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March 13, 2017

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Ms. Angela McPeake Gebert
Supervisor of Special Education
Dorchester County Public Schools
700 Glasgow Street
Cambridge, Maryland 21613

RE: XXXXX
Reference: #17-080

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 January 13, 2017, the MSDE received a complaint from Ms. XXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Dorchester County Public Schools (DCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the allegations listed below.

1. The DCPS did not ensure parent participation in the reevaluation conducted during the 2016-2017 school year, in accordance with 34 CFR §§300.322, .324 and COMAR 13A.05.01.07. Specifically, the DCPS did not ensure that a copy of an educational assessment was provided prior to the Individualized Education Program (IEP) team meeting in which it was discussed and did not ensure that the IEP team addressed parent questions about the assessment report.

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2. The DCPS has not ensured that the IEP team has considered the results of an Independent Educational Evaluation (IEE) that was offered for consideration, in accordance with 34 CFR §300.502.
3. The DCPS has not ensured that the IEP goals have been based on the student's present levels of academic achievement and functional performance, have been designed to assist the student to make progress in the general curriculum, and have been measurable since January, 2016, in accordance with 34 CFR §300.320.
4. The DCPS has not ensured that the student's IEP includes appropriate measurable postsecondary goals based on age appropriate transition assessments, in accordance with 34 CFR §300.320.
5. The DCPS has not ensured that the IEP has addressed the student's need for assistive technology since January, 2016, in accordance with 34 CFR §300.324. Specifically, the DCPS has not provided the student with required speech-to-text technology.
6. The DCPS has not ensured that the IEP has addressed the student's social, emotional, and behavioral needs since January, 2016, in accordance with 34 CFR §300.324.
7. The DCPS has not ensured that the IEP has addressed the student's speech/language needs since January, 2016, in accordance with 34 CFR §300.324.
8. The DCPS has not ensured that the IEP has addressed the student's functional life skills needs since January, 2016, in accordance with 34 CFR §300.324.
9. The DCPS has not ensured that the IEP has addressed the student's need for information to be provided orally and visually and his need for one-on-one assistance and prompting since January, 2016, in accordance with 34 CFR §300.324.

INVESTIGATIVE PROCEDURES:

1. On January 17, 2017, the MSDE sent a copy of the complaint, via facsimile, to Ms. Angela McPeake Gebert, Supervisor of Special Education, DCPS. On the same date, Ms. Anita Mandis, Section Chief, Complaint Investigation Section, Family Support and Dispute Resolution Branch, MSDE, conducted a telephone interview with the complainant about the allegations investigated.
2. On January 18, 2018 and February 1, 2017, Ms. Mandis conducted telephone interviews with the complainant's advocate, Ms. Julia Yankovich, at the complainant's request.
3. On January 19, 2017, 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. On the same date, the MSDE notified the DCPS of the allegations and requested that the DCPS review the alleged violations.

4. On February 1, 2017, Ms. Mandis conducted a telephone interview with Ms. Gebert about the allegations.
5. On February 6 and 7, 2017 and March 2, 2017, the MSDE requested additional information and documents from the DCPS.
6. On February 6, 2017 and March 3 and 6, 2017, the MSDE received documents from the DCPS for consideration.
7. On February 27, 2017, the MSDE received documents from the complainant and her advocate for consideration.
8. On February 28, 2017, Ms. Mandis reviewed documents with the complainant and her advocate by telephone.
9. On March 13, 2017, Ms. Mandis conducted a telephone interview with the student's stepfather.
10. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
 - a. Report of a psychological assessment, dated April 13, 2010;
 - b. Report of an educational assessment, dated April 22, 2014;
 - c. IEP, dated May 29, 2014;
 - d. Written summaries of IEP team meetings, dated March 26, 2015, April 20, 2015, and May 8, 2015;
 - e. IEP, dated May 1, 2015;
 - f. Report of a classroom observation, dated September 15, 2015;
 - g. IEP, dated December 17, 2015;
 - h. IEP, dated March 31, 2016;
 - i. Written summary of an October 11, 2016 IEP team meeting;
 - j. Report of a psychological assessment, dated November 28, 2016;
 - k. Report of a speech/language assessment, dated November 29, 2016;
 - l. Report of an educational assessment, dated December 8, 2016;
 - m. Electronic mail (email) messages between the complainant and the school system staff, dated December 13 – 15, 2016;
 - n. Written summary of the December 20, 2016 IEP team meeting;
 - o. Waiver of Five Day Notice, dated December 20, 2016;
 - p. Cover sheet from the DCPS to the complainant, undated, forwarding documents in preparation for the January 6, 2017 IEP team meeting;

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- q. Draft goals considered at the January 6, 2017 IEP team meeting;
- r. IEP, dated January 6, 2017 and written summary of the IEP team meeting; and
- s. Written correspondence from the complainant alleging violations of the IDEA, received by the MSDE on January 13, 2017.

BACKGROUND:

The student is fifteen (15) years old, is identified as a student with Autism under the IDEA, and has an IEP that requires the provision of special education instruction and related services (Docs. c, e, g, h, and r).

At the start of the time period covered by the investigation, the student attended XXXXXXXX XXXXXXXXXXXX. Since the start of the 2016-2017 school year, the student has attended the XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX (Docs. c, e, g, h, and r).

During the period of time addressed by this investigation, the complainant was provided with written notice of the procedural safeguards (Docs. c - i, n, and r).

ALLEGATIONS #1 - #3 AND #5 - #9 REEVALUATION AND IEP DEVELOPMENT

FINDINGS OF FACTS:

IEP in Effect in January 2016

1. The IEP in effect in January 2016 was developed on May 1, 2015 and revised on December 17, 2015. It includes the student's scores and percentile rank from assessments, including an April 22, 2014 educational assessment that was conducted in the areas of word reading, reading comprehension, pseudo word decoding, oral reading fluency, numerical operations, math problem solving, math fluency in addition, math fluency in subtraction, math fluency in multiplication, spelling, essay composition, sentence composition, and oral expression. These scores reflect that the student was performing as follows:
 - a. The student performed in the "average" range in word reading, reading comprehension, pseudo word decoding, and oral reading fluency;
 - b. The student performed in the "below average" range in numerical operations and math problem solving, and in the "low" range in math fluency;
 - c. The student performed in the "below average" range in spelling, the "very low" average in essay composition, and the "low average" in sentence composition; and

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- d. The student performed in the “below average” range in listening comprehension and oral expression (Docs. b, c, e, and g).
2. The IEP also documents that the student demonstrates difficulty formulating questions that denotes what he needs help with, maintaining proximity when addressing others in the hallway, and misinterpreting social nuances (Docs. c, e, and g).
3. There is no documentation that the student was demonstrating speech articulation, fine motor, reading comprehension, and functional skills needs (Docs. e, e, g, and review of documents from the education record).
4. The IEP describes the student’s performance in specific areas of math calculation and problem solving, written language expression, and expressive, receptive and pragmatic language and a description of the skills that students in the student’s current grade are expected to be able to complete in each area. While the IEP states that the student’s performance is “below grade level” in these areas, it does not specify the grade level at which the student is performing (Doc. g).
5. The IEP includes annual goals for the student to improve his skills in math calculation and problem solving, written language expression, and receptive, expressive, and pragmatic language. The IEP goals describe specific skills that the student is expected to demonstrate in each area, the percentage of accuracy that he is expected to demonstrate each skill and the frequency with which the student is expected to demonstrate that percentage of accuracy. Examples of the goals include the following:
 - a. Improve math calculation skills by substituting for the variable and using a calculation device to evaluate the expressions with 70% accuracy on three consecutive trials when given five algebraic expressions.
 - b. Improve math problem solving skills by: (a) utilizing the concepts of distributive property and combine like terms to simplify the expressions with 70% accuracy on three consecutive trials given five grade level algebraic expressions; and (b) using inverse operations to solve for the unknown variable for 70% accuracy on two consecutive trials when given ten grade level multi step equations.
 - c. Write a paragraph identifying the author’s purpose and claim, at least two supporting details and a conclusion sentence with no more than four verbal prompts on two out of three trials.
 - d. Demonstrate understanding of expected behavior by giving attention to the speaker given two prompts in three out of five trials (Doc. g).

6. The IEP requires that the student be provided with ten (10) hours per week of special education instruction in the areas of math calculation, problem solving, and written expression by a general education teacher and special education teacher in the general education classroom. It also requires the provision of thirty (30) minutes per week of related speech/language therapy in the general education classroom and fifteen (15) minutes per week of related speech/language therapy in a separate special education classroom (Doc. g).
7. The IEP documents that the student demonstrates behaviors that interfere with work completion that includes work refusal.¹ It specifically states that the student's "ability to stay on task and persevere through his frustration is poor and impacts the completion of academic tasks." It states that the student "seems unwilling to utilize the procedures or strategies that special education staff model and show him," but that "he is very bright and is able to understand math problems independently when he takes the time to either read them or listen as staff read them aloud" (Docs. c,e, g, h, and r).
8. The IEP states that the student "required 1 on 1 supervision in order to achieve" a math goal to evaluate fifth (5th) grade level math expressions with one exponent. The IEP further states that the student "requires 1 on 1 attention in the general education setting in order to [maintain] any level of focus in math class" and that "when staff is not in direct proximity to him, [the student] simply stops working." The IEP also states that the student will not begin written work without several verbal reminders and prompts, and that "if a staff member is not near him, he will not complete work unless given incentives" (Doc. g).
9. The IEP requires that the student be provided with frequent and immediate feedback to reinforce positive behavior and provide redirection to task. It states that this is to be provided by any school staff member, such as the teacher, an assistant, or an administrator, and that special education instruction is to be provided in the general education classroom primarily by a special education teacher (Doc. g).
10. A September 15, 2015 report of a classroom observation indicates that the student's classroom was observed to be very "verbal." The report contains a recommendation that more visual supports be provided such as having directions posted and referenced during instruction. The May 1, 2015 IEP in effect at that time included accommodations such as extended time to complete tasks, prompting, the ability to make up missed assignments, small group setting for test taking, repetition of directions, provision of teacher or student notes, and modified assignments. However, no additional visual supports were added to the IEP when it convened to on December 17, 2015, and there is no documentation that

¹ However, when considering the student's need for Extended School Year (ESY) services, the IEP team decided that the annual goals are related to critical life skills, but that the student exhibited no significant interfering behaviors and did not require ESY services (Docs. e, g, and h).

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the IEP team rejected the recommendation in the report for more visual supports (Docs. c, e, and f).

11. The September 15, 2015 report of a classroom observation states that the student “appeared to be disengaged from the instruction,” and that, while the use of a classroom computer should be offered as part of the general educational classroom environment for extended writing assignments, the student’s “overall attention to task issues need to be addressed prior to the use of any additional technology” (Doc. f).
12. While the IEP states that the student requires assistive technology devices and services, it specifies that it is related to his need for the use of a calculation device. The IEP states that the student has utilized a computer for writing with some success. It also states that the student should receive the services of a scribe for completion of writing tasks that are one or more paragraphs in length, but that the student will be “asked/encouraged” to perform his own writing in order to help him to learn the writing process (Doc. g).

March 31, 2016 IEP Team Meeting

13. On March 31, 2016, the IEP team considered the student’s progress and determined that he had achieved the goals to improve receptive, expressive, and pragmatic speech, and developed new goals for the student to provide solutions to problems given specific scenarios, point to pictures and objects that go together and repeat back sentences he is given with no more than one prompt (Doc. h).
14. The IEP team further determined that the student demonstrated 100% accuracy on the math calculation goal, and developed a new goal for the student to complete an input-output table by finishing the necessary calculations and plotting points on a coordinate plane with 70% accuracy over three consecutive trials given a function to evaluate along with five different x-values (Doc. h).
15. The IEP team decided that the student had demonstrated 70% accuracy with utilizing the concepts of distributive property and combining like terms to simplify the expressions on three consecutive trials when given five algebraic expressions. The team also discussed that the student is able to solve equations with three or less steps using the inverse operation independently with 70% accuracy, but has difficulty solving equations that require more steps to solve and needs reminders to independently combine like terms before solving or remembering to bring down other parts of the equation. A new goal was developed for the student to use the inverse operations, distributive property and combining like terms to solve for the unknown variable with 80% accuracy when given five grade level multi step equations (Doc. h).

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16. At the IEP team meeting, the team added language to the supplementary support of repetition of directions that requires that the student be provided with visual directions “as appropriate/needed” (Doc. h).

September 22, 2016 IEP Team Meeting

17. On September 22, 2016, at the start of the student's first year of high school, the IEP team convened. At that meeting, the complainant and the student's step-father expressed their concern that the high school staff not permit the student to get too far behind in assignments as they felt that the middle school staff did. They indicated that they did not want the student to be able to avoid being accountable as a result of his disability, and requested that the school staff provide electronic mail messages to inform them when the student falls behind on assignments. The school staff reported that there are general and special education teachers in the student's English and math classes, and that while he can be distracted by other students, he was “absorbing” the instruction and was able to maintain attention through prompts and is being seated at the front of the classroom (Review of audio recording of the September 22, 2016 IEP team meeting).

October 11, 2016 IEP Team Meeting

18. On October 11, 2016, the IEP team convened and considered the following concerns expressed by the complainant and her advocate:
 - a. The previous assessments did not provide sufficient information about the student's performance to know whether the goals being achieved are designed to narrow the gap between the student's performance and grade level expectations.
 - b. The student's reading comprehension difficulties impact more than just math and written language, and he has been unable to complete assignments because his needs in this area are not addressed in all of his classes.²
 - c. Although teachers report that the student is receiving passing grades, he is being provided with instruction using a modified curriculum³ that does not require him to master all of the course content.

² An April 2010 report of a psychological assessment states that the student was functioning in the “average” range of cognitive functioning. The report states that, while the student was performing in the “average” range in reading comprehension, he had difficulty in the areas of reading comprehension and math concepts with items that were abstract, which was “attributed to his autism” (Doc. a).

³ When the student was in middle school during the 2013-2014 school year, he received instruction on a modified curriculum. By the 2014-2015 school year, the IEP no longer required the provision of instruction on a modified curriculum. However, there is no indication that the complainant was provided with written notice of this change or

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- d. The student has functional needs that are not being addressed (Review of the audio recording the IEP team meeting).
19. The IEP team discussed that the student had been assessed for functional needs in the past,⁴ but did not discuss whether the data identified needs in this area. Instead, the team agreed to conduct an updated assessment in this area (Doc. a and review of audio recording of the IEP team meeting).
20. The complainant and the advocate requested that the student be provided with adult support from staff who are designed to work exclusively with the student to ensure that he maintains attention to tasks. The school staff again reported that the student receives adult support to address this need in English and math because there are both general and special education teachers in those classes (Review of the audio recording of the IEP team meeting).
21. The complainant and the advocate expressed concern that the IEP did not include information about the results of Statewide assessments and indicated their belief that the data reflects that the student is not making sufficient progress to prepare him to earn a Maryland High School Diploma. They requested that the IEP team consider the results of Statewide assessments and the team agreed to obtain that data (Review of the audio recording of the IEP team meeting).
22. The IEP team also decided to conduct updated psychological, educational, and speech/language assessments. The complainant indicated the belief that, even with the current data, the annual goals are not appropriate, and requested that the IEP be reviewed and revised at that time. The IEP team agreed that the goals were not appropriate, but decided to wait until all of the assessment data was obtained to review and revise the IEP (Doc. h and review of the audio recording of the IEP team meeting).

December 20, 2016 IEP Team Meeting

23. On December 20, 2016, the IEP team reconvened and considered the results of the assessment data. The speech/language assessment report states that the student's overall language skills are in the "below average range," and identifies weaknesses in

that the complainant's lack of understanding of this was corrected at the October 11, 2016 IEP team meeting (Docs. c - e and review of audio recording of the October 11, 2016 IEP team meeting).

⁴ The report of the April, 2010 psychological assessment states that the student "struggles adaptively at home and at school." The student's test scores fell below average in all domains (Doc. a).

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- interpreting social language and ironic statements. It contains a recommendation for the provision of instruction in inferring information and picking up on social cues, understanding and using nonverbal communication, and understanding idioms, irony, and sarcasm. The report states that the student may benefit from increased visual information and reminders in the classroom to enhance his ability to follow directions (Doc. k).
24. The report of the psychological assessment states that the student scored in the “low” or “moderately low” range in all areas of adaptive behavior, including communication, daily living skills, socialization, and adaptive behavior composite. The student scored in the “adequate” range on the subdomains of personal needs and hygiene and expressive language (Doc. j).
25. The IEP team discussed that it is a challenge for the student to count change over one dollar and to tell time to a quarter of an hour, and the complainant requested that the IEP address more than just socialization with respect to functional skills. A school-based member of the team stated that since the student does not have needs in the areas of personal hygiene, the needs that are not addressed through socialization could be address through math goals (Review of the audio recording of the IEP team meeting).
26. A review of the audio recording of the meeting reflects that a school-based member of the team suggested that the IEP team reconvene to complete the review of the assessment data on another date since the complainant had not yet been provided with a copy of the educational assessment.⁵ The complainant and the advocate requested that a copy of the report be provided at the meeting so that they could proceed with the review of the data. The school-based member of the team refused to provide the complainant with a copy of the educational assessment unless she agreed to sign a “waiver” of her right to receive the document prior to the meeting. Although she did not wish to waive her rights, the complainant signed the document in order to permit the team to begin reviewing the assessment data (Doc. o and review of the audio recording of the IEP team meeting).
27. The educational assessment report states that the student was able to answer factual questions and some inferential questions, that he was able to very quickly read sight words and decode nonsense words. It further states that the student was able to count simple change, read a calendar, and solve simple one step addition, subtraction and division problems. The student’s scores reflect that he is performing as follows:
- a. The student is performing in the “average” range in word reading and pseudo word decoding, and in the “below average” range in reading comprehension and oral reading fluency;

⁵ While the report had been sent to the complainant electronically, she could only view it through her mobile telephone and could not print it out (Doc. m and review of the audio recording of the IEP team meeting).

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- b. The student is performing in the “below average” range in math problem solving, and in the “low” range in numerical operations and math fluency;
 - c. The student is performing in the “average” range in spelling, the “low” range in sentence composition, and the “very low” range in essay composition; and
 - d. The student performed in the “below average” range in listening comprehension and oral expression (Doc. 1).
28. The results of a reading inventory that was conducted as part of the educational assessment indicates that the student, who is in the ninth (9th) grade, has an independent reading level of sixth (6th) grade with fluency, but that he has a “frustration level with retelling and comprehension at a fifth (5th) grade level passage,” and an instructional level of sixth (6th) grade with comprehension and retelling (Doc. 1).
29. During the meeting, the complainant again raised concerns that the student’s reading comprehension needs impact all academic areas, which should be reflected in the IEP. A school-based member of the IEP team responded that, while the student’s reading comprehension needs could be addressed, the team would feel “uncomfortable” stating on the IEP that the disability impacts the student’s reading comprehension (Review of the audio recording of the IEP team meeting).
30. The advocate expressed concern that the educational assessment report did not contain sufficient information about the student’s grade level performance to determine whether the special education instruction being provided is narrowing the gap between the student’s performance and grade level expectations (Review of the audio recording of the IEP team meeting).
31. The advocate expressed concern that the educational assessment report does not contain any recommendations for additional supports. When asked, the school staff member who conducted the educational assessment acknowledged that she is not a teacher of the student.⁶ The teacher indicated that she believes that she has sufficient knowledge of the student to serve as the special education teacher on the team as a result of conducting the assessment (Review of the audio recording of the IEP team meeting).
32. The advocate again expressed concern that the school staff had not obtained the data on the student’s performance on Statewide assessments. A school-based member of the team indicated that this information would be obtained and used when developing the IEP goals (Review of the audio recording of the IEP team meeting).

⁶ The speech/language service provider of the student participated in the IEP team meeting, and could, therefore, serve as the special education provider on the IEP team (Docs. h and l).

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33. Based on the data, the team decided that the student continues to meet the criteria for identification as a student with Autism under the IDEA. At the advocate's request, the team agreed to conduct an assessment of the student's fine motor and sensory skills. The team also decided to conduct a Functional Behavioral Assessment (FBA). The complainant again expressed concern about delaying the review and revision of the IEP until obtaining the additional data, but the IEP team decided to reconvene on another date to do so (Review of audio recording of the IEP team meeting).

January 6, 2017 IEP Team Meeting

34. On January 6, 2017, the IEP team began reviewing annual goals that were proposed by the school-based members of the team. A review of the audio recording of the meeting reflects that the complainant and the advocate again expressed concern that the school staff had not yet obtained the student's scores from the last Statewide assessment. They also again expressed concern that they could not tell whether the proposed goals were designed to narrow the gap between the student's performance and grade level expectations because they did not know how far below grade level expectations the student is performing (Docs. p - r and review of the audio recording of the IEP team meeting).
35. There is no indication on the audio recording that the complainant attempted to provide the team with the results of an independent assessment. However, the audio recording documents that, when the advocate requested that the team refer back to the educational assessment, a school-based member of the team responded that the team was there to develop goals and not to conduct another review of the assessment data (Review of the audio recording of the IEP team meeting).
36. The school staff reported that the student is performing at the fourth grade level in math, and that while he may not have made as much progress as hoped, they believe that he is showing growth because he can add and subtract single digits. The advocate expressed concern that the student, who was placed in honors algebra, was not being required to master the material required by the class, and therefore, his grades should not be a factor in determining his progress (Review of the audio recording of the IEP team meeting).
37. The school staff acknowledged that algebra is only going to become more challenging for the student as the year goes on, and the complainant indicated that she would rather the student focus on learning functional math skills than to continue to work on algebra skills that he will not master. The school staff responded that they are required to develop goals based on the courses in which the student is enrolled. The advocate disagreed, stating that the goals need to address the student's needs and not just the curriculum. She expressed concern that the student is unable to make even small purchases independently. The school staff stated that they don't know about that, but that the team could not decide

that the student will pursue a Maryland High School Certificate of Completion until his last year of high school. The advocate disputed this and indicated that the complainant would be requesting mediation (Review of the audio recording of the IEP team meeting).

38. The IEP was revised to reflect that the student's disability also negatively impacts his reading comprehension, stating that "due to the broad nature of the areas of need, it is expected that [the student] would be impacted in all academic and non-academic areas; both classes and things such as social interaction." It further states that, "a language arts assignment that requires [the student] to interpret figurative language would be particularly challenging," and that he "may benefit from direct instruction with regard to inferring information and picking up on social cues, understanding and using nonverbal communication" as well as understanding idioms, irony, and sarcasm. However, no IEP goal was developed for the student to improve reading comprehension, and the IEP continues to require (10) hours per week of special education instruction for a student who is in school for thirty (30) hours per week (Doc. r).

March 1, 2017 IEP Team Meeting

39. A request for mediation was not filed, and the IEP team reconvened on March 1, 2017. A review of the audio recording of the meeting reflects that a school-based member of the team began the meeting by calling for a decision that the student had been provided with a Free Appropriate Public Education (FAPE). The complainant and the advocate indicated that the student had not been provided with a FAPE because he has not demonstrated growth in his skills and the IEP does not address all areas of identified need. Without explanation, the school-based member of the team reported that the team decided that the student had been provided with a FAPE (Review of the audio recording of the IEP team meeting).
40. The IEP team reviewed the results of the occupational therapy assessment, which identified no fine motor or sensory processing needs. The evaluator reported that the student demonstrated no problems with using his hands, printing, typing, responding to noise, or transitioning from one place to another, and no visual motor problems were identified. Based on the information, the IEP team decided that the student does not have needs in these areas (Review of the audio recording of the IEP team meeting).
41. The IEP team reviewed the result of the FBA, which indicates that the student needs clear direction without ambiguity and visual cues to begin working. The evaluator recommended seating the student near peers who remain on task and the provision of occasional reminders of what the student should be doing. A review of the audio recording of the meeting reflects that the evaluator reported that on the three different occasions on which he had observed the student in English class, there was only one teacher in the classroom (Review of the audio recording of the IEP team meeting).

42. The advocate reported concerns about the student's refusal to accept direction and talking back to teachers. The complainant reported that this is occurring as a result of the student's increasing frustration with his ability to complete work. This led to a discussion of whether the student has a significant cognitive or intellectual disability that would require him to receive instruction and assessment on alternate standards and to pursue a Maryland High School Certificate of Completion instead of a Maryland High School Diploma (Review of the audio recording of the IEP team meeting).
43. The team discussed that the student scored at the lowest level on Statewide assessments, but that most high school freshmen score at this level. The team also discussed that the student scored in the "average" and "low average" ranges on subtests within the cognitive testing that was conducted, and that his adaptive scores were only in the "low" to "moderately low" range. The complainant and the advocate expressed their belief that establishment of a cognitive disability alone was sufficient to determine that the student will receive instruction and assessment on an alternate curriculum and that any cognitive disability should be considered significant. Based on the data, the team decided that the student does not meet the criteria for participation in an alternate assessment because his cognitive disability is not significant (Review of the audio recording of the IEP team meeting).
44. The complainant and the advocate again complained that the proposed goals are not sufficiently ambitious to prepare the student to earn a Maryland High School Diploma. The advocate indicated that one of the goals requires the student to demonstrate a skill that a typically developing toddler could master, and the school staff agreed. The advocate also pointed to the fact that the student had either demonstrated the same or decreased performance in reading, math, written language, and oral language since the previous educational assessment was conducted in April, 2014. The advocate again asserted that the student is being provided with instruction on a modified curriculum, giving as an example the fact that he earned a 100% on an assignment on which he completed four out of twenty-four questions. The school staff conjectured that perhaps the four questions he completed were sufficient to demonstrate that he mastered all of the material (Review of the audio recording of the IEP team meeting).
45. The team agreed that the student requires additional supports, but rejected the request to determine the grade levels at which the student is performing. The team did not have sufficient time to complete the IEP review, and decided to reconvene on another date (Review of the audio recording of the IEP team meeting).

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DISCUSSION/CONCLUSIONS:

Allegation #1 Parent Participation in Reevaluation

When conducting a reevaluation, the public agency must ensure that the IEP team reviews the existing data, considers input from the parents, and obtains any additional data needed to determine whether the student continues to meet the criteria for identification as a student with a disability under the IDEA and the educational needs of the student. When reviewing and revising the IEP, the IEP team must consider the parent's concerns for enhancing the education of the student (34 CFR §§300.301 - .304, .324, and COMAR 13A.05.01.06).

Therefore, the public agency must ensure that the student's parents are afforded the opportunity to participate in the IEP team meeting (34 CFR §300.322 and COMAR 13A.05.01.07). This includes ensuring that parents are provided with each assessment, report, data chart, draft IEP, or other document the IEP team plans to discuss at an IEP team meeting at least five (5) business days before the meeting (COMAR 13A.05.01.07).

In this case, the complainant alleges that the IEP team did not ensure that her input was considered when conducting a reevaluation that was completed on January 6, 2017 for the following reasons:

- a. She was not provided with a copy of the educational assessment report prior to the December 20, 2016 IEP team meeting where it was discussed;
- b. The December 20, 2016 IEP team meeting was continued on January 6, 2017; and
- c. While she received a copy of the report prior to January 6, 2017, the IEP team would not consider her questions about the educational assessment at the January 6, 2017 IEP team meeting (Docs and interviews with the complainant and her advocate).

Based on the Findings of Facts #22 and #26, the MSDE finds that the school staff indicated to the complainant that she had to agree to "waive" her right to receive the educational assessment report prior to the December 20, 2016 IEP team meeting in order to be provided with a copy at the meeting. Because there is no provision for a waiver of the right to receive documents prior to the IEP team's review of those documents, and the school staff did not have the right to withhold the assessment report if the complainant did not provide such a waiver, this office finds that a violation occurred

In addition, based on the Findings of Facts #22, #26 - #33, and #35, the MSDE finds that there was discussion of the educational assessment at the December 20, 2016 IEP team meeting. However, the school-based members of the IEP team refused to permit the complainant and her advocate to ask questions about the educational assessment at the January 6, 2017 meeting despite the fact that the complainant had not been provided with a copy of the report in a timely

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manner prior to the December 20, 2016 meeting. Therefore, this office finds that the DCPS denied the complainant's right to participate in the reevaluation and that violations occurred.

Allegation #2 Consideration of an Independent Educational Evaluation (IEE)

If a parent obtains an IEE at private expense and shares the results with the public agency, those results must be considered by the IEP team in any decision made with respect to the provision of a Free Appropriate Public Education (FAPE) if the IEE meets the public agency's criteria for evaluations (34 CFR §300.502).

In this case, the complainant alleges that she attempted to express concerns about the educational assessment on January 6, 2017 and to provide the school staff with a report of an IEE that she obtained, but that the school system staff would not permit the team to address her questions and concerns about the evaluation data (Doc. s).

Based on the Finding of Fact #35, the MSDE finds that there is no documentation that the complainant has provided the results of an IEE for the IEP team to consider. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #3 IEP Development and Content

In order to provide a student with a FAPE, the public agency must ensure that an IEP is developed that addresses all of the special education and related services needs that arise out of the student's disability that are identified in the evaluation data, whether or not they are commonly linked to the identified disability. 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, .304, .320, and .324).

The IDEA requires that a student's IEP include measurable annual goals that are designed to both 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 [Emphasis added](34 CFR §300.320).

The United States Department of Education (USDOE) has explained that the annual goals must be aligned with the State's academic content standards for the grade in which the student is enrolled, and take into account a student's present levels of academic achievement and functional performance [Emphasis added]. In a situation in which a student is performing significantly below the level of the grade in which the student is enrolled, the USDOE explained that the IEP team should determine annual goals that are ambitious but achievable, and ensure that the IEP includes "specially designed instruction," which the USDOE defines as an "element of special education instruction," that includes the following:

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Adapting, as appropriate to the needs of an eligible child, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability and to ensure access of the child to the general curriculum so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children [Emphasis added] (34 CFR §300.39 and *USDOE Dear Colleague Letter*, dated November 16, 2015 and Analysis of Comments and Changes to the IDEA, *Federal Register*, Vol. 71, No. 156, August 14, 2006, p. 46662).

In addition to the general academic achievement standards and assessments that apply to all children, States are permitted to define alternate academic achievement standards⁷ and administer alternate assessments based on those standards for those students with the most significant cognitive disabilities [Emphasis added] (34 CFR §300.160).

In the past, the USDOE also permitted, but did not require, States to define modified academic achievement standards and to develop assessments based on those modified standards. However, the USDOE no longer authorizes States to do so. In making this decision, the USDOE explained that, in the past, it was believed that, for a small group of students with disabilities, general grade-level assessments may be too difficult, but alternate assessments based on alternate academic achievement standards may be too easy [Emphasis added] (Comments to the final amendments to the Elementary and Secondary Education Act of 1965, *Federal Register*, Vol. 80, No. 162, pp. 50773-50784, August 21, 2015).

However, the USDOE explained that research has shown that low achieving students with disabilities make academic progress when provided with appropriate supports and instruction, and that accessible general assessments, in combination with these supports and instruction, can promote high expectations for all students. Therefore, the USDOE now expects the States to develop and implement general assessments aligned with instruction on college and career ready standards that will be accessible to these students [Emphasis added] (Comments to final amendments to the Elementary and Secondary Education Act of 1965, *Federal Register*, Vol. 80, No. 162, pp. 50773-50784, August 21, 2015).

⁷ In Maryland, alternate academic achievement standards are performance standards that are based on a limited sample of content that is linked to grade level content standards. This content, however, may not fully represent grade level content and may include content that is substantially simplified [Emphasis added] (MSDE Technical Assistance Bulletin 17, *Understanding the Criteria and Eligibility Process for Students with the Most Significant Cognitive Disabilities Participating in the Maryland Assessment Program*).

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In publishing its rulemaking, the USDOE discussed the concept of student participation in a general assessment on a student's instructional level, which is referred to as "out-of-level" or "off-grade level" testing. The USDOE explained that this is the practice of assessing a student enrolled in one grade using a measure that was developed for students in a lower grade. With respect to this practice, the USDOE stated the following:

By definition, an out-of-level assessment cannot meet the requirements of a grade-level assessment because it does not measure mastery of grade-level content or academic achievement standards. In addition, out-of-level testing is often associated with lower expectations for students with disabilities, tracking such students into lower-level curricula with limited opportunities to succeed in the general education curriculum.

The USDOE further stated the following:

Although the Department agrees that some students may have a disability that affects their academic functioning, we disagree that students with disabilities, except those with the most significant cognitive disabilities, should be held to different academic achievement standards than their nondisabled peers [Emphasis added] (Comments to the final amendments to the Elementary and Secondary Education Act of 1965, *Federal Register*, Vol. 80, No. 162, pp. 50773-50784, August 21, 2015).

Previously in Maryland, students with disabilities could receive instruction and assessment on modified academic achievement standards that were aligned with the grade and course in which the student was enrolled, but that would be less difficult than regular course achievement standards. Currently in Maryland, students with disabilities are expected to pursue a Maryland High School Diploma and achieve standards based on end-of-course content acquisition and to participate in general assessments, unless they are students with the most significant cognitive disabilities who participate in alternate assessments.

In summary, the student who is seeking a Maryland High School Diploma must demonstrate mastery of the general curriculum, or the course content that is required for all students, and participate in assessments on that curriculum. In order for the annual goals to be aligned with that curriculum, they must measure the student's progress on that curriculum, and not the student's progress on instructional level activities.

However, the short-term objectives within an IEP 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.

In Maryland, all students with disabilities are expected to participate in the general curriculum and assessments that lead to a Maryland High School Diploma. However, students with disabilities who cannot meet the requirements for a Maryland High School Diploma may be awarded a Maryland High School Certificate of Program Completion if they meet specific requirements. The decision to award a student with disabilities a Maryland High School Certificate of Program Completion may not be made until after the beginning of the student's last year in high school unless the student is participating in alternate assessments based on the standards for those students with the most significant cognitive disabilities (COMAR 13A.03.02.09). If the IEP team determines that a student will participate in an alternate assessment, it must provide a statement of why the student cannot participate in regular assessments and which particular alternate assessment is appropriate for the student (34 CFR §300.320).

Assessment and instruction drive each other. A student who is participating in assessments based on alternate academic achievement standards is receiving instruction based on a limited sample of content that is linked to grade-level content standards. While a student who receives instruction on alternative academic achievement standards could eventually earn a Maryland High School Diploma by meeting all graduation requirements, the instructional content for the student may not fully represent grade level content and may include content that is substantially simplified. Thus, such a student is not likely to be prepared to meet the requirements for a Maryland High School Diploma and is pursuing a Maryland Certificate of Program Completion. Therefore, it is critical for IEP teams to continue to revisit decisions about assessments and graduation options in light of the student's progress throughout the student's academic career until the student's last year in high school (COMAR 13A.03.02.09, *Maryland's Differences Among Assessments Charts for Students Receiving Special Education Services*, <http://www.marylandpublicschools.org>, April 2012; MSDE *Technical Assistance Bulletin* #10, Revised September 2006; and MSDE *Technical Assistance Bulletin* #17, December 2009).

The MSDE developed guidelines for identifying the students who will participate in alternate assessments (*Maryland Accommodations Manual [Manual]*). The *Manual* states that a student with a significant cognitive disability will participate in the Alt-MSA if the student meets each of the six (6) factors listed below.

- The student is learning at emerging, readiness, or functional literacy levels Maryland reading, Maryland mathematics and Maryland science content standards objectives;
- The student requires explicit and ongoing instruction in functional skills;
- The student requires extensive and substantial modification (*e.g.*, reduced complexity of objectives and learning materials, and more time to learn) of the general education curriculum. The curriculum differs significantly from that of their non-disabled peers. They learn different objectives, may use different materials, and may participate in different learning activities;

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- The student requires intensive instruction and may require extensive supports, including physical prompts, to learn, apply, and transfer or generalize knowledge and skills to multiple settings;
- The student requires extensive support to perform and participate meaningfully and productively in daily activities in school, home, community, and work environments; and
- The student cannot participate in the MSA even with accommodations (*Manual*, section 3-5).

In this case, the complainant alleges that the IEP team has refused to consider providing the student with instruction and assessment using alternate achievement standards, but has not developed an IEP that is designed to assist the student with meeting the general education standards (Doc. s and interviews with the complainant and her advocate).

The complainant specifically asserts the following:

- a. That the IEP does not contain sufficient information about the student's present levels of performance to determine whether he is moving closer to grade level expectations;
- b. That the goals address a limited amount of skills building, which is insufficient to bring the student closer to grade level performance during a one year period of time; and
- c. That the IEP's requirement to provide modified assignments has resulted in the student not having to demonstrate the same skills as other students in order to demonstrate mastery of the material covered (Doc. s and interviews with the complainant and her advocate).

Based on the Findings of Facts #21, #32, #34, #42, and #43, the MSDE finds that there was a delay in considering the complainant's request that the student pursue a Maryland High School Certificate of Completion instead of a Maryland State High School Diploma due to the school staff's lack of understanding that the IEP team could consider the request if the student participates in instruction and assessment on an alternate curriculum. However, based on those Findings of Facts, the MSDE finds that the IEP team's decision that the student does not demonstrate a significant cognitive disability needed to participate in instruction and assessment on an alternative curriculum was consistent with the data.

Based on the Findings of Facts #1 - #7, #18 - #20, #22, #24, #25, #29, #30, #33, #36, #37, #38, and #39, the MSDE finds that, while the IEP team decided on March 1, 2017 that the student has been provided with a FAPE, there is no documentation to support that determination.

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Based on the Findings of Facts #1 - #4, #13 - #15, #27, #30, #34, and #45, the MSDE finds that, while the IEP has included measurable goals and the student has made progress on those goals, the IEP team has not addressed the complainant's concern about whether this progress has brought the student's performance closer to grade level expectations, and the assessment data reflects that the student has not made improvement in his skills.

In addition, based on the Findings of Facts #22 - #45, the MSDE finds that, since October 11, 2016, the IEP team has waited to revise the IEP to address all of the student's identified academic and functional needs until all assessment data is reviewed. Therefore, this office finds that a violation occurred since that time.

Allegation #5 Addressing Assistive Technology Needs

As stated above, the public agency must ensure that an IEP is developed that addresses all of the special education and related services needs that arise out of the student's disability that are identified in the evaluation data, whether or not they are commonly linked to the identified disability. In developing each student's IEP, the public agency must ensure that the IEP team considers whether the student needs assistive technology and services (34 CFR §§300.101, .304, .320, and .324).

In this case, the complainant alleges that the student has fine motor skills needs that makes handwriting impossible and that he requires the use of speech-to-text technology, which has not been provided. She asserts that while the student was provided with a laptop computer for a brief period of time, he was not provided with speech-to-technology software and the training needed to access such software (Doc. s).

Based on the Findings of Facts #3, #11, #12, and #40, the MSDE finds that the evidence does not support the allegation. Therefore, no violation is identified with respect to this allegation.

Allegation #6 Addressing Social, Emotional, and Behavioral Needs

As stated above, the public agency must ensure that an IEP is developed that addresses all of the special education and related services needs that arise out of the student's disability that are identified in the evaluation data, whether or not they are commonly linked to the identified disability. In the case of a student whose behavior impedes the student's learning, or that of other students, the IEP team must consider the use of positive behavioral interventions and supports and other strategies to address that behavior (34 CFR §§300.101, .304, .320, and .324).

In this case, the complainant alleges that the IEP team has not considered positive behavioral interventions, such as the use of a rewards system, to address the student's interfering behavior or shutting down and refusing to work (Doc. s).

Based on the Findings of Facts #1, #7 - #9, #11, #17, #20, #27, #33, and #41, the MSDE finds that the student's need for constant prompting to complete work has not been sufficiently addressed in the IEP through the provision of instruction by general and special education

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teachers in math and English as determined by the IEP team. This is because the student's behavioral needs are demonstrated across all academic areas, there is not general and special education teachers consistently present in the classes in which two teachers are assigned, and the student has been unable to increase his skills with the current IEP supports. Therefore, this office finds that a violation has occurred with respect to the allegation.

Allegation #7 Addressing Speech/Language Needs

As stated above, the public agency must ensure that an IEP is developed that addresses all of the special education and related services needs that arise out of the student's disability that are identified in the evaluation data. The data that must be considered in order to properly identify the student's needs includes information and concerns expressed by parents (34 CFR §§300.101, .304, .320, and .324).

In this case, the complainant alleges that the student has difficulty with pronouncing specific sounds, and that while she shared this information with the IEP team, it refused to consider her concerns (Doc. s). The complainant also alleges that the student's pragmatic language skills needs impact all areas of instruction, but that the IEP does not provide a sufficient amount of supports and related services to assist the student in improving his skills in these areas because it does not require adult assistance in all classes (Doc. s).

Based on the Findings of Facts #3 and #23, the MSDE finds that there is no evidence that the student has speech articulation needs. Therefore, this office does not find a violation with respect to this aspect of the allegation.

However, as stated above, the IEP team has not addressed the complainant's concern about whether the progress made on the goals has brought the student's performance closer to grade level expectations. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Allegation #8 Addressing Functional Life Skills Needs

As stated above, the public agency must ensure that an IEP is developed that addresses all of the special education and related services needs that are identified in the data regarding the student's academic and functional performance (34 CFR §§300.101, .304, .320, and .324).

In this case, the complainant alleges that the student has functional life skills needs, such as the ability to use money and to tell time, but that the IEP does not address these needs (Doc. s).

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As stated above, based on the Findings of Facts #3, #18, #19, #25, and #33, the MSDE finds that since October 11, 2016, the IEP team has waited to revise the IEP to address the student's functional needs until all assessment data is reviewed. Therefore, this office finds that a violation occurred since that time.

Allegation #9 Addressing the Need for Information to be Provided Orally and Visually and the Need for One-on-One Assistance and Prompting

As stated above, the public agency must ensure that an IEP is developed that addresses all of the special education and related services needs that arise out of the student's disability that are identified in the evaluation data, whether or not they are commonly linked to the identified disability (34 CFR §§300.101, .304, .320, and .324).

In this case, the complainant alleges that the student requires instruction to be provided visually and orally simultaneously, but that the IEP does not address this need. She also alleges that the student requires one-on-one attention during instruction in order to receive sufficient prompting to complete tasks, which the IEP also does not address (Doc. s).

Based on the Findings of Facts #10 and #16, the MSDE finds that there was a delay in addressing the student's identified need for visual supports between January 2016 and March 2016. Based on the Findings of Facts #23 and #33, the MSDE further finds that there has been a delay in addressing the student's need for additional visual supports since December 2016.

In addition, as stated above, based on the Findings of Facts #1, #7 - #9, #11, #17, #20, #27, #33, and #41, the MSDE also finds that the IEP has not sufficiently addressed the student's need for constant prompting. Therefore, this office finds that violations occurred regarding this allegation.

ALLEGATION #4 TRANSITION PLANNING

FINDINGS OF FACTS:

46. The transition planning in effect in January 2016 was conducted by the IEP team on May 1, 2015. The IEP documents that information about the student's interests and preferences was obtained through a student interview conducted on April 1, 2015, and that he reported that his interests were in watching television, playing video games, playing on the computer, and reading comic books and graphic novels. Based on this information, postsecondary goals were developed for the student to participate in a training program for video game design and work in that area after graduation from high school. The IEP team decided that the student's course of study would be Engineering, Scientific Research and Manufacturing Technology. The IEP team decided that the student would participate in a Career and Technology Program during high school and

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research the academic requirements to become a video game designer and the expected salary. The IEP team decided that referrals would not be made to other participating agencies because the student did not meet the criteria or was not yet in his second to last year of high school (Docs.).

47. On March 31, 2016, the IEP team considered information about the student's interests and preferences obtained through a student interview conducted on March 21, 2016. The IEP documents that the student continued to express interest in video games, and indicated that he preferred to work indoors rather than outdoors and to work alone rather than in a group. The IEP team revised the postsecondary goals for the student to participate in a training program to become a video game technician and to work in that field after graduation from high school. The team decided that the student's course of study would remain the same, and that the student would use the internet to research the job responsibilities in his chosen field and the average cost of a program for training in that field. The IEP team decided that referrals would not be made to other participating agencies because the student did not meet the criteria or was not yet in his second to last year of high school (Docs.).

DISCUSSION/CONCLUSIONS:

Beginning not later than the first IEP to be in effect when a student turns fourteen (14) years old, and younger, if appropriate, and updated annually, the student's IEP must include the following:

- a. Appropriate measurable postsecondary goals based on age-appropriate transition assessments related to training, education, employment, and independent living, as appropriate; and
- b. 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 alleges that the IEP team has not considered the student's need for an independent living goal despite the fact that he has been identified with needs related to daily living skills (Doc. s).

Based on the Findings of Facts #46 and #47, the MSDE finds that there is documentation that the IEP team based transition planning on the student's interests and preferences, developed transition goals on that data, and determined the services, including the course of study needed to prepare the student to work on those goals after graduation. Based on the Findings of Facts #3,#46, and #47, the MSDE finds that there is no documentation that the IEP team identified functional needs at the time that transition planning was last conducted that would serve as a

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basis for the team to consider an independent living goal. Therefore, this office does not find that a violation occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

Student-Specific

The MSDE requires the DCPS to provide documentation by May 1, 2017 that the IEP team has taken the following actions:

- a. Determined the student's grade level performance in all areas;
- b. Developed goals for the student to narrow the gap between his performance and grade level expectations;
- c. Determined the services to be provided in order to accelerate the student's achievement of the goals.
- d. Ensured that the IEP addresses all of the student's academic needs, including his needs in the area of reading comprehension.
- e. Ensured that the IEP addresses the student's need for constant prompting to assist him with accessing instruction and completing work.
- f. Ensured that the IEP addresses all of the identified functional needs.
- g. Ensured that the IEP addresses the student's need for visual supports in order to access instruction.

The MSDE also requires the DCPS to provide documentation by the end of the 2016-2017 school year that the student has been offered ESY services to address all of the IEP goals for the summer of 2017 in order to assist the student with accelerating achievement of the goals.

The MSDE further requires the DCPS to provide documentation for each quarter of the 2017-2018 school year that the IEP team has reviewed the student's progress and has revised the IEP, as appropriate, in order to address any lack of expected progress towards achievement of the goals.

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School-Based

The MSDE requires the DCPS to provide documentation by the start of the 2017-2018 school year that the XXXXXXXXXXXXXXXXXXXX staff have received training to ensure that they comply with the requirements for:

- a. Parent participation in the education decision-making process.
- b. Development of IEPs that address all identified needs.
- c. Development of IEP goals that measure the student's progress in the general curriculum.
- d. Development of IEP goals that are ambitious but achievable for student who are performing significantly below grade level.

The 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 complainants and the DCPS by Dr. Nancy Birenbaum, Compliance Specialist, MSDE. Dr. Birenbaum may be contacted at (410) 767-0255.

Please be advised that both the complainants and the DCPS 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 requirements as reported in this Letter of Findings.

Questions regarding the findings of facts, 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

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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/am

cc: XXXXXXXXXXXXX

Kim Waller

Dave Bromwell

Dori Wilson

Anita Mandis

Nancy Birenbaum