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December 30, 2016

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

RE: XXXXX  
Reference: #17-055

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.

**ALLEGATION:**

On October 31, 2016, the MSDE received a complaint from Ms. XXXXXXXXX, hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Howard County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the HCPS did not ensure that the Individualized Education Program (IEP) has addressed the student’s social interaction need for making on topic comments in a small group, since February 1, 2016, in accordance with 34 CFR §§300.101 and .324.

**INVESTIGATIVE PROCEDURES:**

1. On November 3, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Nancy Fitzgerald, Executive Director of Special Education and Student Services, HCPS.

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2. On November 9, 2016 the MSDE requested documents from HCPS.
3. On November 21, 2016, Ms. K. Sabrina Austin, Ms. Sharon Floyd, Mr. Albert Chichester, and Mr. Gerald Loiacono, Education Program Specialists, MSDE, conducted a telephone interview with the complainant about the allegation.
4. On November 22, 2016, the MSDE sent correspondence to the complainant that acknowledged receipt of the complaint and identified the allegation subject to this investigation. On the same date, the MSDE notified the HCPS of the allegation and requested that the school system staff review the alleged violation.
5. On November 29, 2016, the MSDE received additional documentation from the complainant to be considered.
6. On December 22, 2016, the HCPS provided the MSDE with documents to be considered.
7. On December 12, 2016, Mr. Loiacono reviewed the student's educational record at the students school.
8. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP, dated August 30, 2015, January 12, 2016, February 26, 2016, and May 13, 2016 and written summaries of IEP team meetings; and
  - b. Correspondence from the complainant alleging a violation of the IDEA, received by the MSDE on October 31, 2016.

### **BACKGROUND:**

The student is 11 years old and attends XXXXXXXXXXXXXXXXXXXX. She is identified as a student with Autism under the IDEA and has an IEP that requires the provision of special education and related services (Docs. a).

During the time period addressed by this investigation, the complainant was provided with notice of the procedural safeguards (Doc. a).

### **FINDINGS OF FACTS:**

1. The IEP in effect on February 1, 2016, was developed on January 12, 2016, and amended on January 27, 2016 (Doc. a). It identifies that the student has needs in the area of social interactions. The IEP includes a social interaction skills goal requiring the student to use language to communicate feelings, information, needs, and attitudes in activities of daily living. Within the goal, there is an objective that requires that the student will make 2 (two) to 3 (three) on topic verbal exchanges by making comments or questions (Doc. a)

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2. While neither the goal, nor the objectives within the goal, require a specific settings, the objective clearly states that the student's exchanges are to be made "during conversation with peers" which could include both large and small group setting (Doc. a).
3. The IEP in effect prior to February 1, 2016, included the identical social interaction goal. However, the objective requiring the student to make on topic comments or questions specified that the student would make the comments or question both during the small group and a large group setting (Doc. a).

### **DISCUSSION/CONCLUSION:**

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data. In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of the student (34CFR §300.324).

In this case, the complainant alleges that the student has social interactions needs related to providing on-topic comments in small group settings, and that these needs have not been addressed (Doc. b)

Based on the Findings of Facts #1 – #3, the MSDE finds that the documentation does not support the allegation. Therefore, the MSDE does not find a violation.

### **TECHNICAL ASSISTANCE:**

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

Please be advised that the HCPS and the complainant have the right to submit additional written documentation to this office within fifteen (15) days of the date of this letter if they disagree with the findings of fact or conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings. If additional information is provided, it will be reviewed and the MSDE will determine if a reconsideration of the conclusions is necessary.

Upon consideration of this additional documentation, this office may leave its findings and conclusions intact, set forth additional findings and conclusions, or enter new findings and conclusions. Pending the decision on a request for reconsideration, the school system must implement any corrective actions within the timelines reported in this Letter of Findings.

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

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Special Education/Early Intervention Services

MEF:am

c: Renee A. Foose  
Kelly Russo  
XXXXXXXXXXXX  
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Anita Mandis  
K. Sabrina Austin  
Nancy Birenbaum