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September 23, 2016

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Ms. Rebecca Rider  
Director, Office of Special Education  
Baltimore County Public Schools  
The Jefferson Building  
105 West Chesapeake Avenue  
Towson, Maryland 21204

RE: XXXXX  
Reference: #17-016

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 4, 2016, the MSDE received a complaint from Ms. XXXXXXXXXXXX hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore County Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the BCPS did not ensure that the student was provided with the special education and related services required by the Individualized Education Program (IEP) during the 2015-2016 school year, in accordance with 34 CFR §§300.101 and..323.

**INVESTIGATIVE PROCEDURES:**

1. On July 18, 2016, the MSDE received correspondence from the complainant alleging violations of the IDEA by the BCPS that occurred in 2013.

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2. On July 20, 2016, the MSDE sent correspondence to the complainant explaining that it could not investigate claims that occurred more than one year from the date that the State complaint was received.
3. On August 3, 2016, the MSDE received correspondence from the complainant clarifying alleged violations that occurred during the 2015-2016 school year. On that same day, Ms. Marjorie Shulbank, Section Chief, Family Support Section, MSDE, informed the complainant of the requirement to provide a proposed remedy with her complaint.
4. On August 4, 2016, the complainant provided the MSDE with a proposed remedy and the State complaint investigation was initiated.
5. On August 4, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Rebecca Rider, Director, Office of Special Education, BCPS.
6. On August 5, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint, including the proposed remedy, and identified the allegation subject to this investigation. On the same date, the MSDE notified the BCPS of the allegation and requested that the school system review the alleged violation.
7. On August 19, 2016, Mr. Gerald Loiacono, Complaint Investigator, MSDE contacted Ms. Conya Bailey, Compliance, Supervisor, Department of Student Services, Office of Special Education, BCPS, to request additional documentation and to arrange a document review and site visit.
8. On August 19, 2016, the MSDE received additional documentation from the BCPS.
9. On September 7, 2016 Mr. Loiacono and Ms. Nicole Green, Dispute Resolution Data Specialist, MSDE, conducted a site visit at XXXXXXXXXXXXXXXXXXXX to review the student's educational record and discussed the allegation with Ms. XXXXXXXX, IEP Chairperson. Ms. Bailey attended the site visit as a representative of the BCPS and to provide information on the school system's policies and procedures, as needed.
10. On September 16, 2016, Mr. Loiacono, conducted a telephone interview with the complainant and discussed the allegation for investigation.
11. On September 21, 2016, the MSDE received additional documentation from the complainant.
12. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP, dated February 20, 2015;
  - b. IEP, dated February 10, 2016;

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- c. "Instructional Accommodations/Modification Matrix," dated August 24, 2015 to June 2, 2016;
- d. Student Work Samples, various dates during the 2015-2016 school year; and
- e. Correspondence from the complainant containing allegation of violation of the IDEA, received by the MSDE on August 4, 2016.

### **BACKGROUND:**

The student is 14 years old and attends XXXXXXXXXXXXXXXX. Prior to the 2016-2017 school year, she attended XXXXXXXXXXXXXXXX. She is identified as a student with a Specific Learning Disability under the IDEA and has an IEP that requires the provision of special education services (Doc. a).

There is documentation that the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards during the time period addressed by this investigation (Docs. a-b).

### **FINDINGS OF FACTS:**

1. The student's IEP in effect at the start of the 2015-2016 school year was developed on February 20, 2015. It requires that the student be provided with the following accommodations, supplementary aids, services, program modifications and supports:
  - Use of a calculation device;
  - Provision of extended time;
  - Reduced distractions;
  - The use of manipulatives, to be provided weekly;
  - The use of organizational aides, to be provided weekly;
  - Repetition of information, to be provided daily as needed;
  - Breaking down of assignments into smaller units; to be provided weekly;
  - "Chunking" of assignment assignments, to be provided daily;
  - Alteration and modification of assignments, to be provided daily as needed;
  - Frequent eye contact, to be provided weekly;
  - Encouragement of the student to ask for assistance, to be provided weekly; and
  - "Adult support" to assist the student with cues and focus, to be provided daily (Doc. a).
2. On February 10, 2016, the IEP team met and revised the student's IEP to include the use of a "human reader" or audio recording of selected text during instruction and testing (Doc. b).
3. There is documentation that the student was provided with adult support on a daily basis. There is not, however, documentation that the student was provided with a human reader or audio recordings of text. While there is some documentation that the student was occasionally provided with a calculator, encouraged to seek assistance, or had distractions

removed, there is no documentation that the student was provided with the remaining accommodations, supplementary aids, services program modifications or supports required by her IEP (Docs. c and d).

**DISCUSSION/CONCLUSIONS:**

The public agency must ensure that each student is provided with the special education instruction and supplementary aids and services required by the student's IEP (34 CFR §§300.101 and .323).

Based on the Findings of Facts #1-3, the MSDE finds that there is no documentation that the student was consistently provided with each accommodation, supplementary aid, service, program modification or support as required by her IEP. Therefore, the MSDE finds that a violation occurred with regard to this allegation.

**CORRECTIVE ACTIONS/TIMELINES:**

**Student-Specific**

The MSDE requires the BCPS to provide documentation by October 31, 2016 that the accommodations, supplementary aids, services, program modifications or supports required by the student's IEP are being consistently provided to the student.

The MSDE further requires the BCPS to provide documentation by November 30, 2016 that the IEP team has determined the compensatory services to remediate the violations identified through this investigation and has developed a plan for the implementation of these services within one year of the date of this Letter of Finding.

**School-Based**

The MSDE requires the BCPS to provide documentation by January 1, 2017, that steps have been taken to determine whether the violations identified through this investigation are unique to this case or whether they constitute a pattern of violations at XXXXXXXXXXXXXXXX. Specifically, a review of student records, data, or other relevant information must be conducted in order to determine if the regulatory requirements are being implemented and documentation of the results of this review must be provided to the MSDE. If compliance with the requirements is reported, the MSDE staff will verify compliance with the determinations found in the initial report.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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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 the BCPS and the complainant 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 findings of fact 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 within the timelines reported in this Letter of Findings.

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

Sincerely,

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

MEF:gl

c:	S. Dallas Dance	Anita Mandis
	Conya Bailey	Gerald Loiacono
	XXXXXXXXXX	Nancy Birenbaum
	Dori Wilson	