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State Superintendent of Schools

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September 17, 2012

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Mrs. Chrisandra A. Richardson, Associate Superintendent  
Department of Special Education and Student Services  
Montgomery County Public Schools  
850 Hungerford Drive, Room 220  
Rockville, Maryland 20850

Ms. Gwendolyn J. Mason, Director  
Department of Special Education Services  
Montgomery County Public Schools  
850 Hungerford Drive, Room 225  
Rockville, Maryland 20850

RE: XXXXX  
Reference: #13-004

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 July 27, 2012, the MSDE received a complaint from Ms. XXXXXXXXX, hereafter, “the complainant,” on behalf of her son. In that correspondence, the complainant alleged that the Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student. The MSDE investigated the following allegations:

1. The MCPS did not ensure that the student was provided with the special education instruction, related services, accommodations, and supplementary aids and services required by his Individualized Education Program (IEP) during the 2011-2012 school year, in accordance with 34 CFR §300.101;

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2. The MCPS did not follow proper procedures when responding to the complainant's requests to amend written summaries of IEP team meetings held in December 2011<sup>1</sup> and June 2012 that are maintained in the student's educational record, in accordance with 34 CFR §§300.618-.621; and
3. The MCPS did not follow proper procedures when determining the student's educational placement for the 2012-2013 school year at the June 4, 2012 IEP team meeting,<sup>2</sup> in accordance with 34 CFR §§300.114-.116 and .321.

### **INVESTIGATIVE PROCEDURES:**

1. On June 18, 2012, the MSDE received correspondence from the complainant, alleging violations of the IDEA, but which did not include a proposed remedy.
2. On July 26, 2012, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, Complaint Investigation and Due Process Branch, MSDE, conducted a telephone interview with the complainant and informed her of the requirement under the IDEA that a State complaint include a proposed remedy.
3. On July 27, 2012, the MSDE received the proposed remedy from the complainant, via electronic mail (e-mail).
4. On that same date, the MSDE sent a copy of the completed complaint, via facsimile, to Ms. Gwendolyn J. Mason, Director, Department of Special Education Services, MCPS; and Ms. Julie Hall Director, Division of Business, Fiscal, and Information Systems, MCPS.
5. On August 3, 2012, the MSDE sent correspondence to the complainant that acknowledged receipt of the completed complaint and identified the allegations subject to this investigation. On the same date, the MSDE notified Ms. Mason of the allegations and requested that her office review the alleged violations.
6. On August 13, 2012, the MSDE requested that the MCPS provide documentation from the student's educational record.

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<sup>1</sup> The complainant was informed, in writing, on August 3, 2012, that because an Administrative Law Judge (ALJ) has ruled, in a due process hearing decision issued on June 1, 2012, that the December 22, 2011 IEP team meeting summary is accurate, this office is bound by that decision. However, this office may investigate whether the MCPS followed proper procedures when responding to the complainant's request to amend the meeting summary since the ALJ did not rule on that issue (34 CFR §300.152).

<sup>2</sup> The complainant was informed, in writing on August 3, 2012, that the ALJ has issued a decision regarding the educational placement determination in effect prior to June 4, 2012, and this office is bound by that determination. (34 CFR §300.152). Therefore, this office may investigate only the procedures followed by the MCPS in making the subsequent placement determination on June 4, 2012, considering information that was not before the ALJ during the due process hearing.

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7. On August 30, 2012, Ms. Stump, Ms. Mandis, and Mrs. Martha J. Arthur, Education Program Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX and interviewed the following school staff:

- a. Ms. XXXXXXXXXXX, Speech-Language Pathologist;
- b. Ms. XXXXXXXXXXX, Special Education Resource Teacher;
- c. Ms. XXXXXXXXXXX, School Psychologist; and
- d. Ms. XXXXXXXXXXX, Principal.

Ms. Sharon Gooding, Supervisor, Equity Assurance and Compliance Unit, MCPS, and Ms. Patricia Grundy, Paralegal, Equity Assurance and Compliance Unit, MCPS, attended the site visit as representatives of the MCPS and to provide information on the MCPS policies and procedures, as needed.

8. On that same date, the MCPS provided the MSDE with the requested documentation and a written response to the complaint.

9. On August 31, 2012 the MCPS provided the MSDE with additional documentation related to the allegations, via e-mail.

10. On September 4, 2012, Ms. Stump and Ms. Mandis conducted a telephone interview with Ms. Gooding and Ms. Grundy.

11. On September 6 and 7, 2012, Ms. Stump reviewed an audio recording of the June 4, 2012 IEP team meeting. The recording was provided by the complainant.

12. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:

- a. Correspondence and attachments from the complainant to MSDE, received on July 18 and 27, 2012;
- b. Behavioral Intervention Plan, dated November 10, 2010;
- c. IEP and meeting summary, dated June 9, 2011;
- d. XXXXXXXXXXX staff in-service schedule for the week of August 22, 2011;
- e. *IEP-At-A-Glance* forms for the 2011-2012 school year;
- f. Behavioral Intervention Plan, dated November 23, 2011;
- g. IEP and meeting summary, dated December 22, 2011;
- h. E-mail correspondence between the student's parents and XXXXXXXXXXX staff, dated between December 26, 2011 and January 3, 2012;
- i. Due Process hearing decision, dated June 1, 2012;
- j. IEP and meeting summary, dated June 4, 2012;
- k. E-mail correspondence between the student's parents and XXXXXXXXXXX staff, dated between June 18, 2012 and August 6, 2012;
- l. Student's report card for the 2011-2012 school year;
- m. Student's behavior charts for the 2011-2012 school year;

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- n. IEP progress reports for the 2011-2012 school year;
- o. XXXXXXXX *Access to Record* form for the 2011-2012 school year;
- p. XXXXXXXX *MSA Accommodations Plan* for the 2011-2012 school year;
- q. Speech-Language Pathologist's service provider log for the 2011-2012 school year;
- r. Special Education Resource Teacher's service provider log for the 2011-2012 school year;
- s. Guidance Counselor's notes for the 2011-2012 school year;
- t. E-mail correspondence between the student's parents and XXXXXXXXXX staff, dated throughout the 2011-2012 school year;
- u. MCPS *Home Schooling Notification* form, dated August 12, 2012; and
- v. MCPS *Student Records Regulation*, undated.

**BACKGROUND:**

The student is ten (10) years old, is identified as a student with autism under the IDEA, and has an IEP that requires that he be provided with special education and related services. During the 2011-2012 school year, the student attended XXXXXXXXXXXXXXXXXXXX (XXXXXXXXXX).

As a result of a change in educational placement made by the IEP team, the student was scheduled to begin attending XXXXXXXXXXXXXXXXXXXX (XXXXXXXXXX) for the 2012-2013 school year. However, the complainant provided notice to the MCPS on August 12, 2012 that she intends to provide Home School Instruction to the student for the 2012-2013 school year.

During the period of time addressed by this investigation, the complainant and the student's father participated in the education decision-making process and were provided with written notice of the procedural safeguards (Docs. a, c, g, j, and u).

**ALLEGATION #1: IEP IMPLEMENTATION DURING THE 2011-2012 SCHOOL YEAR**

**Findings of Facts:**

**Access to the IEP**

1. There is documentation that the student's teachers and service providers were provided with copies of the student's *IEP-At-A-Glance* forms.<sup>3</sup> There is also documentation that the student's teachers and service providers reviewed his educational record in August 2011 (Docs. d, e, and o).

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<sup>3</sup> The *IEP-At-A-Glance* forms are summaries of the goals and special education services, including accommodations required by the IEP (Doc. e).

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### **Special Education Instruction**

2. The IEP in effect during the 2011-2012 school year required that the student be provided with four (4) thirty (30) minute sessions per week of special education instruction by a special education teacher in a separate special education classroom (Doc. c).
3. The special education resource teacher's service provider log for the 2011-2012 school year and e-mail correspondence between the student's parents and XXXXXXXXX staff document that the student was provided with special education instruction by a special education teacher. However, school staff report that this instruction was provided inside the student's general education classroom (Docs. r, t, and interview with school staff).

### **Related Services**

4. The IEP in effect during the 2011-2012 school year required that the student be provided with three (3) thirty (30) minute sessions per week of speech-language therapy in a separate special education classroom (Doc. c).
5. The speech-language pathologist's service provider log documents that the student was provided with speech-language therapy, in a separate special education classroom, with the following exceptions:
  - a. No services were provided during the week of August 29 – September 2, 2011;
  - b. Only two (2) thirty-minute sessions were provided during the week of September 5 – 9, 2011;
  - c. Only two (2) thirty-minute sessions were provided during the week of September 26 – 30, 2011, due to school closure;
  - d. Only two (2) thirty-minute sessions were provided during the week of October 24 – 28, 2011;
  - e. Only two (2) thirty-minute sessions were provided during the week of December 19 – 23, 2011;
  - f. No services were provided during the week of February 20 – 24, 2012 due to student absence;
  - g. Only two (2) thirty-minute sessions were provided during the week of March 12 – 16, 2012 due to service provider absence;
  - h. Only one (1) thirty-minute session was provided during the week of April 9 – 13, 2012 due to service provider absence;

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- i. Only two (2) thirty-minute sessions were provided during the week of April 23 – 27, 2012 due to student absence;
- j. Only one (1) thirty-minute session was provided during the week of May 7 – 11, 2012 due to service provider absence;
- k. Only one (1) thirty-minute session was provided during the week of May 28, 2012 – June 1, 2012 due to service provider absence on one day and a school-wide assembly on the other day that service was scheduled to occur; and
- l. No services were provided during the week of June 4 – 8, 2012 (Doc. q).

### **Accommodations**

6. The IEP in effect during the 2011-2012 school year required that the student be provided with instructional and testing accommodations, including the use of a scribe, monitoring of test responses, the use of graphic organizers, provision of extended time, and reduced distractions to other students (Doc. c).
7. The annual IEP goals and objectives related to written language incorporate the use of organizational aids, including graphic organizers (Doc. c).
8. The following document that the accommodations were provided to the student or that the supports were offered but refused by the student during the 2011-2012 school year:
  - a. The IEP progress reports regarding the annual goals related to written language;
  - b. The XXXXXXXXXXXX *MSA Accommodations Plan* for the 2011-2012 school year;
  - c. The special education resource teacher's service provider log for the 2011-2012 school year;
  - d. E-mail correspondence between the student's parents and school staff during the 2011-2012 school year;
  - e. IEP team meeting summary from the June 4, 2012 IEP team meeting; and
  - f. Comments on the student's report card for the 2011-2012 school year (Docs. j, l, n, p, r, and t).

### **Supplementary Aids and Services**

9. The IEP in effect during the 2011-2012 school year required that the student be provided with supplementary aids and services, including notification prior to asking questions during whole class discussion, additional wait time for oral responses, use of

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organizational aids, modification of written output, use of a word bank to reinforce vocabulary and when extended writing is required, use of verbal and visual cueing, previewing/brainstorming ideas prior to writing assignments, and use of dictation or a word processor (Doc. c).

10. The annual goals and objectives incorporate the use of verbal and visual prompts, previewing of tasks, visual models, and organizational aids (Doc. c).
11. The following document that the student was provided with the supplementary aids and services or that the supports were offered but refused by the student during the 2011-2012 school year:
  - a. The IEP progress reports;
  - b. IEP team meeting summary from the December 22, 2011 IEP team meeting;
  - c. IEP team meeting summary from the June 4, 2012 IEP team meeting;
  - d. The speech-language pathologist's service provider log for the 2011-2012 school year;
  - e. The special education resource teacher's service provider log for the 2011-2012 school year;
  - f. E-mail correspondence between the student's parents and school staff during the 2011-2012 school year; and
  - g. Comments on the student's report card for the 2011-2012 school year (Docs. g, j, l, n, q, r, and t).

### **Behavioral Supports**

12. The IEP in effect during the 2011-2012 school year required that the student be provided with behavioral supports, including frequent reminders, allowing the student to finish incomplete work at home, monitoring task completion with a behavior contract, earning rewards for completed work, sitting next to the teacher to initiate a task, and sitting at a desk away from distractions (Docs. b, c, and f).
13. The annual goals and objectives related to behavior require that the student demonstrate specific behavior with the use of frequent reminders and monitoring of task completion (Doc. c).

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14. The following document that the student was provided with the behavioral supports or that the supports were offered but refused by the student during the 2011-2012 school year:
  - a. The student's behavior charts for the 2011-2012 school year;
  - b. The IEP progress reports;
  - c. IEP team meeting summary from the December 22, 2011 IEP team meeting;
  - d. IEP team meeting summary from the June 4, 2012 IEP team meeting;
  - e. The speech-language pathologist's service provider log for the 2011-2012 school year;
  - f. The special education resource teacher's service provider log for the 2011-2012 school year;
  - g. The guidance counselor's notes from the 2011-2012 school year;
  - h. E-mail correspondence between the student's parents and school staff during the 2011-2012 school year; and
  - i. Comments on the student's report card for the 2011-2012 school year (Docs. g, j, l, m, n, q, r, s, and t).

### **Discussion/Conclusions:**

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). In order to ensure the provision of the services, each public agency must ensure that the student's IEP is accessible to each general education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation and that each teacher and provider is informed of his or her specific responsibilities related to implementing the student's IEP and of the accommodations, modifications, and supports that must be provided to the student in accordance with the IEP (34 CFR §300.323).

### **Access to the IEP**

In this case, the complainant alleges that the student's teachers appeared to be unaware of his IEP (Doc. a and interview with the complainant). Based on the Finding of Fact #1, the MSDE finds that the student's teachers and service providers were provided with access to the student's IEP and were informed of the specific responsibilities related to implementing the IEP and of the accommodations, modifications, and supports that must be provided to the student. Therefore, the MSDE finds no violation regarding this aspect of the allegation.



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### **Special Education Instruction**

Based on the Findings of Facts #2 and #3, the MSDE finds that the student was provided with the special education instruction required by the IEP during the 2011-2012 school year, but that the instruction was not provided in the educational placement required by the IEP. Therefore, the MSDE finds a violation regarding this aspect of the allegation.

### **Related Services**

Based on the Findings of Facts #4 and #5, the MSDE finds that the student was provided with the speech-language therapy in the educational placement required by the IEP during the 2011-2012 school year, but was not provided with the amount of speech-language therapy services required by the IEP. Therefore, the MSDE finds a violation regarding this aspect of the allegation.

### **Accommodations, Supplementary Aids and Services, and Behavioral Supports**

Based on the Findings of Facts #6-#14, the MSDE finds that there is documentation that the accommodations, supplementary aids and services, and behavioral supports required by the IEP were made available to the student and that he was provided with the services that he was willing to accept during the 2011-2012 school year.<sup>4</sup> Therefore, the MSDE finds no violation regarding this aspect of the allegation.

### **ALLEGATION #2:**

### **RESPONDING TO REQUESTS TO AMEND THE IEP TEAM MEETING SUMMARIES FROM DECEMBER 2011 AND JUNE 2012**

### **Findings of Facts:**

#### **December 2011 request**

15. On December 26, 2011, the student's father sent a request, in writing to school staff, that the IEP team meeting summary from the December 22, 2011 meeting be "corrected" because he believed that the summary was inaccurate (Doc. h).
16. On January 3, 2012, school staff responded, in writing, to the student's father indicating that the summary would not be "corrected" because school staff believed that it accurately reflects decisions made at the meeting. School staff informed the student's father that he could place any notes that he had taken at the meeting in the student's educational record (Doc. h).

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<sup>4</sup> Because the ALJ issued a hearing decision finding that the IEP was appropriate, the MSDE is bound by that decision and may not address whether the IEP team should have considered the student's refusal to accept services during this period of time (Doc. i).

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17. There is no documentation that school staff informed either the complainant or the student's father of their right to request a hearing before school system personnel to challenge the information contained in the educational record (Doc. h and interview with school staff).
18. The MCPS *Student Records Regulation* states that parents have the right to request an amendment of educational records, but does not indicate how to request a hearing to dispute the contents of the record. Further, the *Student Records Regulation* does not explain that parents have the right to place a statement in the student's educational record commenting on the information that they believe is inaccurate or misleading if the public agency decides, as a result of the hearing, that the educational record is accurate. Additionally, the *Student Records Regulation* is not provided to parents upon a request for amendment of the educational record (Doc. v).
19. On June 1, 2012, an Administrative Law Judge (ALJ) ruled, in the due process hearing decision, that the December 22, 2011 IEP team meeting summary is accurate (Doc. i).

#### **June 2012 request**

20. On June 18, 2012, the complainant sent a request, in writing, to school staff that language contained in the MCPS *Prior Written Notice* form that was generated following the June 4, 2012 IEP team meeting be "corrected" (Doc. k).
21. Some, but not all, of the requested corrections were made to the language contained in the *Prior Written Notice* form. The complainant was permitted to attach an "addendum" to the student's IEP reflecting the information she wished to include in the educational record (Doc. k).
22. There is no documentation that school staff informed either the complainant or the student's father of their right to request a hearing before school system personnel to challenge the information contained in the MCPS *Prior Written Notice* form (Doc. k and interview with school staff).

#### **Discussion/Conclusions:**

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).

The United States Department of Education, Office of Special Education Programs (OSEP) has clarified that the duty to inform parents of their right to a hearing before school system personnel is an affirmative one that must be done each time the public agency refuses to amend the educational

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record (*Analysis of Comments and Changes to IDEA*, Federal Register, Vol. 71, No. 156, p. 46735, August 14, 2006).

If the public agency decides that the information is inaccurate or misleading, it must amend the information and inform the parent in writing. If the public agency decides that the information is not inaccurate or misleading, it must inform the parent of the right to place a statement in the educational record commenting on the information or setting forth any reasons for disagreeing with the decision of the public agency (34 CFR §300.620).

### **December 2011 request**

Based on the Findings of Facts #15-#18, the MSDE finds that the MCPS did not follow proper procedures when responding to the request of the student's father to amend the meeting summary from the December 22, 2011 IEP team meeting. Therefore, the MSDE finds a violation regarding this aspect of the allegation.

Notwithstanding this violation, based on the Finding of Fact #19, the MSDE finds that the ALJ subsequently ruled that the meeting summary is accurate. Therefore, no student-specific corrective action is required to redress the violation.

### **June 2012 request**

Based on the Findings of Facts #20-#22, the MSDE finds that school staff did not agree to all of the amendments to the June 4, 2012 MCPS *Prior Written Notice* form that were requested by the complainant and did not inform the complainant of her right to a hearing to challenge the information that it refused to amend. Therefore, the MSDE finds a violation regarding this aspect of the allegation.

### **ALLEGATION #3: EDUCATIONAL PLACEMENT DETERMINATION AT THE JUNE 4, 2012 IEP TEAM MEETING**

#### **Findings of Facts:**

23. The documentation from the June 4, 2012 IEP team meeting indicates that the team considered reports from the student's teachers regarding his progress in the general education curriculum, indicating that he made satisfactory progress. The documentation also indicates that the team considered information from school staff that while the student was making some progress, he was not making sufficient progress to achieve the annual goals related to completing assignments and demonstrating appropriate behaviors within the school environment. Based on reports of the student's progress the team revised the annual IEP goals (Doc. j and review of audio recording).
24. The team considered whether the IEP can be implemented in the general education classroom and determined that the Least Restrictive Environment (LRE) in which the IEP can be implemented is a general education classroom and a separate special education

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classroom. The team also decided that the student requires “a small, structured setting with specialized instruction for part of his day to address social skills, behavior, written language, and oral language needs” (Doc. j and review of audio recording).

25. The team determined that the IEP cannot be implemented in the school the student would attend if not disabled due to the student’s need for additional supports to address his social skills needs. The team decided that the closest school to the student’s home where such supports can be provided is XXXXXXXX. The complainant and the student’s father disagreed with this determination because they believed that the student’s IEP could be implemented at XXXXXXXX, his home school, with additional supports. A review of the audio recording documents that the complainant and the student’s father requested that specific additional supports be provided at XXXXXXXX. The audio recording reflects that the team considered the requested additional supports and, based on information provided by school staff, decided that the IEP cannot be implemented at XXXXXXXX even with the provision of those additional supports (Doc. j and review of audio recording).
26. A review of the audio recording of the meeting reflects that the team considered the concern of the complainant and the student’s father that a transition to a new school would negatively impact the progress made by the student, who had developed friendships with peers at XXXXXXXXXXXX. The audio recording reflects that based on school staff reports that the student would make new friends and be able to maintain his current friendships, the team decided that the change in placement is appropriate despite the potential negative impact on the student. However, the audio recording does not reflect that the complainant raised any concerns about the potential harmful impact of the student having to attend different schools three (3) years in a row as a result of the change in educational placement (Doc. j and review of audio recording).

### **Discussion/Conclusions:**

In determining the educational placement of a student with a disability, the public agency must ensure that the placement decision is made in conformity with the LRE provisions and that the educational placement is as close as possible to the student’s home (34 CFR § 300.116 and COMAR 13A.05.01.10(C)(1)).

The IDEA requires that the public agency ensure that, to the maximum extent appropriate, students with disabilities are educated with students who are not disabled. Further, the IDEA requires that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved (34 CFR §§300.114 - .116).

Unless the IEP of a student requires some other arrangement, the student must be educated in the school that the student would attend if not disabled. In selecting the LRE, the public agency

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must consider any potential harmful effect on the student or on the quality of services that the student needs (34 CFR § 300.116 and COMAR 13A.05.01.10(C)(1)).

Based on the Findings of Facts #23-#26, the MSDE finds that the IEP team considered whether the IEP can be implemented in less restrictive environments with the provision of supplementary aids and services and determined that the LRE in which it can be implemented is both separate special education and general education classes due to the student's need for supports to address his social skills needs. The team determined the school closest to the student's home where those supports could be provided and considered the potential harmful impact of the educational placement decisions. Therefore, the MSDE finds no violation regarding this allegation.

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

#### **Student-Specific**

The MSDE requires the MCPS to provide documentation by October 15, 2012, that the complainant and the student's father have been provided with information on how and to whom a request for a hearing to challenge the contents of the June 4, 2012 Prior Written Notice form can be made.

Additionally, the MSDE requires the MCPS to provide documentation by November 30, 2012, that an IEP team has convened and determined whether the student's ability to receive educational benefit from his program was adversely impacted as result of receiving special education instruction in the general education classroom rather than in a separate special education classroom, as required by the IEP, during the 2011-2012 school year. If the team determines an adverse impact, then the team needs to determine the nature and amount of *compensatory services*<sup>5</sup> or other remedy necessary to redress the violation.

Further, at the meeting, the MSDE requires the MCPS to determine the nature and amount of *compensatory services*<sup>5</sup> or other remedy necessary to redress the loss of speech-language therapy services during the 2011-2012 school year.

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

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<sup>5</sup> Compensatory services, for the purposes of this letter, mean the determination by the IEP team as to how to remediate the denial of appropriate services to the student (34 CFR §300.151).

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### **School-Based**

The MSDE requires the MCPS to provide documentation by January 15, 2013, of the steps it has taken to determine if the violations related to IEP implementation 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 the MSDE. If the school system reports compliance with the requirements, the MSDE staff will verify compliance with the determinations found in the initial report.

If the school system determines that the regulatory requirements are not being implemented, the school system must identify the actions that will be taken to ensure that the violations do not recur. The school system must submit a follow-up report to document correction within ninety (90) days of the initial date that the school system determines non-compliance.

Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements, consistent with the requirements of the OSEP. Additionally, the findings in the Letter of Findings will be shared with the MSDE's Office of Quality Assurance and Monitoring for Continuous Improvement for its consideration during present or future monitoring of the MCPS.

### **Systemic**

The MSDE requires the MCPS to provide documentation by January 15, 2013, that its policies and procedures related to requests to amend educational records are consistent with the requirements of the IDEA and the COMAR. Additionally, the MSDE requires the MCPS to provide documentation of the steps taken to ensure that school staff implement the revised policies and procedures.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Complaint Investigation/Due Process Branch, Division of Special Education/Early Intervention Services, MSDE.

### **TECHNICAL ASSISTANCE:**

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

Please be advised that the complainant and the school system 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

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available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

If additional information is provided, it will be reviewed and the MSDE will determine if a reconsideration of the Conclusions is necessary. Upon consideration of this additional documentation, this office may leave its Findings and Conclusions intact, set forth additional Findings and Conclusions, or enter new Findings and Conclusions. Pending the decision on a request for reconsideration, the school system must implement any Corrective Actions consistent with the timeline requirements as reported in this Letter of Findings.

Questions regarding the Findings, Conclusions and Corrective Actions contained in this letter should be addressed to this office in writing. The complainant and the school system maintain the right to request mediation or to file a due process complaint, if they disagree with the identification, evaluation, placement, or provision of a Free Appropriate Public Education (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 due process.

Sincerely,

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

MEF:ks

cc : Joshua P. Starr  
Julie Hall  
Sharon Gooding  
XXXXXXXXXXXXXXXXXX  
Martha J. Arthur  
Dori Wilson  
Anita Mandis  
Kathy Stump