



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

September 28, 2018

XXX  
XXX  
XXX

Dr. Arden Sotomayor  
Director of Special Education  
Charles County Public Schools  
P.O. Box 2770  
La Plata, Maryland 20646

RE: XXXXX  
Reference: #19-017

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 7, 2018, the MSDE received a complaint from Dr. XXXXXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her child, the above-referenced student. In that correspondence, the complainant alleged that the Charles County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The CCPS did not follow proper procedures when determining the student’s educational placement on October 2, 2017, in accordance with 34 CFR §§300.114 - .116 and .324. This includes:
  - a. That the CCPS did not ensure that parental input was considered when making the determination; and
  - b. That the CCPS did not ensure that the decision was consistent with the data regarding the student’s social, emotional, and behavioral functioning.

XXX

Dr. Arden Sotomayor

September 28, 2018

Page 2

2. The CCPS has not ensured that the Individualized Education Program (IEP) includes present levels of academic and functional performance and measurable annual goals designed to meet the student's needs and enable progress in the general curriculum since December 2017, in accordance with 34 CFR §§300.320 and .324. This includes:
  - a. That the CCPS did not ensure that information from the student's private providers was considered;
  - b. That the CCPS did not ensure that the IEP team determined appropriate data to be used to measure progress towards achievement of the social, emotional, and behavioral goals; and
  - c. That the CCPS did not ensure that the progress towards achievement of academic goals that was reported was consistent with the data.
3. The CCPS did not ensure that proper procedures were followed to provide Home and Hospital Teaching (HHT) services to the student during the 2017-2018 school year, in accordance with 34 CFR §300.324 and COMAR 13A.03.05 and 13A.05.01. This includes:
  - a. That the CCPS did not ensure that HHT services were provided during all periods of hospitalization; and
  - b. That the CCPS did not ensure that parental input and data from the student's private medical providers were considered when developing a plan for returning the student to a school-based program.
4. The CCPS did not provide Prior Written Notice (PWN) of the decisions made by the IEP team on August 31, 2017, December 20, 2017, January 10, 2018, January 26, 2018, March 14, 2018, and May 9, 2018, in accordance with 34 CFR §300.530 and did not provide a copy of the finalized IEP within required timelines, in accordance with COMAR 13A.05.01.07.

**BACKGROUND:**

The student is eleven (11) years old, is identified as a student with an Emotional Disability under the IDEA, and has an IEP that requires the provision of special education and related services. The student has had the following educational placements during the time period covered by this investigation:

- At the start of the time period covered by this investigation, the student was assigned to XXXXXXXXXXXXXXXXXXXX, but was administratively transferred to XXXXXXXXXXXXXXXXXXXX during the time period covered by the investigation.



XXX

Dr. Arden Sotomayor

September 28, 2018

Page 4

4. One (1) of the goals to improve social, emotional, and behavioral functioning requires that the student participate in whole class and small group activities with no more than two (2) prompts. Another goal requires that the student utilize a predetermined coping/behavior strategy to refocus and regain composure with no more than one (1) prompt when experiencing a negative thought pattern. The remaining goals require that the student initiate and complete tasks and follow teacher directives with no more than two (2) prompts. The student's progress is to be measured using informal data from the student's teachers.
5. The IEP contains a Behavioral Intervention Plan (BIP) that includes the use of verbal redirection followed by planned ignoring. The IEP also requires that the student be provided with psychological services.
6. At the August 31, 2017 IEP team meeting, the IEP team considered information from previous hospitalizations of the student and behavior data that was collected from December 2016 through May 2017, which reflected "variable response to intervention." Based on the progress data, the team decided that the student, who had been receiving special education instruction in both general and separate special education classrooms, requires a smaller, more intensive instructional setting in a separate special education classroom through the Emotional Adjustment Program (EAP). The team discussed that there was an EAP at XXXXXXXXXXXXXXXXXXXX, the school that the student was already attending.
7. The student's educational record contains a copy of a form, dated August 31, 2017, and addressed to the complainant, documenting that the IEP and written summary of the August 31, 2017 IEP team meeting were sent to the complainant.

#### **October 2, 2017 IEP Team Meeting**

8. On October 2, 2017, the IEP team at XXXXXXXXXXXXXXXXXXXX considered the report of a private neuropsychological assessment from XXXXXXXXXXXXXXXXXXXX that was obtained by the complainant. The report includes a diagnosis of Autism Spectrum Disorder with accompanying Higher Order Language Impairment (ability to use language when meaning is not directly available from semantic or syntactic information), as well as a Generalized Anxiety Disorder, Trichotillomania (impulse control disorder), Obsessive-Compulsive Disorder, and Attention Deficit Hyperactivity Disorder. The report states that the student requires a therapeutic placement that provides small group instruction within a self-contained classroom with high levels of emotional support. It also states that a placement "that uses a behavioral intervention plan, linked to levels or rewards, is not appropriate, as it will exacerbate [the student's] obsessive compulsive disorder and anxiety."
9. At the October 2, 2017 IEP team meeting, the team considered information from the complainant that the student was reporting that other students in the EAP were causing the student increased anxiety. The team also considered information from the student's teachers that the student "was doing fabulous the first few weeks of the school year" and that the

anxiety was being caused by the structure and expectations of the program, but that the student had been showing progress in the program. Based on the data about the student's anxiety, the IEP team increased the amount of psychological services that are to be provided.

10. The complainant requested that the student be provided with a shortened school day. The IEP team rejected the request based on the school staff's report that the student was able to attend throughout the school day.
11. In addition, the team considered information from the complainant that she believed that the student was having difficulty with both the students and the school staff and that the points and levels system utilized in the EAP to improve behavior was not working for the student. The complainant reported that the student's private physician was recommending that the student be transferred from the EAP to the general education classroom with special education instruction provided by a special education teacher and a paraprofessional until a more appropriate placement could be identified. The team rejected this option based on information that the student was previously unsuccessful with this level of support.
12. Based on the data from the school staff about the student's success in the EAP, the team decided that the Least Restrictive Environment (LRE) in which the IEP could be implemented continued to be a separate special education classroom with the supports of the EAP. The complainant reported that the student "has a lack of trust with the team at XXXXX." The IEP team discussed that there is another EAP located in the XXXXXXXXXXXX XXXXXXXXXXXXXXXX in which the student could participate, and the complainant agreed to meet with the team at that school in order to investigate placement at the school. The team also recommended that assessments be conducted in the areas of academic performance, speech/language, cognition, sensory skills, and social, emotional, and behavioral functioning.
13. The student's educational record contains a copy of a form, dated October 12, 2017, and addressed to the complainant, documenting that the written summary of the October 2, 2017 IEP team meeting was sent to the complainant.

#### **December 20, 2017 IEP Team Meeting**

14. On December 20, 2017, the IEP team at XXXXXXXXXXXXXXXX School convened after the student was administratively transferred to the school. The IEP team considered assessment results, including the results of an educational assessment that reflects that the student scored in the "average" range in broad written language, the "low average" range in broad reading, and the "low" average range in broad math. The team also considered the results of a private speech/language assessment obtained by the complainant, which identified deficits in higher order language. In addition, the team considered the results of a CCPS sensory processing assessment, which found "definite dysfunction" in the student's sensory processing abilities. Based on this data, the team decided that

additional testing was needed to determine whether occupational therapy services were required.

15. The IEP team also considered information obtained through the additional testing for Autism Spectrum Disorder that was conducted by the CCPS to augment the testing conducted through the private neuropsychological assessment. The assessment report states that, testing revealed “minimal to no” presence of Autism Spectrum related symptoms. The assessment report states that the student “may demonstrate some characteristics typically associated with Autism, not to a significant degree,” and that she also “demonstrates many characteristics that are not typical of students with characteristics of Autism.” The report further states that, based on information from the student, her parents, and teachers, the results “are suggestive of the presence of an emotional condition characterized by difficulty building relationships with others, poor emotional and behavioral regulation skills, and physical symptoms or fears in both the home and school setting.”
16. The written summary of the meeting reflects that the team decided that the student meets the criteria for identification as a student with an Emotional Disability, a Specific Learning Disability, an Other Health Impairment related to Attention Deficit Hyperactivity Disorder, and a Speech/Language Impairment, but not Autism, under the IDEA. The team decided that the primary disability is an Emotional Disability.
17. The documentation of the meeting reflects that the complainant expressed concerns about the validity of assessments that were conducted and that the school-based members of the team addressed them. The complainant disagreed with the team’s decision about the student’s primary disability. There is documentation that the complainant requested an Independent Educational Evaluation (IEE), and was provided with information on how to obtain an IEE.
18. At the December 20, 2017 IEP team meeting, the complainant also expressed disagreement with the functions of targeted behaviors identified in the Functional Behavioral Assessment (FBA) as attention and object/activity seeking and escape from academic demands. The complainant reported that the student is driven by anxiety, and expressed concern that the Behavioral Intervention Plan (BIP) strategies of planned ignoring and consequences are detrimental to the student. The team decided to review the BIP when it reconvened to review the results of the occupational therapy assessment.
19. The student’s educational record contains an undated copy of a form addressed to the complainant, documenting that the consent to conduct assessments and written summary of the December 20, 2017 IEP team meeting were sent to the complainant. There is documentation that the complainant provided written consent prior to an occupational therapy assessment being conducted.

XXX

Dr. Arden Sotomayor

September 28, 2018

Page 7

20. From December 31, 2017 to January 5, 2018, the student was hospitalized by the complainant at XXXXXXXXXXXXXXXXXXXXXXXX. There were four (4) school days during this period of time.
21. On January 8, 2018, the complainant requested Home and Hospital Teaching (HHT) services and provided verification from the student's private psychiatrist that the student required the services until February 2, 2018. There is documentation that the HHT services were initiated eight (8) school days later on January 22, 2018.
22. On January 24, 2018, the complainant provided verification from the student's private psychiatrist that extended the time period required for the HHT services to April 2, 2018.

### **January 26, 2018 IEP Team Meeting**

23. On January 26, 2018, the IEP team at XXXXXXXXXXXXXXXXXXXXXXXX convened. This meeting was originally scheduled for January 10, 2018, but had to be rescheduled. At the meeting, the complainant reported that "activities at recess contributed to [the student's] anxiety," and she requested that the student be able to return to school one day per week for recess or group therapy because the student was missing peer interaction. The IEP team decided that additional information was needed from the student's private psychiatrist about the student's ability to participate in such activities before the request could be considered.
24. At the end of the first (1<sup>st</sup>) and second (2<sup>nd</sup>) quarters of the 2017-2018 school year, reports were generated of the student's progress towards achievement of the annual IEP goals reflecting that sufficient progress was being made. Each report provides information about the student's work on each short-term objective within each goal. The school staff maintained samples of the student's classwork that supports the reports of the student's progress.
25. The student's educational record contains a copy of an undated form addressed to the complainant, documenting that the IEP and written summary of the January 26, 2017 IEP team meeting were sent to the complainant.
26. On January 31, 2018, the school staff conducted a telephone interview with the student's private psychiatrist. The school staff's notes from that telephone interview reflect that the private psychiatrist and the school staff discussed that the student should not participate in other school-based activities prior to returning to academic classes.
27. On February 5, 2018, the complainant provided the school staff with a written statement from the student's private psychiatrist that the student could begin to "gradually reintegrate for blocks of time into school." The complainant reported that it was her

understanding that the private psychiatrist agreed with her that recess could be a beneficial component of therapy for the student.

28. On February 13, 2018, the student was hospitalized by the complainant at XXXXXX XXXXXXXX. The student remained hospitalized until June 29, 2018, and was discharged to XX.
29. On February 27, 2018, the school staff obtained information from XXXXXXXXXXXXXXX about the student's functioning and was informed that the plan was to transfer the student to a XXXXXXXXXXXXXXXXXXXXXXX upon her discharge from the hospital.

**March 14, 2018 IEP Team Meeting**

30. On March 14, 2018, the IEP team at XXXXXXXXXXXXXXXXXXXXXXX discussed that the student remained hospitalized, and that the occupational therapy assessment had not been conducted due to the student's hospitalization. The complainant reported that this was the fourth (4<sup>th</sup>) hospitalization in four (4) years, and that currently the student was being "offered 1 hour of education," at the hospital, but "has not been able to access it at this point."
31. The written summary of the March 14, 2018 IEP team meeting states that the team developed speech/language goals and determined the services needed to improve the student's social, emotional, and behavioral functioning based on a review of the report of the speech/language assessment that was conducted prior to the hospitalization.
32. The complainant inquired about the provision of speech/language services in the hospital and requested that the occupational therapy assessment be administered at the hospital as well. The documentation of the meeting reflects that the team decided that the student "has to be stable" before services could be provided and the assessment could be completed at the hospital. The school staff obtained a release from the complainant for the Dominion Hospital staff to share information about the student.
33. At the March 14, 2018 IEP team meeting, the complainant expressed concern that the student is not demonstrating skills growth on standardized tests, and asked how it could be possible that the EAP is an appropriate placement given that information. The school staff explained that skills development has been impacted by social, emotional, and behavioral problems, and that it was their opinion that the EAP was providing the supports needed to address these problems when the student was able to attend school. The team reviewed the behavior data that had been collected when the student was attending school, which indicates that the student was successful using the point system in the EAP.



XXX

Dr. Arden Sotomayor

September 28, 2018

Page 9

34. The team documented that it considered information that the hospital was recommending a XXXXXXXXXXXXXXXXXXXX upon the student's discharge and the complainant's request that the team find that this is the LRE in which the IEP can be implemented. The IEP team rejected the request based on information from the school staff that the student's needs were successfully addressed in the EAP program when the student was able to receive instruction.
35. The student's educational record contains a copy of an undated form addressed to the complainant, documenting that the IEP and written summary of the March 14, 2018 IEP team meeting were sent to the complainant.
36. On March 19, 2018, the complainant withdrew consent for the XXXXXXXXXXXX staff to share information with the school staff.
37. On March 26, 2018, the complainant informed the school staff that she would permit contact with XXXXXXXXXXXX staff only under specific conditions, including that she and an advocate would be present during communication between hospital and school staff.

#### **May 9 and 23, 2018 IEP Team Meeting**

38. On May 9 and 23, 2018, the IEP team at XXXXXXXXXXXXXXXXXXXX conducted a review of the IEP. The documentation of the IEP review states that the IEP team considered information from XXXXXXXXXXXX that the student had frequent medication changes, was observed to have "deterioration" of functioning, and continued to be unable to access more than one (1) hour of instruction twice per week.
39. The IEP was revised to reflect a description of the student's social, emotional, and behavioral functioning in school prior to hospitalization, as well as the student's current functioning since being hospitalized. The IEP includes a statement of the student's math scores on classroom-based assessments administered prior to hospitalization, and indicates that there was no data available to measure growth in math skills since that time because the student has been unavailable for instruction.
40. The complainant disputed the school staff's information that the student had been accessing instruction successfully prior to being hospitalized. The complainant expressed concern that the behavior data was not accurate because it had been collected from more than one staff member and that different staff may have different opinions about what types of behavior are appropriate. The complainant questioned how the student could have been making progress when behavior data showed that the student continued to demonstrate inappropriate behavior. The school staff explained that, while the student continued to have difficulty with behavior, the student was able to be redirected when in school.

XXX

Dr. Arden Sotomayor

September 28, 2018

Page 10

41. The complainant expressed concern that the data collected when the student was in school reflects that the student continued to be distracted, yet was able to earn sufficient points for behavior. A school-based member of the team explained that the student's continued demonstration of behaviors that arise out of the disability is not what was being measured but rather whether the student was able to "regroup" after being provided with supports to address the behaviors.
42. The complainant requested that the IEP be revised to excuse the student from completing homework in order to decrease anxiety. The team rejected the request based on information that student is pursuing a Maryland High School Diploma and needs to complete homework in order to master the curriculum, and that the IEP already requires shortened homework assignments.
43. The documentation of the IEP review reflects that decisions were made at the May 9, 2018 portion of the meeting that the student requires the provision of Extended School Year (ESY) services, that the complainant's request for discontinuation of homework was rejected, and that the BIP would be reviewed and revised, as appropriate, when the student is able to return to school.
44. Upon completion of the IEP review on May 23, 2018, the IEP was revised to reflect a detailed description of strengths and weaknesses in the area of speech/language, the goals that were developed to improve skills in the areas of weakness, and the speech/language therapy that was determined necessary to assist the student in achieving the goals. The remaining goals were revised based on the reports of the progress made by the student during the first (1<sup>st</sup>) quarters of the school year.
45. The student's educational record contains a copy of an undated form addressed to the complainant, documenting that the IEP and written summary of the May 9, 2018 portion of the IEP team meeting were sent to the complainant.
46. The student's educational record also contains a copy of an undated form addressed to the complainant, documenting that the IEP and written summary of the May 23, 2018 portion of the IEP team meeting were sent to the complainant.
47. On June 4, 2018, the complainant informed the school staff of the family's change of address.
48. On July 10, 2018, the complainant sent an electronic mail (email) message to school staff indicating that she had not yet received the finalized IEP and written summary of the May 2018 IEP team meeting.

XXX

Dr. Arden Sotomayor

September 28, 2018

Page 11

49. On August 2, 2018, the complainant sent an email message to the school staff thanking them for sending the finalized IEP on July 11, 2018, and requesting that it be sent in a “pdf searchable format.”
50. On August 7, 2018, the school staff sent an email message to the complainant forwarding a copy of the finalized IEP in a “pdf searchable format.”

### **Provision of Home and Hospital Teaching (HHT) Services**

51. The HHT services provider documented that HHT services were provided from January 22, 2018 to February 9, 2018. The service provided noted that the student was scheduled to receive two (2) classes per week for three (3) hours per class, but that the student was not able to access that amount of instruction so they revised the schedule to three (3) classes per week for two (2) hours per class. The HHT services provider also noted that the student was only engaged in the instruction for an average of one and one-half (1.5) hours per session.
52. The student was not provided with HHT services during periods of hospitalization.
53. There is no documentation that the student has returned to a school-based program.

### **CONCLUSIONS:**

#### **Allegation #1**

#### **October 2, 2017 Educational Placement Decision**

In this case, the complainant alleges that the IEP team did not consider her request for placement in the general education classroom with the provision of one-to-one adult assistance. The complainant also alleges that the team’s decision to continue the student’s placement in the EAP was inconsistent with the data that the student had not made progress in that program.

Based on the Findings of Facts #8, #9, #11, and #12, the MSDE finds that there is documentation that the IEP team considered parental input when making the placement decision, in accordance with 34 CFR §§300.114 - .116 and .324.

Based on the Findings of Facts #5, #6, and #9 - #11, the MSDE finds that, although the IEP team did not accept the complainant’s request for placement in the general education classroom with supports, the placement decision was consistent with the data from the school staff that the student required additional supports than could not be provided in the general education classroom and that the student was making progress in the EAP, in accordance with 34 CFR §§300.114 - .116 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.





December 20, 2017 IEP Team Meeting

Based on the Findings of Facts #14 and #19, the MSDE finds that, while there is documentation that written notice of the decisions made at the December 20, 2017 IEP team meeting was sent to the complainant, there is no documentation that it was sent prior to the implementation of the decisions made at the meeting, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding the violation, based on the Findings of Facts #17 and #19, the MSDE finds that the complainant was provided with information about how to obtain an IEE in response to her disagreement with the team's decision regarding the identified disability, and the team's decision to conduct an occupational therapy assessment was not implemented prior to the complainant's provision of written consent. Therefore, this office finds that the violation did not negatively impact the complainant's ability to participate in the education decision-making process.

January 10, 2018 IEP Team Meeting

Based on the Finding of Fact #23, the MSDE finds that there is no documentation that an IEP team meeting was held on January 10, 2018. Therefore, this office does not find a violation with respect to this aspect of the allegation.

January 26, 2018 IEP Team Meeting

Based on the Finding of Fact #23, #25, and #26, the MSDE finds that there is no documentation that written notice of the January 26, 2018 decision to obtain additional information from the private psychiatrist was provided to the complainant prior to the January 31, 2018 contact with the private psychiatrist, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #27, the MSDE finds that the complainant agreed with the decision to contact the private psychiatrist and provided the school staff with information from the private psychiatrist following the January 26, 2018 IEP team meeting. Therefore, this office finds that the violation did not impact the complainant's ability to participate in the education decision-making process.

March 14, 2018 IEP Team Meeting

Based on the Findings of Facts ##7, #13 and #35, the MSDE finds that there is no documentation that written notice of the team's March 14, 2018 decisions was sent to the complainant prior to implementing the decision to add the speech/language goals and services and continue the student's placement in the EAP, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

XXX

Dr. Arden Sotomayor

September 28, 2018

Page 15

Notwithstanding the violation, based on the Finding of Fact #53, the MSDE finds that there is no documentation that the decisions made on March 14, 2018 about the student's program and placement were implemented prior to the complainant's exercising her right to dispute those decisions. Therefore, this office finds that the violation did not impact the complainant's ability to participate in the education decision-making process.

#### May 9, 2018 IEP Team Meeting

Based on the Findings of Facts #38 - #45, the MSDE finds that, although there is documentation that written notice of the team's May 9, 2018 decisions was sent to the complainant, there is no evidence that it was sent prior to implementing the decisions made about the program at the meeting, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding the violation, based on the Finding of Fact #53, the MSDE finds that there is no documentation that the decisions made on May 9, 2018 were implemented prior to the complainant's exercising her right to dispute those decisions. Therefore, this office finds that the violation did not impact the complainant's ability to participate in the education decision-making process.

#### Finalized IEP

Based on the Findings of Facts #42, #44, and #46, the MSDE finds that there is no documentation that the IEP was provided within five (5) business days of the completion of the review and revision of the IEP on May 23, 2018, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding the violation, based on the Findings of Facts #47 - #50, the MSDE finds that, following the IEP team meeting, the complainant informed the school staff of a change in her address and that the IEP was re-sent the day after she informed the school staff that she did not receive the IEP.

#### **ADDITIONAL DISCUSSION:**

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 IEP, 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).

XXX

Dr. Arden Sotomayor

September 28, 2018

Page 16

When it is determined that the public agency has not followed proper procedures, the SEA can require it to ensure that the IEP team follows proper procedures to review and revise, as appropriate, the program to ensure that it addresses the needs identified in the data. The SEA may not, however, overturn an IEP team's decisions when proper procedures have been followed and there is data to support the team's decisions. The OSEP indicates that parents may challenge an IEP team's decisions by filing a due process complaint or requesting mediation to resolve the dispute (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).

This office understands that the IEP team has considered conflicting data and that the complainant has disagreed with the IEP team's decisions about the data it has chosen to rely upon. However, because there is data to support the team's decisions, this office is unable to overturn those decisions. The complainant is reminded of her right to request mediation or to file a due process complaint if she continues to disagree with the IEP team decisions.

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

#### **Student-Specific**

The MSDE requires the CCPS to provide documentation by November 1, 2018 that the complainant has been provided with an additional copy of all documentation generated from IEP team meetings held during the 2017-2018 school year.

The CCPS must also provide documentation that steps have been taken to confirm with the complainant that the student has been enrolled in an education program for the 2018-2019 school year and to facilitate the transfer of the student's educational record, if appropriate.

#### **School-Based**

The MSDE requires the CCPS to provide documentation, by December 1, 2018 of the steps taken to ensure that the staff at XXXXXXXXXXXXXXXXXXXX properly document the provision of all documents to parents within the required timelines. The documentation must include a description of how the PGCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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



**TECHNICAL ASSISTANCE:**

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

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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 FAPE for the student, including issues subject to this State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

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

MEF/am

c: Kimberly Hill  
Nancy Pirner  
XXXXXXXXXXXX  
Dori Wilson  
Anita Mandis  
Janet Zimmerman  
Nancy Birenbaum