related to attendance and participation since he began attending XXXX (Docs. ii, jj, and interviews with the case manager, the complainant and school staff).

### **LEGAL REQUIREMENTS:**

#### **Addressing the Student's Needs**

In order to ensure the provision of a free appropriate public education (FAPE) to a student with a disability under IDEA, the IEP must include annual goals designed to address the student's identified needs and special education instruction and related services needed to assist the student in achieving the annual goals. The public agency must ensure that each student is provided with an IEP that addresses all of the needs that arise from the student's disability. In order to identify the

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needs, the public agency must consider all functional, developmental, and academic information about a student. When determining the levels of academic achievement and functional performance, the team must consider information from evaluations conducted, concerns of the parents, and information from the student's teachers (34 CFR §§300.320 and .324).

In the case of a student whose behavior impedes his or her learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address the behavior. Additionally, the public agency must ensure that the IEP team reviews each student's IEP periodically, to determine whether the annual goals are being achieved and revise the IEP, as appropriate, to address any lack of expected progress toward achieving the goals (34 CFR §§300.320 and .324).

### **Parent Participation**

The public agency is required to take steps to ensure that the parents of a student with a disability are present or are afforded the opportunity to attend and participate in IEP team meetings, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually convenient time and place. If neither parent can attend an IEP team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls. There is no requirement that school systems contact parents prior to scheduling IEP team meetings. Rather, school systems are required to provide parents with notice of a meeting early enough so that the parents can arrange their schedules to attend (34 CFR §300.322).

To ensure parent participation, the school system must provide parents with written notice at least ten (10) days in advance of the meeting. The notice must state the purpose, time, date, and location of the meeting, and who will be in attendance. It must also state that parents may invite other individuals to attend the meeting whom they deem to have knowledge or special expertise regarding the student's needs (COMAR 13A.05.01.07).

### **Transition Plan**

Beginning not later than the first IEP that is in effect when a student turns fourteen (14) years old, or younger if appropriate, the IEP must include appropriate measurable post-secondary goals based on age-appropriate transition assessments, related to training, education, employment, and independent living, as appropriate. The IEP must also include the transition services, including course of study needed to assist the student in achieving those goals (COMAR 13A.05.01.09).

### **DISCUSSION/CONCLUSIONS:**

In this case, the complainant alleges that the IEP team has not developed an IEP that addresses the student's academic, behavioral, and transition needs. Consequently, the complainant

believes that the student has avoided school and has continued to fall behind in the general curriculum.

**Allegation #1 and #2                      BCPS--Addressing the Student's Academic Needs, Behavioral and Transition Needs**

In this case, the complainant alleges that BCPS did not develop an IEP that addressed the student's identified academic and behavioral needs. Based on Findings of Fact #1 and 2, MSDE finds that while school staff convened a meeting on December 2, 2009, and made changes to the student's IEP, they did not have the appropriate participants to develop the student's program because the complainant was not provided with an opportunity to participate. Therefore, MSDE finds that a violation occurred with regard to properly developing the student's IEP.

Based on Findings of Fact #3 – 7, MSDE finds that the IEP team met on December 16, 2009 and revised the student's IEP. Based on Findings of Fact #8 – 11, MSDE finds that the IEP team met on February 3, 2010 and April 9, 2010 with the appropriate participants to review and revise the student's program. Also based on Findings of Fact #8 – 11, MSDE finds that at both meetings, the team considered information from the complainant, the student, his teachers, recent assessments, and service providers and developed a program to address the student's academic and transition needs identified in the data.

However, based on Findings of Fact #10 and 11, MSDE finds that at the April 9, 2010, despite information that indicated that the student had continued difficulty with attending school, the behavioral goals related to attendance were removed and the amount of counseling services were decreased. Therefore, MSDE finds that the team's decisions were not consistent with the data and that a violation occurred with regard to this allegation

**Allegation #3                      DJS--Addressing the Students Behavioral, and Transition Needs**

Based on Findings of Fact #12, 13, and 14, MSDE finds that, the team considered information from the complainant, the student, the teachers and service providers and revised the student's program to address the student's identified needs. Based on Finding of Fact #14, MSDE finds that the student was not displaying his previous interfering behaviors and was attending school on a regular basis. Based on Findings of Fact #12 and 13, MSDE finds that the IEP team determined that the student's transition plan remained appropriate and provided programming based on his post-secondary goals. Therefore, MSDE does not find that a violation occurred with respect to this allegation.

### **ADDITIONAL ISSUES:**

#### **Provision of Prior Written Notice**

The public agency is required to provide parents 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 FAPE to the student. A written explanation of the basis of the determinations must be provided to the complainant (34 CFR §300.503).

Based on Finding of Fact #11, MSDE finds that the student's IEP was revised without the provision of the prior written notice of the decisions that were made. Therefore, MSDE finds that a violation has occurred.

#### **Re-evaluation Timeline**

When conducting a re-evaluation, the public agency must ensure that assessments are conducted, the results considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety (90) days of the date the team determines that assessments are required (COMAR 13A.05.01.06E).

Based on Findings of Fact #6 and 8 – 11, MSDE finds that BCPS did not ensure that the student's re-evaluation was completed within the required timelines. Therefore, MSDE finds that a violation occurred.

### **CORRECTIVE ACTIONS/TIMELINES:**

#### **Student-specific**

##### **BCPS**

MSDE requires BCPS to provide documentation by April 1, 2011, that it has ensured that an IEP team has determined the amount of and nature of *compensatory services*<sup>3</sup> or other remedy necessary to redress the violations identified in this LOF. Additionally, BCPS must coordinate with DJS to ensure the provision of these services to the student.

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

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<sup>3</sup> Compensatory services, for the purposes of this letter, mean the determination by the IEP team as to how to remediate the denial of appropriate services to the student. This does not address compensable awards under the *Vaughn G.* Consent Decree (34 CFR §300.151).

### **School-based**

MSDE requires BCPS to provide documentation by May 1, 2011, of the steps it has taken to determine if the violations identified in this investigation are unique to this case or if they represent a pattern of noncompliance at XXXXXXXXXXXX. Specifically, the school system is required to conduct a review of student records, data, or other relevant information to determine if the regulatory requirements are being implemented and must provide documentation of the results of this review to MSDE. If the school system reports compliance with the requirements, MSDE Complaint Investigation and Due Process Branch staff will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented, the school system must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the initial date that the school system determines non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the United States Department of Education, Office of Special Education Programs Memorandum #09-02.

Additionally, the findings in the LOF will be shared with MSDE's Office of Quality Assurance and Monitoring for Continuous Improvement for their consideration during monitoring of BCPS in the future.

Documentation of completion of the required actions is to be submitted to this office to:  
Attention: Chief, Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE.

### **TECHINCAL ASSISTANCE**

Technical assistance is available to the parties through Mrs. Martha J. Arthur, Education Program Specialist, MSDE. Mrs. Arthur may be contacted at (410) 767-0255.

Please be advised that the parties have the right to submit additional written documentation to this office within fifteen (15) days of the date of this LOF if they disagree with the findings of fact or conclusions. The additional written documentation must not have been provided or otherwise been available to this office during the complaint investigation and must be related to the issues identified and addressed in the LOF. Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, amend its findings and conclusions, set forth additional findings and conclusions, or enter new findings and conclusions.

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Questions regarding the findings of fact, conclusions and corrective actions contained in this LOF should be addressed to this office in writing. The student's parents and the school systems maintain the right to request mediation or to file a due process complaint if they disagree with the identification, evaluation, placement, or provision of FAPE for the student, including issues subject to a State complaint investigation, in accordance with IDEA. The MSDE recommends that this LOF be included with any request for mediation or the filing of a due process complaint.

Sincerely,

Carol Ann Heath, Ed.D.  
Assistant State Superintendent  
Division of Special Education/  
Early Intervention Services

CAH/km

c: Andrés Alonso  
Nancy Ruley  
Pam Hardy-Cyran  
XXXXXX  
Erin Leff  
Martha Arthur  
Koliwe Moyo