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State Superintendent of Schools

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June 19, 2006

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Mr. Charles Baugh
Program Director
Baltimore City Infants and Toddlers Program
10 West Eager Street, 2nd Floor
Baltimore, Maryland 21201

Ms. Carol Rabin
Director of Special Education
Baltimore City Public School System
200 East North Avenue, Room 204
Baltimore, Maryland 21202

RE: XXXXX
Reference: #06-124 (Parts C and B)

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention Services (MSDE), has completed the investigation of the complaint regarding early intervention and special education services for the above-referenced child. This correspondence is the report of the final results of our investigation.

ALLEGATIONS:

On May 4, 2006, MSDE received correspondence from Mr. and Mrs. XXXXXXXXXX, hereafter the “complainants,” alleging that the Baltimore City Infants and Toddlers Program (BCITP) and the Baltimore City Public School System (BCPSS) violated certain provisions of Parts C and B of the Individuals with Disabilities Education Act (IDEA) and the corresponding federal and State regulations. This office investigated the following allegations:

1. The BCITP did not ensure that a comprehensive, multidisciplinary evaluation of the functioning of the child and a family-directed identification of the needs of the family were conducted, in accordance with 20 U.S.C. §1435(a)(3);
2. The BCITP did not ensure that an Individualized Family Service Plan (IFSP) was developed that contained a statement of the child’s present levels of development, the family’s resources, priorities, and concerns, and the early intervention services necessary to meet the unique needs of the child and the family, in accordance with 20 U.S.C. §1436(d);

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3. The BCPSS did not ensure that an Individualized Education Program (IEP) was in place by the child's third (3rd) birthday, in accordance with 20 U.S.C. §1412, COMAR 13A.05.01.08(A)(2), and Maryland's Statewide Policies and Procedures for Transition from Part C to Part B and Other Community-Based Services, October 2004;
4. The BCPSS has not ensured that the IEP addresses the child's identified needs since the 2005-2006 school year, in accordance with 20 U.S.C. §§1412(a)(1),(4), 1414(d)(3), and 34 CFR §300.300;
5. The BCPSS did not ensure that proper procedures were followed when determining the child's educational placement during the 2005-2006 school year, in accordance with 20 U.S.C. §1414(e) and 34 CFR §§300.550 – .552; and
6. The BCPSS did not ensure that proper procedures were followed when determining the child's need for extended school year (ESY) services during the 2005-2006 school year, in accordance with 34 CFR §300.309 and COMAR 13A.05.01.08B(2).

INVESTIGATIVE PROCEDURES:

1. Ms. Anita Mandis, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On May 5, 2006, Mr. Edward L. Wulkan, Chief, Complaint Investigation and Due Process Branch, MSDE, contacted the child's mother and clarified the allegations to be investigated. On the same date, MSDE sent copies of the complainants' correspondence, via facsimile, to Mr. Charles Baugh, Program Director, BCITP; Ms. Carol Rabin, Director of Special Education, BCPSS; Ms. Nancy Ruley, Associate Counsel, Office of Legal Counsel, BCPSS; and Ms. Maryanne Ralls, Director of Student Services, BCPSS.
3. On May 7, 2006, Ms. Mandis conducted a telephone interview with the child's mother regarding the allegations in the complaint.
4. On May 8, 2006, Ms. Mandis conducted a telephone interview with Mr. Baugh regarding the allegations in the complaint.
5. On May 10, 2006, MSDE sent correspondence to the complainants that acknowledged receipt of the complaint and identified the allegations subject to this investigation. On that same date, MSDE notified Mr. Baugh and Ms. Rabin of the allegations to be investigated and requested that their offices review the alleged violations.
6. On May 12, 2006, BCITP provided MSDE with copies of documents from the early intervention record.

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7. On June 8, 2006, Ms. Mandis and Ms. Martha Roulette, Education Program Specialist, MSDE, conducted a site visit at the BCPSS Preschool Program located at XXXXX Middle School, and interviewed the following school system staff:

- a. Ms. XXXXXXXXX, Special Education Teacher;
- b. Mr. XXXXXXXX, Speech/Language Pathologist; and
- c. Dr. XXXXXXXXX, Special Education Teacher.

Mr. Ron Grove, attorney, BCPSS, also attended the site visit as a representative of the BCPSS and to provide information on BCPSS policies and procedures, as needed.

8. Documentation provided by the parties was reviewed. The documents relevant to the findings and conclusions referenced in this Letter of Findings (LOF) include:

- a. XXXXXX Infants and Toddlers Program Child Health Form, dated November 11, 2004;
- b. Independent speech/language assessment, dated November 23, 2004;
- c. Independent occupational therapy assessment, dated December 29, 2004;
- d. XXXXXX Infants and Toddler's Program Service Coordinator's Notes, dated January 14, 2005 to May 3, 2005;
- e. Report of an evaluation conducted by the XXXXXX Infants and Toddlers Program, dated June 8, 2005;
- f. XXXXXX IFSP, dated June 8, 2005;
- g. Discharge Report from the XXXXXX Infants and Toddlers Program, dated July 6, 2005;
- h. IFSP, dated August 9, 2005;
- i. Educational assessment report, dated August 9, 2005;
- j. Speech/language assessment report, dated August 9, 2005;
- k. Written summary of the transition planning meeting, dated August 16, 2005;
- l. School system communication log, dated September 19, 2005 through May 10, 2006;
- m. Written summary of the November 23, 2005 IEP team meeting;
- n. IEP, dated November 23, 2005;
- o. Correspondence from the complainants containing allegations of violations of IDEA, received by MSDE on May 4, 2006; and
- p. Electronic mail message from BCPSS staff to MSDE, dated June 14, 2006.

BACKGROUND:

The child is three (3) years old, was identified as a child with a speech/language impairment under IDEA on November 2, 2005, and receives speech/language services at a local XXXXXXXXXXXX XXXXXXXXXXXX (XXXX). In May 2006, the complainants informed school staff that the child has recently been demonstrating aggressive behaviors at the XXX. As a result, the IEP team met on May 31, 2006 and recommended that assessments be conducted.

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The child was determined to be eligible to receive early intervention services under Part C of IDEA in the State of XXXXXX on December 29, 2004 based on a developmental delay in the area of speech/language skills. After the complainants moved to the State of Maryland in July 2005, they referred the child to the BCITP, and on August 9, 2005, the child was determined eligible to receive early intervention services under Part C of IDEA by BCITP based on atypical development in the area of speech articulation (Docs. e, f, g, h, l, m, n, o, and interviews with school system staff).

FINDINGS OF FACT:

PART C

1. On July 14, 2005, the complainants referred the child to BCITP based on concerns about the student's vocabulary and leaving off beginning and ending sounds (Docs. d, f, g, and h).
2. On XXXXX 9, 2005, an evaluation was conducted when the child was thirty-four (34) months old using the following evaluative data:
 - a. XXXXX Infants and Toddlers Program Child Health Form, dated November 11, 2004, which lists the foods to which the child is allergic and states that the child's needs are in the area of speech;
 - b. Independent speech/language assessment obtained by the complainants, dated November 23, 2004, which states that the complainants report that when the child is not understood he gets very frustrated and "is sometimes aggressive to other children." It further indicates that, at twenty-four (24) months old, the child demonstrated receptive and expressive language skills in the eighteen (18) to twenty-one (21) month level;
 - c. Occupational therapy assessment report, dated December 29, 2004, which states that the evaluator obtained information from a "chart review" and interviews with the child's mother, who expressed concern that the child "is very inconsistent in his ability to follow one-step directions," and that he "can be aggressive towards other children." The evaluator reported that the child "demonstrated difficulty transitioning from task to task and was reported to have a "24% delay" in the area of fine motor skills;
 - d. XXXXXXXX Infants and Toddlers Program Service Coordinator's Contact Log, containing an entry, dated May 2, 2005, documenting a request by the child's mother to provide the early intervention services record to BCITP in anticipation of the family's move to Maryland in July 2006. The entry states that the child's mother reports that the child's "pronunciation has improved," but that she "still has some concern with his vocabulary and leaving off beginning and ending sounds." It also states that the "parents have noticed a decrease in [the child's] aggressive behavior and an increase in talking;"

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- e. June 8, 2005 report of an evaluation conducted by the XXXXXXXX Infants and Toddlers Program when the child was thirty-one (31) months old. It states that the child's levels of development, obtained through assessments, observations of the child, and information from the parents, are as follows:
- gross motor development skills – the child is able to climb, run, and jump, and “there are no concerns in this area;”
 - fine motor skills – the child is functioning in the thirty-three (33) to thirty-four (34) month range;
 - problem solving skills – the child is functioning in the twenty-seven (27) to thirty-three (33) month range;
 - communication skills – the child is functioning in the twenty-one (21) to twenty-four (24) month range, but is able to answer yes and no questions and understand action words at the thirty (30) to thirty-three (33) month level;
 - social-emotional/play skills – the child is “very social,” is able to independently play with toys, “enjoys doing what his peers do,” has a “short attention span,” and “there are no concerns in this area;” and
 - adaptive skills – the child can drink from an open cup, needs help with dressing, and “there are no concerns in this area.”
- f. June 8, 2005 IFSP from XXXXXXXX, which contains outcomes for the child to produce the initial sounds in words, use less jargon, make transitions from unstructured to structured activities, copy a circle in order to improve pre-writing skills, maintain attention for an increased period of time, and decrease aggressive behaviors by teaching him to use words when he is angry rather than hitting;
- g. August 9, 2005 educational assessment report, which states that, at thirty-three (33) months of age, the child demonstrated the following skill levels:
- Gross motor – thirty (30) to thirty-six (36) months;
 - Fine motor – thirty (30) months;
 - Cognition – twenty-seven (27) months with significant skill scatter to thirty-six (36) months;
 - Language – thirty (30) months;
 - Self Help – thirty-three (33) months; and
 - Social Emotional – thirty-three (33) to thirty-six (36) months.

The report states that the child's functioning in all of these areas falls “within an age appropriate range.” The report further states that the child's “speech is difficult to understand,” which “indicates that he may encounter some difficulty communicating in the classroom with teachers and peers;”

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- h. August 9, 2005 speech/language assessment report, which states that the child “demonstrated good play and interaction skills” and that he “maintained excellent attention to the tasks presented to him.” The report also states the following:

“While receptive and expressive language skills using this specific diagnostic task are commensurate with current developmental age, [the child] did demonstrate some articulation errors and language skills which are not in keeping with other developmental strides he has made” (Docs. a – j and l).
3. At the August 9, 2005 meeting, the team determined that, based on the above-referenced data, the child did not qualify for Part C services. Documentation of the meeting reflects that the child’s mother expressed disagreement with the levels of development reported by the XXXXXXXX Infants and Toddlers Program in the areas of communication and problem solving skills, expressing concern that the child was not communicating commensurate with his cognitive abilities. As a result, the BCITP agreed that the child would receive early intervention services based on atypical development in the area of speech articulation. An IFSP was developed that contains a statement that the family’s priorities are assisting the child to speak, reduce aggressive behaviors, and transition to a pre-school program. The IFSP also contains a statement of the child’s present levels of development. Based on the assessment data and the family’s priorities, an IFSP was developed, which contains a statement of the outcomes to be achieved. The IFSP indicates that the outcomes associated with development of language skills, which were addressed in XXXXXXXX, would be continued, and that the child’s growth and development would be monitored. The IFSP also contains a statement of the specific services to be provided along with the location and duration of those services, and identification of the service coordinator. The IFSP requires the child to be provided with speech/language therapy twice a month for forty-five (45) minutes per session, an audiological assessment to determine whether chronic ear infections impacted the child’s speech, and monthly service coordination services in the home in order to ensure that the outcomes are addressed. The IFSP contains the signature of the child’s mother indicating that she participated in the decision-making process, consented to the provision of services, and was provided with notice of procedural safeguards (Doc. h).
4. On August 16, 2005, BCITP convened a transition planning meeting with the family and BCPSS. The written summary of the meeting documents that the complainants indicated that they were interested in having the child evaluated for Part B eligibility and having the child participate in a preschool program (Doc. k).

PART B

5. The child turned three (3) years old on October 30, 2005. IEP team meetings were scheduled for October 5, 2005 and November 2, 2005, but were rescheduled to November 23, 2005 by agreement of the parties in order to accommodate the complainants’ schedules. At the November 23, 2005 meeting, the team considered the evaluative data, developed an IEP, and determined the educational placement. There is

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no documentation that an individual who is qualified to serve nondisabled children of the same age as the child was designated to serve as the regular education teacher on the IEP team (Docs. l - o).

6. The written summary of the November 23, 2005 meeting states that the team considered the child's need for ESY services and determined that he did not require the services. The documentation does not indicate the factors considered or the basis for the team's decision. The team reconsidered the child's need for ESY services on May 31, 2006 and determined that he requires ESY services (Doc. m and interviews with school system staff).

DISCUSSION/CONCLUSIONS:

PART C

Allegations #1 and 2 IFSP Development and Content

Under IDEA, early intervention services means services that are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child's development. These services are to be selected in collaboration with the parents and are to be provided in conformity with an IFSP that meets State standards (20 U.S.C. §1432). The local Infants and Toddlers Program must conduct a timely and comprehensive, multidisciplinary evaluation of each child and a family-directed identification of needs to appropriately assist in the development of the child (20 U.S.C. §1435). Within forty-five (45) days after it receives a referral, the public agency must complete evaluation and assessment activities and hold an IFSP meeting to develop an IFSP for a child who has been determined to be eligible for early intervention services (COMAR 13A.13.01.08A).

The IFSP must include the following content:

- (1) child's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development;
- (2) the family's resources, priorities, and concerns relating to enhancing the development of the child;
- (3) measurable results or outcomes expected to be achieved for the child and family, and the criteria, procedures, and timelines used to determine the degree of progress toward achieving the outcomes, and whether modifications or revisions of the outcomes or services are necessary;
- (4) specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the child and the family to achieve the outcomes including the frequency, intensity, and method of delivering the services;
- (5) the natural environments in which the services will be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

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- (6) projected dates for initiation of services and the anticipated length, duration, and frequency of the services;
- (7) the name of the service coordinator; and
- (8) steps to be taken to support the transition of the child to preschool services under Part B of the IDEA or other appropriate services (20 U.S.C. §1436).

Based on Findings of Fact #1 - 3, MSDE finds that an IFSP team, which included the child's mother, determined the child's status, as well as the resources, priorities, and concerns of the family, and determined the services required to meet the child's needs in the areas of cognitive, communication, social/emotional, health, motor development, and adaptive skills, in accordance with 20 U.S.C. §§1432 and 1435. Based on Finding of Fact #3, MSDE finds that the IFSP included the child's levels of development, the family's priorities and concerns, major outcomes to be achieved, the early intervention services to be provided, the location, duration, and frequency of the services to be provided in those developmental areas, the projected dates for initiation of services, and identifies the service coordinator, in accordance with 20 U.S.C. §1436. Therefore, MSDE does not find a violation with regard to these allegations.

PART B

Allegation #3 IEP in Place By the Child's Third (3rd) Birthday

The school system is required to take steps to ensure parents have the opportunity to participate in IEP team meetings, which include "[n]otifying parents of [a] meeting early enough to ensure that they will have an opportunity to attend," and "[s]cheduling the meeting at a mutually convenient place and time." 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. To ensure parent participation, the school system must provide parents with written notice at least ten (10) days in advance of the meeting (COMAR 13A.05.01.07C).

The IDEA requires that the public agency make a free appropriate public education (FAPE) available to each eligible child aged three (3) through twenty-one (21) (20 U.S.C. §1412 and 34 CFR §300.300). By the third (3rd) birthday of a child transitioning from Part C to B, an IEP must be in effect for the child (20 U.S.C. §1412 and Maryland's Statewide Policies and Procedures for Transition from Part C to Part B and Other Community-Based Services, October 2004).

In this case, MSDE finds that, based on Finding of Fact #5, the school system attempted to convene the IEP team in order to determine the child's eligibility prior to his third (3rd) birthday, but agreed to delay the meeting beyond his third (3rd) birthday in order to accommodate the complainants' schedules. Therefore, MSDE does not find that a violation occurred with respect to this allegation. The MSDE reminds the parties that an IEP team meeting is to be child-centered, and the child's best interest is to be paramount at the meeting. Therefore, it is in the best interest of the child for the complainants and school system staff to work cooperatively in the scheduling of IEP team meetings.

Allegations #4 and 5 IEP That Addresses the Child's Identified Needs and Placement Determination

State regulations state that the IEP team is responsible for: (1) identifying and evaluating a student with a disability; (2) developing, reviewing, and revising the IEP; and (3) determining the educational placement (COMAR 13A.05.01.03(31)). In accordance with IDEA, the term IEP team means a group of individuals composed of the following:

1. the parent(s) of the child;
2. not less than one (1) regular education teacher of the child if the child is or may be participating in the regular education environment;
3. not less than one (1) special education teacher, or where appropriate, not less than one (1) special education provider of the child;
4. a representative of the public agency who is qualified to provide or supervise the provision of specially designed instruction, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the public agency;
5. an individual who can interpret the instructional implications of evaluation results;
6. other individuals who have knowledge or special expertise regarding the child; and
7. the child, whenever appropriate (20 U.S.C. §1414(d)(1)(B)).

The federal regulations indicate that if the public agency does not provide regular preschool education services to nondisabled children, it could designate an individual who is qualified to serve nondisabled children of the same age to serve as the regular education teacher on the IEP team (34 CFR §300, Appendix A, p.12472).

Based on Finding of Fact #5, MSDE finds that a regular education teacher did not participate in the IEP team determinations. Thus, MSDE finds that decisions regarding development of the IEP and determination of the educational placement were made by a team that did not consist of the required participants, in accordance with 20 U.S.C. §1414(d)(1)(B) and COMAR 13A.05.01.03(31). Therefore, MSDE finds that proper procedures were not followed in developing the IEP and determining the child's educational placement.

The BCPSS acknowledges that it is their preschool office's practice to not include a regular education teacher as part of an IEP team if a child transitioning from Part C to Part B is not, or is not expected to, participate in a regular education environment. They report that because there was no information that the child would be participating in a regular education program, a regular education teacher was not included in the meeting (Doc. p).

As stated above, 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 §300.550). The role of a regular education teacher in an

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IEP team meeting is to, among other things, provide information about the supplementary aids and services, program modifications, and supports that could be provided in the general education classroom (34 CFR §300, Appendix A, Question 24, p. 12477). Thus, without the participation of a regular education teacher, particularly at a meeting to develop an initial IEP, the team cannot fully consider whether the IEP can be implemented in the general education classroom. The MSDE finds that BCPSS' practice of determining whether a child transitioning from Part C to Part B will be participating in a general education environment prior to the development of the IEP is inconsistent with the requirements of federal and State regulations that that the placement decision be based on the child's IEP and that children are placed in the least restrictive environment in which the IEP can be implemented. The BCPSS' practice is also inconsistent with the requirements that decisions regarding identification, evaluation, the provision of FAPE, and educational placement are made by the IEP team. Furthermore, based on Finding of Fact #1, MSDE finds that the school system's report that it did not have information that the child would be participating in a regular education program or that the child would receive instruction in a preschool setting is inconsistent with the written summary of the transition planning meeting, in which it is documented that the complainants wished to have the child participate in a preschool program.

Allegation #6

ESY Determination

ESY services means an individualized extension of specific services beyond the regular school year that are designed to meet specific goals included in the student's IEP. At least annually, the IEP team must determine whether the student requires the provision of ESY services in order to receive FAPE (34 CFR §300.309 and COMAR 13A.05.01.03B(23)). When determining whether ESY services are required for the provision of FAPE, the IEP team must consider specific factors and decide whether the benefits that a student received from the education program during the regular school year will be *significantly jeopardized* (emphasis added) if the student is not provided with ESY services, (*MM v. School District of Greenville Co. (S.C.)*, 303 F3d. 523, 37 IDELR 183 (4th Cir. 2002)). In making the decision, the team must consider the following factors:

- a. The likelihood of substantial regression of critical life skills and a failure to recover those skills within a reasonable time;
- b. The child's degree of progress toward mastery of the IEP goals related to critical life skills;
- c. The presence of emerging skills or breakthrough opportunities;
- d. Interfering behaviors;
- e. The nature and severity of the student's disability; and
- f. Any other special circumstances (Revised Technical Assistance Bulletin #5 – *Extended School Year Services*, MSDE, July 14, 2003).

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Based on Finding of Fact #6, MSDE finds that there is no documentation that the team considered all of the required factors when determining the student's need for ESY services at the November 23, 2005 IEP team meeting, in accordance with 34 CFR §300.309, COMAR 13A.05.01.03B(23), *MM v. School District of Greenville Co.* (S.C.), 303 F3d. 523, 37 IDELR 183 (4th Cir. 2002), and Revised Technical Assistance Bulletin #5 – *Extended School Year Services*, MSDE, July 14, 2003. In addition, as stated in the Discussion/Conclusion Section of Allegations #4 and 5 above, the IEP team did not include the required participants, specifically, an individual who is qualified to serve nondisabled children of the same age to serve as the regular education teacher on the IEP team, in accordance with 20 U.S.C. §1414(d)(1)(B). However, based on Finding of Fact #6, MSDE finds that the team subsequently determined that the child requires ESY services. Therefore, the violation did not negatively impact the child's ability to benefit from his education program.

CORRECTIVE ACTIONS/TIMELINES:

Child-Specific

The MSDE requires BCPSS to convene an IEP team that includes the required participants within twenty (20) days of the date of this LOF, unless the complainants agree to a later date, in order to review the IEP to ensure that the program addresses the child's identified needs, and to make a determination regarding the educational placement, in accordance with federal and State requirements. The team shall also determine whether the lack of proper participants in the IEP team meetings resulted in a loss of services to the child, and if so, determine the amount and nature of *compensatory services*¹ or other remedy to redress the loss. The BCPSS shall ensure that the complainants are provided with written notice of the bases for the team's decisions. If the complainants disagree with the team's decisions, they maintain the right to request mediation or a due process hearing, in accordance with IDEA 2004.

System-Based

Through a recent complaint investigation regarding another child (complaint #06-120), MSDE has required the BCPSS to take steps to ensure compliance with the requirements for participation on IEP teams by regular education teachers for children transitioning from Part C to Part B. Therefore, MSDE does not require additional corrective action regarding the violation.

Within forty-five (45) days of the date of this LOF, BCPSS shall take steps to determine if the procedural violation related to the ESY determination is unique to the child, or if it represents a pattern of non-compliance within the school system. If it is determined that such a pattern exists, BCPSS shall take steps to ensure that proper procedures are followed when determining the need

¹ 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 child]..." (34 CFR §300.660(b)(1)). This does not address compensable awards under the *Vaughn G.* Consent Decree.

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for ESY services for each child transitioning from Part C to B in accordance with 34 CFR §300.309, COMAR 13A.05.01.03B(23), *MM v. School District of Greenville Co. (S.C.)*, 303 F3d. 523, 37 IDELR 183 (4th Cir. 2002), and Revised Technical Assistance Bulletin #5 – *Extended School Year Services*, MSDE, July 14, 2003.

Within fifteen (15) days of completing each corrective action, the BCPSS shall submit documentation of completion to MSDE, including an explanation of how it will evaluate activities implemented to correct the areas of noncompliance identified in this LOF. This documentation 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 Ms. Martha Roulette, Education Program Specialist, MSDE. Ms. Roulette 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 letter if they disagree with the 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.

Questions regarding the findings of fact, conclusions, or corrective actions contained in this letter should be addressed to this office in writing. The parties maintain the right to initiate mediation or a due process hearing if they disagree with the identification, evaluation, placement, or provision of early intervention services or FAPE for the student, including issues subject to an early intervention system complaint investigation (Part C) or a State special education complaint investigation (Part B), in accordance with IDEA 2004. The MSDE recommends that this LOF be included with any request for mediation or a due process hearing.

Sincerely,

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

CAB/aam

c: Joshua M. Scharfstein	Amy Totenberg	Valerie von Behren	Linda Bluth
Bonnie S. Copeland	Nancy Ruley	Edward L. Wulkan	Thomas Stengel
Maryanne Ralls	Harry Fogle	Deborah Metzger	Martha Roulette
Bartel H. Harrison	Gail Dunlap	Kimberly Lewis	