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State Superintendent of Schools

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October 9, 2013

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Mrs. Chrisandra A. Richardson  
Associate Superintendent  
Office of Special Education and Student Services  
Montgomery County Public Schools  
850 Hungerford Drive, Room 220  
Rockville, Maryland 20850

Ms. Gwendolyn J. Mason  
Director  
Department of Special Education Services  
Montgomery County Public Schools  
850 Hungerford Drive, Room 225  
Rockville, Maryland 20850

RE: XXXXX  
Reference: #14-013

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 August 14, 2013, the MSDE received a complaint from Ms. XXXXXXXXX, hereafter, “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Montgomery County Public Schools (MCPS) 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 MCPS did not ensure that the student was provided with advance notice of the XXXXXXXXXXXX (XXXXXX) camp that took place during the Summer of 2013, as required by his Individualized Education Program (IEP), in accordance with 34 CFR §§300.101 and .323.

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### **INVESTIGATIVE PROCEDURES:**

1. Ms. Tyra Williams, Education Program Specialist, MSDE, was assigned to investigate the complaint.
2. On August 16, 2013, the MSDE sent a copy of the complaint, via facsimile, to Ms. Gwendolyn J. Mason, Director, Department of Special Education Services, MCPS, and Ms. Julie Hall, Director, Division of Business, Fiscal, and Information Systems, MCPS.
3. On August 21 and 26, 2013, Ms. Williams conducted telephone interviews with the complainant to clarify the allegation to be investigated.
4. On August 22 and 26, 2013, the complainant sent the MSDE information to be considered as a part of the investigation.
5. On August 29, 2013, 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 MCPS of the allegation and requested that the MCPS review the alleged violation.
6. On the same day, the MSDE sent electronic mail (email) correspondence to the MCPS requesting information as a part of the investigation.
7. On September 12, 2013, the MCPS sent email correspondence to the MSDE with documentation to be considered as a part of the investigation.
8. On September 24, 2013, Ms. Williams conducted a telephone interview with the complainant.
9. The MSDE reviewed documentation, relevant to the findings and conclusions referenced in this Letter of Findings, listed below.
  - a. Correspondence and attachments from the complainant to the MSDE, received on August 14, 2013;
  - b. IEP, dated June 10, 2013;
  - c. XXXXXXXX 2013 schedule;
  - d. XXXXXXXX announcement, dated June 14, 2013; and
  - e. Email correspondence from school staff to the MCPS central office staff, dated September 5, 2013.

### **BACKGROUND:**

The student is fourteen (14) years old and is identified as a student with Autism under the IDEA. He attends XXXXXXXXXXXX (XXXXXXXXXXXX), where he receives special education

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instruction. During the period of time addressed by this investigation, the complainant participated in the education decision-making process and was provided with written notice of the procedural safeguards (Doc. b).

### **FINDINGS OF FACTS:**

1. The student is enrolled in the XXXXXXX XXXXXX course for the 2013 - 2014 school year (Doc. a and interview with the parties).
2. From July 29, 2013 through August 2, 2013, XXXXXXX held its annual XXXXXXX, which is an elective camp for students who will take this class during the upcoming school year. The XXXXXXX XXXXXX is a one (1) week summer course designed to introduce students to the academic rigor of the College Board's Advanced Placement Curriculum, which is used in the XXXXXXX (Docs. c and d).
3. The XXXXXXX XXXXXX is not a requirement of the XXXX course and parents are required to pay a fee for students to participate (Doc. d and interview with school system staff).
4. Although the student had registered to take the XXXXXXX XXXXXX course during the upcoming school year, the parent was not notified in advance of the XXXXXX program and the student did not participate (Docs. a and e).
5. The IEP requires that the student's general and special education teachers provide "advanced preparation for changes in schedule/routine and verbal reminders for strategies within the classroom" due to the student's difficulty with transitions (Doc. b).
6. The student's IEP does not require that the student participate in the XXXXXXX XXXXXX or any other camps offered by XXXXXXXXXXXXXXXX (Doc. b).

### **DISCUSSION/CONCLUSION:**

The public agency must ensure that each student is provided with a Free Appropriate Public Education (FAPE). A FAPE is defined as the provision of special education services by the public agency and without charge to parents (34 CFR §300.18). This is accomplished through the implementation of an IEP that addresses the educational needs that arise out of the student's disability to enable the student to be involved in and progress in the general curriculum (34 CFR §§300.101 and .320).

In this case, the complainant alleges that the student's IEP requires that the student be provided with advance notice of activities such as the XXXXXXXXXX, and that the lack of such notice resulted in the loss of special education instruction (Doc. a and interviews with the complainant). Based on the Findings of Facts #1 - #3, the MSDE finds that participation in the fee-based camp is not a requirement for students enrolled in the XXXXXXXXXXXXXXXX course. Based on the Findings of Facts # 4 - #6, the MSDE finds that while the student was not provided with

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advance notice of the summer camp program, this is not required by the IEP. Therefore, this office does not find that a violation has occurred.

Please be advised that the complainant and the school system 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 Conclusion 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 Conclusion is necessary. Upon consideration of this additional documentation, this office may leave its Findings and Conclusion intact, set forth additional Findings and Conclusions, or enter new Findings and Conclusions.

Questions regarding the Findings and Conclusion 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/tw

cc: Joshua P. Starr  
Julie Hall  
Ashley Vancleef  
XXXXXXX  
Dori Wilson  
Anita Mandis  
Tyra Williams