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November 16, 2016

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Ms. Bobbi Pedrick  
Director of Special Education  
Anne Arundel County Public Schools  
2644 Riva Road  
Annapolis, Maryland 21401

RE: XXXXX  
Reference: #17-033

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 September 27, 2016, the MSDE received a complaint from Ms. XXXXXXXX hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Anne Arundel County Public Schools (AACPS) 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 AACPS has not ensured that the student has been provided with the special education instruction and supports required by the Individualized Educational Program (IEP), since August 2016, in accordance with 34 CFR §§300.101, and .323.

**INVESTIGATIVE PROCEDURES:**

1. On September 27, 2016, the MSDE sent a copy of the complaint, via facsimile, to Ms. Bobbi Pedrick Director of Special Education, AACPS.

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2. On September 30, 2016, Mr. Gerald Loiacono, Complaint Investigator, MSDE, conducted a telephone interview with the complainant and identified the allegation for investigation.
3. On October 3, 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 AACPS of the allegation and requested that the school system review the alleged violation.
4. On October 6, 2016, Mr. Loiacono sent electronic correspondence to the AACPS requesting additional documentation.
5. On October 18, 2016, the AACPS provided additional documentation to the MSDE.
6. On November 2, 2016, the AACPS provided the MSDE with a written response to the allegation and additional documentation.
7. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, which includes:
  - a. IEP, dated July 6, 2016;
  - b. Student and teacher schedules for the 2016-2017 school year;
  - c. Student work samples, dated September 2, 2016 to October 28, 2016;
  - d. Correspondence from the AACPS in response to the State complaint, dated November 2, 2016; and
  - e. Correspondence from the complainant containing allegation of violation of the IDEA, received by the MSDE on September 27, 2016.

### **BACKGROUND:**

The student is 10 years old and attends XXXXXXXXXX School. She is identified as a student with a Specific Learning Disability under the IDEA and has an IEP that requires the provision of special education instruction and related services (Doc. a).

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

### **FINDINGS OF FACTS**

1. On July 6, 2016, the IEP team convened and developed an IEP for the student that requires that the student be provided with two and one-half hours per week of instruction in a special education classroom primarily from a special education teacher (Doc. a).

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2. The AACPS has acknowledged that, since August 2016, the student has not been provided with instruction in the special education classroom, as required by the student's IEP (Doc. d).
3. The student's IEP also requires that the student be provided with supports in a general education classroom, including checks for understanding, repetition of directions, encouragement for the student to provide additional information, monitoring of independent work, and modified assignments (Doc. a).
4. There is documentation that a special educator was present in the student's general education classroom and provided her with the special education supports and accommodations required by the student's IEP (Docs. b and c).

#### **DISCUSSION/CONCLUSIONS:**

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

Based on the Findings of Facts #3 and 4, the MSDE finds that the student was provided with the supports required by her IEP in the general education classroom. However, based on the Findings of Facts #1-2, the MSDE finds that the student was not provided with the instruction required by the student's IEP in the special education classroom since the beginning of the 2016-2017 school year. Therefore, the MSDE finds that a violation occurred with respect to this allegation and that, as a result, the student has not been provided with a Free and Appropriate Public Education (FAPE).

#### **CORRECTIVE ACTIONS/TIMELINES:**

The MSDE requires the AACPS to provide documentation by December 1, 2016 that the instruction required by the student's IEP is being provided to the student.

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

#### **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.

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

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

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

Sincerely,

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

MEF:gl

c: George Arlotto  
Alison Barmat  
XXXXXXXX  
Dori Wilson  
Anita Mandis  
Gerald Loiacono  
Nancy Birenbaum