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December 21, 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: #17-052

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 student was provided with special education instruction to address the Individualized Education Program (IEP) goals through Extended School Year (ESY) services during the summer of 2016, as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

**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 the HCPS.
3. On November 21, 2016, Mr. Gerald Loiacono, Ms. Sharon Floyd, Mr. Albert Chichester, and Ms. K. Sabrina Austin, 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 December 12, 2016, the HCPS provided the MSDE with documents to be considered.
6. On December 15, 2016, Mr. Loiacono reviewed the student's educational record at the student's school.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a) IEP, dated May 13, 2016;
  - b) Written summary of the IEP team meeting, dated May 13, 2016;
  - c) Electronic mail between the complainant and HCPS ESY services staff, dated June 28, 2016 to July 19, 2016;
  - d) IEP progress report, dated July 22, 2016;
  - e) The "HCPSS Communication Log," dated July 1, 2016 to July 31, 2016; and
  - f) Correspondence from the complainant containing an allegation of 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 (Doc. 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. At the IEP team meeting on May 26, 2016, the IEP team determined that the student would receive ESY services during the summer of 2016 for four hours per week in a separate special education classroom. The IEP team determined that the student would receive instruction to assist her in achieving her goals to improve reading, math, and social interaction skills (Docs. a and b).

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2. On July 18, 2016, the complainant sent correspondence to the HCPS ESY services staff requesting clarification of the instruction provided to the student through ESY services. The ESY staff responded to the complainant on July 19, 2016 and explained that the student is working on the goals identified by the IEP team (Doc. c).
3. The progress reports document that the student received instruction to address the goals identified by the IEP team through the provisions of ESY services in the summer of 2016 (Docs. d and e).

### **DISCUSSION/CONCLUSIONS:**

The public agency must ensure that students are provided with the special education and related services required in the IEP (34 CFR §§300.101 and .323).

In this case, the complainant alleges that the student was not provided with special education instruction to address the goals determined necessary by the IEP team while participating in the ESY program during the summer of 2016.

Based on the Findings of Facts #1-3, the MSDE finds that the documentation does not support the allegation. Therefore, this office does not find that a violation occurred with respect to the allegation.

### **TIMELINE:**

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.

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

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identification, evaluation, placement, or provision of a Free Appropriate Public Education 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  
XXXXXXXX  
Dori Wilson  
Anita Mandis  
Gerald Loiacono  
Nancy Birenbaum