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December 13, 2016

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Ms. Trinell Bowman
Executive Director of Special Education
Prince George's County Public Schools
1400 Nalley Terrace
Landover, Maryland 20785

RE: XXXXX
Reference: #17-036

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention Services (MSDE), 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 September 30, 2016, the MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, "the complainant," on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Prince George's County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

There is a sixty (60) timeline for completion of the complaint investigation process. However, in order to ensure that additional documentation provided on November 29, 2016, was considered, it was necessary to extend the timeline for completion of this Letter of Findings, pursuant to 34 CFR §300.152.

The MSDE investigated the following allegations:

1. The PGCPS did not ensure that the Individualized Education Program (IEP) was implemented, as required, since September 30, 2015, in accordance with 34 CFR §§300.101 and .323. Specifically:

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- a. The PGCPS has not ensured that the student was provided with the required speech/language therapy;
 - b. The PGCPS has not ensured that the student was provided with the required accommodations, including small group settings for math, language arts, and social skills training with the guidance counselor; and
 - c. The PGCPS has not ensured that the progress reports were provided on a quarterly basis during the 2015-2016 school year.
2. The PGCPS has not ensured that proper procedures were followed when developing the IEP, in accordance with 34 CFR §§300.43, .300, .320 and .324. Specifically:
- a. The IEP does not address the student's behavior needs;
 - b. The IEP does not include transition services that are based on the student's needs;
 - c. The IEP does not include a clearly written statement of services; and
 - d. The IEP does not include services that are based on peer-reviewed research to the extent practicable.
3. The PGCPS has not ensured that the IEP has been reviewed to address any lack of expected progress toward the annual goals, in accordance with 34 CFR §§300.101 and .324.
4. The PGCPS has not ensured that the student has been provided with special education instruction by a special education teacher in his academic classes, as required by the IEP, in accordance with 34 CFR §300.323.

INVESTIGATIVE PROCEDURES:

1. On September 30, 2016, the MSDE received the State complaint and documentation to be considered.
2. On October 4, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Trinell Bowman, Executive Director of Special Education, PGCPS.
3. On October 21, 2016, Mr. Albert Chichester, Complaint Investigator, MSDE, conducted a telephone interview with the complainant to discuss the allegations.
4. On October 25, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegations subject to this

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investigation. The MSDE also notified Ms. Bowman of the allegations to be investigated and requested that her office review the alleged violations.

5. On November 10, 2016, Mr. Chichester and Ms. Anita Mandis, Complaint Investigation Section Chief, MSDE, conducted a site visit to the XXXXXXXXXXXXXXXXXXXX to review the student's educational record, and interviewed Ms. Monica Wheeler, Compliance Specialist, PGCPS.
6. Documentation provided by the parties was reviewed. The documents referenced in this Letter of Findings include:
 - a. IEP dated, March 4, 2015;
 - b. IEP dated, November 24, 2015;
 - c. IEP dated, June 3, 2016;
 - d. IEP dated, October 3, 2016;
 - e. IEP dated, October 27, 2016;
 - f. Meeting summary, dated November 28, 2015;
 - g. Meeting summary, dated October 27, 2016;
 - h. The student's 2016-2017 class schedule;
 - i. IEP progress reports for the 2015-2016 school year;
 - j. Interest Inventory, dated October 26, 2016;
 - k. AMP Reading System Efficacy Study Guide, dated 2007;
 - l. Consent for Assessments, dated October 27, 2016;
 - m. Disciplinary removal notices, dated December 18, 2015, September 22, 2016, and October 7, 2016;
 - n. Disciplinary referrals, dated May 11, 2016 and June 10, 2016;
 - o. Minor incident reports, dated April 29, 2016, May 2, 2016;
 - p. The student's 8th grade science, social studies, English/reading, and math class rosters, for the 2016-2017 school year;
 - q. The math teacher's inclusive support logs, dated between September 19, 2016 and November 25, 2016; and
 - r. Correspondence from the complainants containing allegations of violations of the IDEA, received by the MSDE on September 30, 2016.

BACKGROUND:

The student is 13 years old and is identified as a student with an Other Health Impairment under the IDEA, related to Attention Deficit Hyperactive Disorder (ADHD). He attends the XXXXXXXX XXXXXXXX and has an IEP that requires the provision of special education instruction and related services (Docs. a - e).

During the time period covered by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Docs. a - e).

ALLEGATION #1: IEP IMPLEMENTATION

FINDINGS OF FACTS:

Speech/Language Therapy

1. The IEP in effect on September 30, 2015, requires that the student be provided with speech/language therapy as a related service, three (3) times each month for thirty (30) minutes each session, inside the general education classroom (Doc. a).
2. The IEP, dated November 24, 2015, June 3, 2016, and October 3, 2016, requires that the student be provided with speech/language therapy, two (2) times each month for thirty (30) minutes each session, outside the general education classroom (Docs. b - d).
3. There is no documentation that the student was provided with the amount of speech/ language therapy required by the IEP (Doc. r and an interview with the school system staff).
4. On October 27, 2016, the IEP team convened and acknowledged that the speech services were not provided to the student consistently, as required by the IEP. The school system staff report that there was confusion about the provision of services which were missed while the speech/language pathologist was on extended leave. The PGCPS determined that seven (7) speech/language therapy make-up sessions would be provided to the student (Docs. e, g, and an interview with the school system staff).

Small Group Setting

5. The IEP, dated June 3, 2016, and October 3, 2016, requires that the student be provided with special education instruction in a small group setting within the general education classroom, for math and reading. The IEP dated October 27, 2016, documents that the student will be provided with special education instruction in a small group setting within the general education classroom for math, reading, social studies, and science (Docs. c - e).
6. The school system staff report that the PGCPS considers a small group setting in a general education classroom to consist of a teacher and at least one (1) instructional assistant, and that this model allows for students to be put into smaller groups within the classroom to receive additional instructional support (Doc. q and an interview with the school system staff).
7. The student's classroom schedule and classroom rosters reflect that he is receiving small group instruction in the general education classroom, in math, reading, science, and social studies (Docs. h, m, and p).

Social Skills Training

8. The IEP requires that the student be provided with social skills training on a weekly basis, which is to be provided by the guidance counselor or the special education teacher (Docs. a - d).
9. At the October 27, 2016 IEP team meeting, the complainant raised concern about the social skills training sessions. The school system staff reported that the student was not provided with the socials skills training because the IEP did not clarify how it was to be provided. The guidance counselor agreed to have the student participate in the “lunch social group” to assist in developing his social and coping skills (Docs. e, g, r, and an interview with the complainant and school system staff).
10. There is no documentation indicating whether the student has participated in the “lunch social group” as discussed at the October 27, 2016 IEP team meeting (An interview with the school system staff).

Checklist Assignment Book

11. The IEP requires teachers to review an assignment book that the student maintains on a daily basis to ensure that accurate information is recorded. The IEP states that the checklist is to go back and forth between school and home on a daily basis (Docs. a - d).
12. At the October 27, 2016 IEP team meeting, the complainant raised concern about consistent communication with the school system staff and the use of the assignment book. The school system staff reported that the assignment book was not consistently being reviewed for accuracy of assignments and was not sent back and forth between school and home on a daily basis (Docs. d, r, and an interview with the complainant).
13. On October 27, 2016, the IEP team assured the complainant that they would reinforce the need for the school system staff to review the student’s agenda book daily before sending it home with the student (Doc. e)

Provision of Progress Reports

14. The IEP requires that progress reports be sent to the complainant in writing, on a quarterly basis during the school year (Docs. a - e).
15. The student’s progress on his goals was reported on a quarterly basis, with the exception of the fourth (4) quarter progress for his social behavior goal. However, there is no documentation that progress reports were provided to the complainant, as required by the IEP (Docs. a - e).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that special education services and related services are provided in the educational placement required by the student's IEP. The public agency must ensure that the IEP is implemented, including the provision of progress reports to parents, as set forth in the IEP (34 CFR §§300.101 and .323).

In order to ensure that the student receives the services required, the IEP must be written in a manner that is clear to all who are involved in its development and implementation (*Analysis of Comments and Changes, Federal Register*, Vol. 64, No. 48, p.12479, March 1999).

Speech/Language Services

Based on the Findings of Facts #1 - #4, the MSDE finds that the student was not provided with the amount of speech/language services required by the IEP. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Finding of Fact #4, the MSDE finds that on October 27, 2016, the IEP team met and determined that the PGCPS would provide makeup services to the student for the missed sessions. Therefore, no student-specific corrective action is required.

Small Group Setting

In this case, the complainant alleged that the student is not being provided with special education instruction in a small group setting. The complainant asserts that the IEP reflects the need for a small group setting due to the identified needs of the student.

Based on the Findings of Facts #5 - #7, the MSDE finds that the student is being provided with special education instruction in a small group setting, as required by the IEP. Therefore, this office does not find that a violation occurred with respect to the allegation.

Social Skills Training

Based on the Findings of Facts #8 - #10, the MSDE finds that the student was not provided with social skills training by school system staff, as required by the IEP. Therefore, this office finds that a violation occurred with respect to the allegation. Further, based on the Finding of Fact #9, the MSDE finds that there is no documentation that the student is currently being provided with the "lunch social group" and that this violation continues to occur.

Checklist Assignment Book

Based on the Findings of Facts #11 - #13, the MSDE finds that the checklist assignment book was not consistently completed and sent home on a daily basis, as required by the IEP. Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on the Finding of Fact #13, the MSDE finds that the IEP team met and revised the IEP to include and improve communication with the complainant with regard to the student's assignment book. Therefore, no corrective action is required.

Provision of Progress Reports

Based on the Findings of Facts #14 - #15, the MSDE finds that, although the PGCPS did update the student's progress reports on a quarterly basis, there is no documentation that the progress reports were provided to the complainant. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #2: IEP DEVELOPMENT

FINDINGS OF FACTS:

Addressing the Student's Behavior Needs

16. The IEP, dated March 4, 2015, November 24, 2015, June 3, 2016, and October 3, 2016, reflects that the IEP includes a goal that addresses the student's distractibility, the need to remain seated in class, and the need to address socializing with peers during class. There is also a self-management goal to address his organizational skills for classwork and homework. The goals were continued from March 4, 2015 to October 27, 2016 and there is no documentation that the student achieved the goals. However, with the exception of the fourth (4) quarter progress for the social behavior goal, progress reports were made each quarter indicating that the student was making sufficient progress to achieve the goals within one year of their development (Docs. a - d).
17. On October 27, 2016, the IEP team convened and discussed the student's behavior. The school system staff reported an increase in new behavior problems, including physical aggression and inappropriate touching of students at the beginning of the school year, which resulted in several disciplinary removals from school. There is also documentation that the student received several disciplinary referrals during the 2015 - 2016 school year that were related to the behaviors addressed in the IEP goals. As a result, the IEP team determined the need for a Functional Behavioral Assessment to address the student's behavior. The IEP team also decided to discontinue the self-management goal but there is no documentation which indicates the basis for the decision (Docs. e, l, and m - o).

Transition Services

18. On November 24, 2015, the IEP team began transition planning for the student. The IEP, dated November 24, 2015, indicates that the student completed an inventory about his interests and preferences and that the complainant was provided with a copy of the MSDE Transition Planning Guide. The documentation reflects that the student reported that he was interested in working in the human services field, and that he enjoys hanging out with friends, playing sports, video games, and reading (Docs. b - d).
19. The IEP, dated November 24, 2015, includes postsecondary goals for the student to work in some capacity with assisting the homeless. The IEP reflects that the student will participate in “training and child studies” to support postsecondary goals, and that the “student and parent” will assist the student with learning to sign his name in cursive to prepare him for future employment and that the “student and parent” will attend career fairs to better understand future career opportunities (Docs. b - d).
20. On October 27, 2016, the IEP team reviewed and revised the IEP. The October 27, 2016 IEP indicates that the student completed an interest inventory on October 18, 2016 about his interest and preferences and that the parent was provided with a copy of the Transition Planning Guide. The documentation reflects that the student reported that he was interested in working in the human services field as a firefighter, and that he needs to do research to identify local high school fire cadet programs and opportunities to volunteer in the fire station (Docs. e, j, and r).
21. At the October 27, 2016 IEP meeting, the complainant raised concern about the transition services for the student. The IEP was revised to include postsecondary goals for the student to attend college and study fire science. The IEP reflects that the student will participate in courses of study in “law, government, and public safety and administration” to support postsecondary goals, and that the “student and parent” will assist the student with learning to sign his name in cursive to prepare him for future employment and that the “student and parent” will attend career fairs to better understand future career opportunities (Docs. e, j, and r).

Clearly Written IEP

22. The supplementary aids, services, modifications, and supports section of the IEP, dated March 4, 2015, November 24, 2015, June 3, 2016, and October 3, 2016, documents the nature of the services to be provided, the frequency in which the services are to be provided, and the provider responsible for implementing the service (Docs. b - d, and r).
23. At the October 27, 2016 IEP team meeting, the complainant raised concern about the delivery of the modifications and supports that were to be provided to the student. The team revised the IEP to include specific language for each support and included descriptions on how each was to be provided to the student during classroom instruction (Doc. e).

Services Based on Peer Reviewed Research

24. The IEP in effect at the beginning of the 2015-2016 required special education instruction but did not require a researched-based intervention. The IEP dated, November 24, 2015, June 3, 2016, and October 3, 2016, requires special education instruction and indicates that the student participates in the *AMP Reading Intervention Program* (Docs. b - d).
25. At the October 27, 2016 IEP meeting, the team revised the IEP to clarify that the student was being provided with a researched-based reading intervention service in response to concerns raised by the complainant about the appropriateness of the special education being provided (Doc. e and an interview with the school system staff).

DISCUSSION/CONCLUSIONS:

Addressing the Student's Behavior Needs

The public agency must offer each student with a disability a Free Appropriate Public Education (FAPE) through an IEP that includes special education and related services that address the student's identified needs. In order to offer a FAPE, the public agency is required to develop an IEP that includes special education and related services designed to address the academic, developmental, and functional needs of the student. In the case of a student whose behavior impedes his or her learning or that of others, the IEP team must consider positive behavioral interventions and supports, and other strategies, to address that behavior (34 CFR §§300.101, .320 and .324).

The public agency must review the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved. The IEP team must also revise the IEP to address any lack of expected progress toward achieving the goals, information provided by the parents, or the student's anticipated needs (34 CFR §300.324).

Based on the Findings of Facts #16 and #17, the MSDE finds that while there are progress reports indicating that sufficient progress has been made, the documentation does not support this determination. Further, based on the Findings of Facts #17, the MSDE finds that there is no documentation to support the team's decision. Therefore, this office finds that a violation occurred with respect to the allegation.

Transition Services

Beginning not later than the first IEP to be in effect when a student turns fourteen (14) years old, the IEP must include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills. The IEP must also include a statement of needed transition services, including course of study needed to assist the student with reaching the transition goals and, if appropriate, a statement of the public and participating agencies' responsibilities or linkages before

the student leaves the secondary school setting (34 CFR §300.320 and COMAR 13A.05.01.09).

In this case, the complainant alleged that the transition goals and services do not provided a realistic expectation for the student to be successful upon graduation. The complainant asserted that the school has taken no active role in supporting the student with the goals and services.

Based on the Findings of Facts #18 - #20, the MSDE finds that, although the student was provided with an interest inventory and that transition goals were developed, the PGPCS has not identified how they are to support the student's achievement toward his transition goals and services, while in school. Further, based on the Finding of Fact #21, the MSDE finds that the IEP continues to identify the "parent and the student" as the responsible parties for services. Therefore, this office finds that a violation continues to occur with respect to the allegation.

Clearly Written IEP

In order to ensure that students are provided with the special education and related services that are determined necessary by the IEP team, the IEP must include a clear statement of the special education services required (34 CFR §§300.323).

In this case, the complainant alleged that the supplementary aids and service descriptions do not identify how the services are to be provided.

Based on the Findings of Facts #22 and #23, the MSDE finds that the IEP is written clearly with respect to the nature, frequency, and provider of the services. Therefore, this office does not find that a violation occurred with respect to the allegation.

Researched-Based Intervention

The IEP must include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child To advance appropriately toward attaining the annual goals and To be involved in and make progress in the general education curriculum (34 CFR §300.320).

In this case, the complainant alleged that the IEP did not include researched-based interventions that support instruction.

Based on the Findings of Facts #24 and #25, the MSDE finds that the IEP requires the provision of special education and related services and that there is documentation that the student is being provided with a researched-based intervention supports. Therefore, this office does not find that a violation occurred with respect to the allegation.

**ALLEGATION #3: ADDRESSING THE STUDENT'S LACK OF EXPECTED
PROGRESS ON ACADEMIC GOALS**

FINDINGS OF FACTS:

26. The IEP in effect since November 24, 2015, indicates goals that address the same skills and there is no documentation that those goals have been achieved. However, progress reports that were made on a quarterly basis indicate progress was sufficient to achieve the goals within one year of their development (Docs. b - e, i, and r).
27. On October 27, 2016, the IEP team revised the goals. However, the goals continue to address the same skills and there is no documentation that the team discussed how to address the lack of progress on the skills (Docs. b - e, g, i, and r).

DISCUSSION/CONCLUSIONS:

The public agency must review the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved. The IEP team must also revise the IEP to address any lack of expected progress toward achieving the goals, information provided by the parents, or the student's anticipated needs (34 CFR §300.324).

Based on the Findings of Facts #26 and #27, the MSDE finds that while there are progress reports indicating that sufficient progress has been made, the documentation does not support this determination. Therefore, this office finds that a violation occurred with respect to the allegation.

**ALLEGATION #4 THE PROVISION OF SPECIAL EDUCATION INSTRUCTION
DURING THE 2016-2017 SCHOOL YEAR**

FINDINGS OF FACTS:

28. The IEP in effect at the beginning of the 2016-2017 school year requires that the student be provided with special education instruction in science and social studies, in a general education classroom, by special and general education teachers. The IEP requires that the student be provided with special education instruction in math and reading, in a separate special education classroom, by a special education teacher (Doc. c).
29. There is documentation that the student has been provided with special education instruction by special education and general education teachers in science and social studies. There is also documentation that the student was provided with special education instruction in reading by a special education teacher, in a separate special education classroom. However, there is no documentation that the student was provided with

special education instruction in math, by a special education teacher, in a separate special education classroom (Docs. h, p, q, and r).

30. On October 27, 2016, the IEP was revised to require the student to be provided with special education instruction in math, reading, science, and social studies, in the general education classroom, by a special education teacher (Doc. e).
31. The student's class schedule reflects that there are general and special education teachers in science, social studies, and reading. However, the student's class schedule reflects that the math class has a general education teacher and a paraprofessional in the classroom, and that there is not a special education teacher in the class. The school system staff report that the general education teacher and the special education teacher consult on the provision of the special education instruction (Docs. h, p, q, r, and an interview with the school system staff).
32. The IEP, dated October 27, 2016, requires that the student be provided with special education instruction for twenty (20) hours each day, five (5) times each week, for one hundred (100) hours each day (Doc. e).

DISCUSSION/CONCLUSIONS:

The public agency must ensure that special education services and related services are provided in the educational placement required by the student's IEP (34 CFR §§300.101 and .323). As stated above, in order to do so, the IEP must be written clearly to ensure that students are provided with the special education and related services that are determined necessary by the IEP team.

In this case, the complainant alleged that during the 2016 - 2017 school year, the student has not received special education instruction in his classes by a special education teacher. The complainant asserts that the IEP requires that the primary provider for special education instruction be provided by a special education teacher.

Based on the Findings of Facts #28 - #32, the MSDE finds that the student is not receiving special education instruction in math, by a special education teacher, as required by the IEP. Further, based on the Finding of Fact #32, the MSDE finds that the IEP is not written clearly because it requires the provision of special education services far beyond the length of a school day. Therefore, this office finds that a violation has occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the PGCPS to provide documentation, by February 28, 2017, of the following:

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1. Social skills training through a lunch social group is being provided on a weekly basis;
2. The speech/language therapy sessions that the IEP team determined would be provided as corrective action are being provided, or that a plan has been developed to provide these speech/language therapy sessions; and
3. The progress reports from the 1st and 2nd quarters of the 2016 - 2017 school year have been provided to the complainant.

The MSDE requires the PGCPS to provide documentation, by February 28, 2017, that the IEP team has taken the following action:

1. Determined why the annual goals were not achieved within one year of development and develop a plan for the provision of services that are designed to ensure that the student with achieving them within one year of their most recent revision;
2. Revise the transition plan to include transition services to be provided by the school system staff;
3. Determine the compensatory services to be provided for the violations identified, which are designed to accelerate the student's progress during the 2016 - 2017 school year.

School-Based

The MSDE requires the PGCPS to provide documentation by March 31, 2017, of the steps it has taken to determine if the violations identified in the Letter of Findings are unique to this case or if they represent a pattern of noncompliance at XXXXXXXX School. 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.

TECHNICAL ASSISTANCE:

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

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Please be advised that both the complainant and the PGCPS 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 within the timelines 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 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 Special Education/Early Intervention Services

MEF:ac

- c: Kevin Maxwell
- Gwen Mason
- LaRhonda Owens
- Debra Anzelone
- XXXXXXXXXXXX
- XXXXXXXXXXXX
- Dori Wilson
- Anita Mandis
- Albert Chichester
- Nancy Birenbaum