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November 14, 2016

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Ms. Nancy Fitzgerald
Executive Director of Special Education
and Student Services
Howard County Public Schools
10910 Route 108
Ellicott City, Maryland 21042-6198

RE: XXXXX
Reference: #17-020

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 August 17, 2016, the MSDE received a complaint from Mr. XXXXXXXXXXXX and Mrs. XXXXXXXXXXX, hereafter, “the complainants,” on behalf of their son, the above-referenced student. In that correspondence, the complainants alleged that the Howard County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The HCPS did not ensure that the Individualized Education Program (IEP) team reviewed and revised, as appropriate, the student’s IEP to address lack of expected progress toward achieving the IEP goals and in the general education curriculum, in accordance with 34 CFR §300.324.
2. The HCPS did not follow proper procedures when determining the student’s educational placement for the 2016 - 2017 school year, in accordance with 34 CFR §§300.114 - .116.

XXX

XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 2

INVESTIGATIVE PROCEDURES:

1. On August 19, 2016, the MSDE provided a copy of the State complaint, by facsimile, to Ms. Nancy Fitzgerald, Executive Director of Special Education and Student Services, HCPS.
2. On August 29, 2016, via electronic mail (email), the student's mother provided the MSDE with information as an amendment to the complaint. On August 30, 2016, the MSDE provided the HCPS with the same information, via email.
3. On August 29, 2016 and September 6 and 7, 2016, the MSDE received documentation from the student's mother for consideration.
4. On August 30, 2016, Ms. K. Sabrina Austin, Education Program Specialist, MSDE, conducted a telephone interview with the student's mother to clarify the allegations to be investigated. On the same date, the MSDE requested information from the student's mother and the school system staff.
5. On September 2, 2016, the MSDE sent correspondence to the complainants that identified the allegations subject to this investigation. On the same date, the MSDE notified the HCPS of the allegations and requested that the HCPS review the alleged violations.
6. On September 14, 20 and 28, 2016, the HCPS provided the MSDE with documentation and information for consideration.
7. On September 15, 2016, the MSDE sent an electronic mail (email) communication to the student's mother that provided specific information concerning the focus of the investigation of Allegation #2. The email was copied to the HCPS as a recipient of the information.
8. On September 20, 2016, Ms. Austin and Ms. Nancy Birenbaum, Compliance Specialist, MSDE, conducted a site visit at the XXXXXXXXXXXXXXX and interviewed the following school staff:
 - a. Mr. XXXXXXX, Director;
 - b. Ms. XXXXXXX, Special Educator;
 - c. Ms. XXXXXXX, Special Educator; and
 - d. Ms. XXXXXXX, Speech-Language Pathologist.

Ms. Kelly Russo, Acting Instructional Facilitator for Nonpublic Services and Special Education Compliance, HCPS, and Ms. Jessica Caire, Resource Teacher, Department of Special Education, HCPS, participated in the site visit as representatives of the HCPS and to provide information on the school system's policies and procedures, as needed.

XXX

XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 3

9. On September 22, 2016, the MSDE requested additional documentation from the HCPS.
10. On September 28, 2016, the HCPS provided documentation to the MSDE for consideration.
11. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Amended IEP, dated May 20, 2015; IEP, dated December 8, 2015; Amended IEP, dated June 21, 2016; and Amended IEP, dated August 24, 2016;
 - b. Written summaries of the December 8, 2015, February 4, 2016, May 11, 2016, June 14, 2016, and August 24, 2016 IEP team meetings;
 - c. Reports of the student's progress towards mastery of the IEP goals, dated October 30, 2015, December 8, 2015, January 15 - 17, 2016, April 1, 2016, and June 10, 2016;
 - d. The student's report card for the 2015 - 2016 school year;
 - e. The reevaluation planning report, dated February 4, 2016;
 - f. Electronic mail (email) correspondence between the student's mother and the school staff, dated, September 2015 to August 2016;
 - g. The report of a psychological evaluation, dated April 20, 2016;
 - h. The report of an educational assessment, dated April 28, 2016;
 - i. Correspondence from the complainants, alleging violations of the IDEA, received by the MSDE on August 17, 2016;
 - j. HCPS Special Education Handbook, undated, page 74;
 - k. XXXXXXXXXXXXXXXX school day schedule, undated;
 - l. XXXXXXXXXXXXXXXX School day schedule, HCPS website;
 - m. School locator information from the HCPS website showing the middle school that the student would attend if nondisabled;
 - n. XXXXXXXXXXXXXXXX School PTA website page describing the clubs sponsored by the HCPS, and clubs sponsored by the PTA, at XXXXXXXXXXXX XXXXX for the 2016 - 2017 school year; and
 - o. Emails among the school system staff, dated February to March 2016.

BACKGROUND:

The student is eleven (11) years old, is identified as a student with a Specific Learning Disability under the IDEA, and has an IEP that requires the provision of special education and related services. He attends XXXXXXXXXXXX (XXXXXXXXXX), a nonpublic, separate, special education school, where he was placed by the HCPS (Doc. a).

During the period of time addressed by this investigation, the complainants participated in the education-making process and were provided with written notice of the procedural safeguards (Doc. a).

XXX

XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 4

FINDINGS OF FACTS:

1. The IEP in effect at the start of the 2015 - 2016 school year was developed on December 16, 2014, and was amended on May 20, 2015. It states that the student's "specific learning disability has a significant impact on all areas of [his] education performance," and identifies that the student has needs in the areas of reading, writing, math, and communication (Doc. a).
2. The December 2014 IEP identifies the student's instructional grade levels of performance in reading and written language expression as follows:
 - Reading Phonics: 3rd Grade
 - Reading Fluency: 1st Grade
 - Reading Comprehension: 2nd grade
 - Written Language Expression: 1st grade

At the time the December 2014 IEP was developed, the student was in the 4th grade (Doc. a).

3. To address the student's needs in reading and writing, the December 2014 IEP includes three (3) annual reading goals for the student to improve his skills in the areas of phonics, fluency, and comprehension, and one (1) goal for him to improve his written language expression skills. The IEP states that the student "requires an intensive, remedial reading program to meet his significant academic weaknesses in decoding, reading comprehension of expository text, listening comprehension, fluency, written expression, and communication" (Doc. a).
4. One (1) year later, on December 8, 2015, the IEP team convened and considered data about the student's academic achievement and functional performance, including the results of his performance on numerous formal and informal assessments. Based on the data, the IEP team identified the student's instructional grade levels of performance in reading and written language expression as follows:
 - Reading Phonics: "Approximately" 2nd Grade
 - Reading Fluency: "Approximately" 2nd Grade
 - Reading Comprehension: "Approximately" 2nd Grade
 - Written Language Expression: "Approximately" 2nd Grade (Docs. a - c).
5. Although the progress reports provided throughout the year indicated that the student was making sufficient progress to achieve the annual goals in the December 2014 IEP within one (1) year, at the December 8, 2015 IEP team meeting, the IEP acknowledged that the student had not achieved the annual goals. The IEP team reported that the student came close to achieving some of the short-term objectives within the goals. They revised the goals and added supplementary supports to the IEP (Docs. a and b).

XXX

XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 5

6. On February 4, 2016, the IEP team convened to conduct reevaluation planning for the student. The student's mother participated in the meeting by telephone. The IEP team reviewed the most recent data, assessment results, and reports of the school staff about the student's performance, including IEP progress reports documenting that the student was making sufficient progress to achieve the annual goals by December 2016 (Doc. b).
7. At the February 4, 2016 IEP team meeting, the student's mother questioned where the student was performing relative to improving his reading skills. The IEP team determined that additional data was needed to identify the student's present levels of academic performance, and recommended an educational assessment, a psychological evaluation, a speech/language assessment, and a classroom observation (Docs. b and e).
8. On May 11, 2016, the IEP team reconvened and reviewed the results of assessments. At the time of the meeting, the school-based members of the IEP team had reported that the student was continuing to make sufficient progress to achieve the annual IEP goals by December 2016 (Docs. b and c).
9. At the May 11, 2016 IEP team meeting, the IEP team discussed that the student's current reading level is "independent to instructional at the 1st to 2nd grade level," and "frustrated" at the 3rd grade level. The student's mother expressed concern that, while the student has been at XXXXXXXXXXXXXXXX for three (3) years, his instructional reading level had not improved beyond the 1st grade. The IEP team did not have sufficient time to complete the review of the IEP and decided to reconvene to consider the complainants' concerns (Docs. b and h).
10. On June 14, 2016, the IEP team reconvened. At the time of the meeting, the school-based members of the IEP team were continuing to report that the student was making sufficient progress to achieve the annual IEP goals by December 2016, although there is no documentation that any of the short-term objectives had yet been achieved (Docs. b and c).
11. At the June 14, 2016 IEP team meeting, the IEP team identified the student's instructional grade levels of performance in reading and written language expression as follows:
 - Reading Phonics: 1st to 2nd Grade
 - Reading Fluency: "Approximately" 2nd Grade
 - Reading Comprehension: 1st to 2nd Grade
 - Written Language Expression: "Approximately" 2nd Grade

The IEP team added an objective to the written language goal, added a new goal to address the student's listening comprehension, and added an additional supplementary support to the IEP (Docs. a and b).

XXX

XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 6

12. At the June 14, 2016 IEP team meeting, the complainants also continued to express concern about the student's progress, and inquired about the consistency of the reading strategies being used across all of his classes. They shared their belief that the student is struggling to make progress at XXXXXXXXXXXXXXX, particularly in reading, and requested that the IEP team consider placement for student at another nonpublic separate special education school, including the XXXXXXXXXXXX (XXXXXXX). The written summary of the meeting documents that the IEP team determined that the XXXXXX "cannot provide the intensity of reading intervention" that the student requires, and "do[es] not have the embedded, aligned, strategic instruction" that the student needs. It also reflects that the IEP team determined that "there is not another nonpublic school with the expertise and specialization that [XXXXXXXXXXXX] has to improve [the student's] reading abilities." However, the IEP team did not address the complainants' concern about the student's lack of progress with improving his ability to read (Doc. b).
13. On August 24, 2016, the IEP team reconvened. The IEP team discussed that the student had expressed concern to the complainants about other students' behavior at XXXXX XXXX. The written summary of the meeting reflects that, in response to the complainants' suggestion, the school staff agreed to meet with the complainants outside of the IEP team, for further discussion about how student behaviors are addressed at XX XXXXXXXX (Doc. b).
14. At the August 24, 2016 IEP team meeting, the complainants expressed their continued concern about the student's lack of progress with learning to read, in addition to their belief that he has not made sufficient progress towards mastery of the annual IEP goals. The IEP team reviewed the student's performance on the annual XXXXXX XXXXX assessments from 2013 to 2015, the reports of progress on his achievement towards mastery of the annual IEP goals, observations of the student, and his classroom performance. Based on the data, the IEP team determined that the student has made sufficient progress (Doc. b).
15. Also at the August 24, 2016 IEP team meeting, the student's mother requested placement at the XXXXXXXX. The complainants reported that the XXXXXXXX is closer to the student's home than XXXXXXXXXXXXXXX. The IEP team discussed that transition to another school "would involve new staff getting to know [the student], a new location, and new expectations," and that XXXXXXXXXXXX is able to implement the IEP. The written summary of the meeting documents that the IEP team rejected the complainants' request for placement at the XXXXX "based on data and input from school team members showing that he is making meaningful progress at XXXXXXXXXXXXXXX," and that "transition to another school is not warranted" (Docs. a and b).
16. The IEP developed on August 24, 2016 reflects that the student will participate with non-disabled peers during extracurricular activities (Doc. a).

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XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 7

17. The school day at XXXXXXXXXXXXXXXX ends at 3:20 p.m. (Doc. k).
18. The student's home school, the school that he would attend if nondisabled, is XXXXX XXXXXXXXXXXXXXXX (XXXXXXXXXX). The school day at XXXXXXXXXXXXXXXX ends at 2:25 p.m. (Docs. l and m).
19. The HCPS handbook reflects that students registered by the HCPS in a nonpublic school are "given the opportunity to participate in all aspects of home school activities, including extracurricular, senior and yearbook activities." There is also documentation of efforts by the school system staff to coordinate the arrangements for students attending XXX XXXXXXXX to participate in activities at their home schools, including having the IEP team consider revisions to the students' schedules to make them available for activities (Docs. o and j interview with the school system staff).
20. XXXXXXXXXXXXXXXX provides instruction in Environmental Science and has a science lab. The school's website includes a section entitled News and Events, which highlights a student who has been engaged in outdoor learning (<https://www.catapultlearning.com/schools/XXXXXXXX-prince-georges-county-lanham-md/news-events/>).

DISCUSSION/ CONCLUSIONS:

Allegation #1: Review of the IEP to Address Lack of Progress Towards Achieving the IEP Goals and in the General Education Curriculum

Legal Requirements:

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data. In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student (34 CFR §§300.101, .320 and .324).

The IEP must include measurable annual goals designed to meet the needs that arise out of the student's disability, and the special education instruction and related services required to assist the student in achieving the annual goals must be designed to meet the needs that arise out of the student's disability, and enable the student to be involved in and make progress in the general curriculum, which is defined as the same curriculum used for nondisabled students (34 CFR §300.320).

The IEP team's determination of how the student's disability affects the student's involvement and progress in the general education curriculum is a primary consideration in the development

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XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 8

of the annual IEP goals. While the goals should align with the grade level general education curriculum standards, they are used to estimate the outcomes that can be expected in an academic year based on the student's present levels of performance [Emphasis added]. The short-term objectives within the goal must be based on the student's present levels of performance and designed to assist the student with making progress towards achieving the goal. As the student achieves the short-term objectives, it is expected that they will be revised to move the student closer to achieving the goal to master the college and career ready standards around which the general curriculum is designed (34 CFR §§300.101 and .320, Analysis of Comments and Changes to the IDEA regulations, Federal Register, Vol. 71, No. 156, p. 46662, August 14, 2006 and Maryland Statewide Individualized Education Program Process Guide).

The IEP team must review the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved. In addition, the IEP team must revise the IEP, as appropriate, to address any lack of expected progress (34 CFR §300.324).

The United States Department of Education, Office of Special Education Programs (OSEP), requires that, during the investigation of an allegation that a student has not been provided with an appropriate educational program under the IDEA, the State Educational Agency (SEA) review the procedures that were followed to reach determinations about the program. The SEA must also review the evaluation data to determine if decisions made by the IEP team are consistent with the data (OSEP Letter #00-20, July 17, 2000 and Analysis of Comments and Changes to the IDEA, Federal Register, Vol. 71, No. 156, p.46601, August 14, 2006).

Conclusions:

Based on the Findings of Facts #8 - #12, the MSDE finds that, while the complainants expressed concern, at the May and June 2016 IEP team meetings, about the student's lack of progress with improving his reading ability, there is no documentation that the IEP team addressed their concern at that time.

Based on the Finding of Fact #14, the MSDE finds that the IEP team addressed the complainants' concern about the student's reading skills at the August 24, 2016 IEP team meeting. However, based on the Findings of Facts #2, #4, #11 and #14, the MSDE finds that the IEP team's decision that the student has made sufficient progress with improving his reading skills is inconsistent with the team's decisions about the student's levels of performance, which have not improved, and have actually decreased, over the past one and a half school years. Therefore, this office finds that a violation occurred with respect to this allegation, and that the student was denied a FAPE.

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XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 9

**Allegation #2: Determination of the Student’s Educational Placement for the
2016 – 2017 School Year**

Legal Requirements:

The public agency must ensure that the educational placement decision is based on the IEP, that the student is placed in the Least Restrictive Environment (LRE) in which those services can be successfully provided, and that the placement is as close as possible to the student’s home (34 CFR §300.116).

The IDEA does not indicate what constitutes an educational placement or differentiate between the educational placement and the location of services. However, both the OSEP and the United States Court of Appeals for the Fourth Circuit have provided guidance for use in distinguishing a determination of location of services from an educational placement decision. Both have indicated that a change in location that dilutes the quality of a student's education or departs from the Least Restrictive Environment (LRE)-compliant setting is a change of educational placement (Letter to Fisher, 21 IDELR 992, [OSEP 1994], and A.K. v. Alexandria City School Board, 484 F.3d 672 [4th Cir. 2007]).

The public agency must ensure that steps are taken to provide nonacademic and extracurricular activities in the manner necessary to afford students with disabilities an equal opportunity for participation in those services and activities. Nonacademic and extracurricular activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency (34 CFR §300.107).

The public agency must ensure that each student with a disability participates with nondisabled students in the extracurricular services and activities to the maximum extent appropriate to the needs of the student (34 CFR §300.117).

Each public agency must ensure that students with disabilities have access to instruction to allow them to achieve credit requirements and assessments necessary to progress towards the State standards for graduation from a public high school. To be awarded a Maryland High School Diploma, a student must have earned a minimum of 21 credits, including core credits in English, fine arts, mathematics, physical education, health education, science, including environmental science, social studies, and technology education. Core credits must also be earned in world language or American Sign Language, and in advanced technology education or a career and technology program (COMAR 13A.03.02.03 and 13A.05.11.03).

Each public agency must ensure that each student with disability is afforded the opportunity to participate in the regular physical education program available to nondisabled students unless the student is enrolled full time in a separate facility (34 CFR §300.108).

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Ms. Nancy Fitzgerald

November 14, 2016

Page 10

Conclusions:

In this case, the complainants allege the following:

- a. The IEP cannot be implemented effectively at XXXXXXXXXXXXXXX because the student has not made any progress towards improving his reading skills in the three (3) years that he has been placed at XXXXXXXX;
- b. Placement at XXXXXXXXXXXXXXX does not fulfill the requirement to ensure that the placement is as close as possible to the student's home;
- c. Placement at XXXXXXXXXXXXXXX denies the student the ability to participate in nonacademic and extracurricular activities because those activities take place at the student's home school prior to the end of the XXXXXXXX school day; and
- d. Placement at XXXXXXXXXXXXXXX denies the student the ability to take a course in environmental science, entitled "Outdoor Learning," which is offered at the school the student would attend if not disabled; and

The complainants assert that placement at the XXXXX would be appropriate because it is located closer to their home, and because the XXXXXX offers extracurricular activities for students at the school after the school day (Doc. i and interview with the student's mother).

Based on the Findings of Facts #16 - #19, the MSDE finds that the documentation does not support the assertion that placement at XXXXXXXXXXXXXXX denies the student the opportunity to participate in nonacademic and extracurricular activities. In addition, the complainants' assertion that the student could be included in extracurricular activities at the XXXXXX does not fulfill the requirement for students to participate in those activities with nondisabled students. Therefore, the MSDE does not find a violation with respect to these aspects of the allegation.

The complainant's also allege that the XXXXXXXXXXXXXXX is not an appropriate placement because it does not have a gymnasium that would enable the student to participate in the same regular physical education program that is available at the school he would attend if not disabled. Because there is no requirement to ensure that students placed in separate special education schools are afforded the same opportunity to participate in a regular physical education program that is available to nondisabled students, the concern does not constitute an allegation of a violation of the IDEA.

Based on the Finding of Fact #20, the MSDE finds that there is evidence that students at the XXXXXXXXXXXXXXX are provided with instruction on the required Maryland curriculum and that this includes outdoor learning activities. Therefore, the MSDE does not find a violation with respect to this aspect of the allegation.

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XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 11

However, as stated above, based on the Findings of Facts ##2, #4, #11 and #14, the MSDE finds that the IEP team's response to the complainants' concern about the appropriateness of the student's placement at XXXXXXXXXXXXX based on his progress with improving his reading skills is inconsistent with the data. In addition, based on the Finding of Fact #15, the MSDE finds that the IEP team did not follow proper procedures at the August 2016 IEP team meeting when, in response to the complainants' argument that the XXXXX is closer to the student's home, the IEP team determined that placement at XXXXXXXXXXXXX is appropriate because the IEP could continue to be implemented at XXXXXXXXXXXXX. Therefore, this office finds that violations occurred with respect to the placement decision.

Notwithstanding the violation, based on the Findings of Facts #10 - #12, the MSDE finds that the IEP team followed proper procedures when, at the June 2016 IEP team meeting, the IEP team determined that the XXXXX is not an appropriate placement based on the conclusion that the XXXXX cannot implement the IEP.

CORRECTIVE ACTIONS/TIMELINES:

The MSDE requires the following steps be taken:

1. By November 25, 2016, the HCPS must authorize an Independent Educational Evaluation (IEE) to conduct a comprehensive evaluation and analysis of the student's reading skills and behaviors. The IEE must be conducted by a diagnostic prescriptive specialist who is an MSDE certified reading specialist selected by the complainants. The IEE shall include (i) a review of all current formal and informal assessments of the student's reading ability, as well as other data relating to the student's reading skills and behaviors, including daily classroom performance and data comparison of progress over time, (ii) a determination of any additional assessment data, observation or information required, (iii) the development of a prescriptive, evidence-based reading program, (iv) recommendations of services and supports designed to assist the student with improving his reading skills, and (v) development of an IEP that includes special education instruction designed to assist the student with improving his reading skills at least one (1) year beyond his current levels of performance.

The HCPS shall assist the complainants in identifying an appropriate evaluator if requested by the complainants. The HCPS shall be solely responsible for compensation to the IEE evaluator for conducting the IEE, and for preparation and participation in all of the corrective actions. Any dispute concerning the IEE evaluator's compensation will be resolved by the MSDE.

2. By January 1, 2017, the HCPS must have convened an IEP team meeting and reviewed the student's IEP and progress, and determined whether the student achieved the annual goals by December 7, 2016, and taken the following steps:

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XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 12

If the IEP team determines that the goals were not achieved, the IEP team must also provide documentation explaining why they were not achieved despite IEP progress reports throughout the year that sufficient progress was being made to achieve the goals.

If the IEP team determines that the goals were achieved, the IEP team must also provide documentation explaining how that decision is consistent with the student's regression in reading skills as reported in the present levels of performance (PLOPs). The IEP team must also document an explanation of how the team's decision regarding the student's PLOPs is consistent with the goals designed to assist the student in making one (1) year's progress on those skills.

3. By February 1, 2016, the HCPS must have convened an IEP team meeting, with the participation of the IEE evaluator, and taken the following steps:
 - a. Reviewed the results of the IEE, and revised the IEP consistent with the data to ensure that the goals are designed to assist the student in making one (1) year's progress;
 - b. Followed proper procedures to determine the student's placement; and
 - c. Determined the compensatory services or other remedy to remediate the violations identified in this Letter of Findings, and developed a plan for the provision of those services to be completed within one (1) year of the date of this Letter of Findings.
4. The HCPS must also ensure that the IEP team has convened a meeting at the end of the 3rd and 4th quarters of the 2016 – 2017 school year, with the participation of the IEE evaluator. The IEP team must determine whether the student is making sufficient progress towards achievement of the goals. The data to be considered must include informal measures of the student's levels of performance in reading, as determined by the IEE evaluator.
5. The HCPS must provide the MSDE with documentation of each corrective action within thirty (30) days of its completion.
6. Within one (1) year of the date of this Letter of Findings, the HCPS must provide documentation that the student has been provided with the compensatory services or other remedy determined by the IEP team as a result of this investigation, or documentation of the complainants' refusal of such compensatory services or other remedy.

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XXX

Ms. Nancy Fitzgerald

November 14, 2016

Page 13

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

TECHNICAL ASSISTANCE:

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

Please be advised that both the complainant and the HCPS have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the findings of facts or conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

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

Questions regarding the findings and conclusions contained in this letter should be addressed to this office in writing. The parties maintain the right to request mediation or to file a due process complaint, if they disagree with the identification, evaluation, placement, or provision of a Free Appropriate Public Education for the student, including issues subject to this State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

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

MEF:ksa

c: Renee A. Foose
Kelly Russo
XXXXXX
Anita Mandis

Judith Pattik
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Dori Wilson
K. Sabrina Austin