



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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June 18, 2018

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Ms. Carol Breeze  
Director of Instruction and Student Performance  
Frederick County Public Schools  
191 South East Street  
Frederick, Maryland 21701

RE: XXXXX  
Reference: #18-144

Dear Parties:

The Maryland State Department of Education, Division of Special Education/Early Intervention Services (MSDE), 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 April 20, 2018 the MSDE received correspondence from XXXXXXXXXXXXXXX, hereafter, “the complainant” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Frederick County Public Schools (FCPS) 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 FCPS has not ensured that the Individualized Education Program (IEP) has identified and addressed the student’s reading and writing needs since April 20, 2017, in accordance with 34 CFR §300.324.

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### **BACKGROUND:**

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

The student attended XXXXXXXXXXXXXXXXXXXX during the 2016-2017 school year. He was parentally placed at XXXXXXXXXXXX, a private school, for the 2017-2018 school year.

### **FINDINGS OF FACTS:**

1. The IEP in effect at the start of the investigation period was developed on October 25, 2016, and subsequently revised on June 7, 2017 and August 30, 2017. The IEP documented that the student's reading comprehension, reading phonics, reading fluency and written language expression were one (1) or more years below grade level, indicating he was reading at a beginning third grade level and that he was participating in a research-based intervention to assist him with his decoding skills since January 2016. At that time, the student's teacher reported that the student continues to be very slow when segmenting and blending words.
2. The reading intervention in which the student was participating focused on the student's decoding skills. It is documented that the student's reading phonics was on a Level M (third grade level) while the grade level expected score is Level Q (fifth grade level). On the Global Scholar reading performance the student scored below average with a score of 1889, while the fifth grade level expectancy was 2435. On the Fluency Assessment, the student scored 29 words per minute (wpm) with 93% accuracy, while the benchmark score (expected score) for this assessment is 94 wpm with 95% accuracy.
3. The IEP required the accommodations of a human reader, text-to-speech software, screen reader software, a scribe, computer access tools, extended time, multiple or frequent breaks and reduced distractions to other students. The supplementary aids, services, program modifications and instructional supports required by the IEP included use of a computer to assist with composition skills, word prediction software, audiobooks, a word bank to reinforce vocabulary when extended writing is required, spell check, monitoring independent work, speech to text software, chunking of texts, and a homeschool bi-weekly communication system. The IEP also required assistive technology consultation with the school staff. The student was able to comprehend grade level material when using the accommodations.
4. The IEP included a goal for the student to be able to decode words that contained "r-controlled" vowels, vowel diphthongs, vowel digraphs, and vowel-consonant-consonant-vowel (VCCV) words with 80% accuracy and fading verbal prompts, the

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second goal was to use fading verbal prompts to answer open-ended and/or multiple choice questions by referring to relevant details and examples in the text when explaining explicitly what the text says and when drawing inferences from the text. The third goal allowed for the provision of a grade level prompt, a proofreading checklist and two additional prompts, to be able to write an argumentative, informative, and/or narrative paragraph, and appropriately capitalize and provide ending punctuation of the assignment. The complainant requested the student have access to a “reading pen”<sup>1</sup> to increase his confidence and require less adult support when writing.

5. The IEP stated that the student will receive three (3) hours and twenty (20) minutes of services outside of the general education setting at this time in order to work on his reading. It also stated that the student will receive assistance with reading and writing while in the general education classroom for two (2) hours and forty (40) minutes per week.
6. The reading intervention that was utilized, *Corrective Reading*,<sup>2</sup> is a combination three part drill, vowel intensive drill, syllabication, word sentence writing, phonological awareness, high frequency words and fluency practice which is designed to promote decoding skills for students who are reading below their grade level.
7. A psychological evaluation report indicated the student’s overall functioning to be in the “average” range with processing weaknesses in nonverbal reasoning, working memory, processing speed, and rapid automatized naming. The student had difficulty with rate, accuracy, fluency, and comprehension of reading, although he was noted to use different and appropriate reading strategies during a reading observation which the observer noted he compensated for his reading fluency which resulted in an understanding of the reading material.
8. The school psychologist recommended strategies such as involving the student in the concept of skill learning, tactile-kinesthetically, experientially and visually; tape recording difficult material for the student to hear as he reads the passages; previewing and reviewing content material; checking for comprehension of the directions; provision of auditory and written directions; provision of models and samples of writing for the student to use as guidance; and provision of notes and organizers to fill in and follow

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<sup>1</sup> A reading pen is an assistive technology tool that allows the student to scan a word or sentence and the pen will read it aloud, promoting grade level access and independence ([www.reading-pen-assistive-technology-for-dyslexia-and-reading-disabilities/](http://www.reading-pen-assistive-technology-for-dyslexia-and-reading-disabilities/)).

<sup>2</sup> Corrective Reading is a research-based intervention designed to promote reading decoding, fluency, and comprehension skills. Corrective Reading is intended to be taught in 45-minute lessons 4-5 times a week ([www.nifdi.org/programs/reading/corrective-reading](http://www.nifdi.org/programs/reading/corrective-reading)).

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along during the lesson and allowance of different ways for the student to provide responses.

9. On January 20, 2017, the progress report for reading phonics indicated that the student was making sufficient progress to meet the goal only on objective number four (4) indicating the student is able to decode words containing r-controlled vowel patterns 80% of the time. It also indicated that the student was able to decode words containing vowel diphthongs 60% of the time.
10. The reading intervention in which the student participated since January 2016 began on level B1 and focused on decoding skills. The student was unable to consistently decode long vowels, digraphs, blends, and multisyllabic words. He passed the level B1 assessment on March 22, 2017 and progressed to level B2 in which the aforementioned skills were to be introduced. Many of the student's errors were related to the reversal of b and d. He did not meet proficiency standards for decoding and fluency on grade-level tests as indicated on the Benchmark Assessment and Fluency Assessments. The documentation indicated that he does not employ the decoding strategies learned in his writing. An objective was added to the phonics goal for the student to spell words containing "r-controlled" vowels, vowel diphthongs and vowel digraphs in isolation.
11. In a report of a private neuropsychological evaluation, the identified weaknesses were in the student's reading and writing. His ability to develop and demonstrate his academic knowledge was adversely affected by cognitive weaknesses which affected his speed, fluency, and retrieval of information. The student demonstrated weak orthographic processing skills which included his ability to appreciate, discern, and recall spelling patterns. He had also exhibited some symptoms of anxiety at home and school, particularly when reading and writing under timed conditions.

#### **April 28, 2017 IEP Team Meeting**

12. On April 28, 2017, the IEP team convened to consider information from the special education teacher that the student showed increased mastery by comprehending grade level curriculum without the aid of the accommodation of a human reader. This indicated that the student was able to make meaning and comprehend grade level text, and he showed progress to mastery on kindergarten and first grade foundational skills. The student has shown growth with decoding short vowels and "other" vowels such as diphthongs, "r-controlled" vowels and the "oo" digraph although the student does not employ the skills he has learned in his writing.
13. The IEP team discussed that, the student does not meet the proficiency standard in decoding and fluency as indicated on a recent benchmark assessment even with participation in the *Corrective Reading* intervention. The complainant expressed concern

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that the skill set the student needs will be introduced at the end of the B2 *Corrective Reading* series. The special education teacher stated that the daily strategies she is incorporating will support the student's individual needs. The IEP team also considered the student's progress with written expression by reviewing scores of "meeting expectations" on a recent rubric for craft and mechanics of writing on three writing prompts. The IEP team agreed to be flexible in their approach with the strategies, and base them on the daily needs the student displays.

14. Based on a report by the special education specialist, the IEP team noted that the student needs to learn through the use of multiple modalities, standard codes, and use of a multisensory technique for phonemic awareness. The complainant questioned whether the *Orton-Gillingham* program would be better for the student since it is research-based and shown to support students with Dyslexia. The IEP team decided to continue with the *Corrective Reading* while adding the recommendations for teaching strategies used with the *Orton-Gillingham* approaches to reading such as multiple modalities, standard codes, and use of a multisensory technique for phonemic awareness.
15. The IEP team discussed that the student needed to continue to receive reading at his instructional grade level to practice his skills but focus on grade level listening comprehension skills. The student was receiving reading instruction at his instructional grade level in the classroom during small group and during his special education time. The IEP team determined to continue to implement grade level reading instruction in general education and instructional level reading in special education.

#### **June 6, 2017 IEP Team Meeting**

16. On June 6, 2017, the IEP team convened and determined the student was making growth in reading based on reports that he was making sufficient progress on the IEP goals. The IEP team discussed that the student moved from a frustration level M (third grade) at the beginning of the 2016-2017 school year, progressed to an instructional Level M (beginning third grade) in January and is now at a Level N with 96% accuracy, (mid third grade), in June 2017. The student read Level O (mid third grade) with 94% accuracy that was deemed frustration at that time. The student exceeded his target (226) on the Global Scholar earning a 288 in reading. The complainant requested an *Orton-Gillingham* tutor, a Measures of Academic Progress (MAP) assessment and additional assessments.
17. The IEP team decided to revise the phonics goal to include consonant blends and digraphs. In response to the questions and concerns the complainant raised about the reading intervention, the IEP team decided that updated assessments would take place in the fall.

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18. The complainant questioned the FCPS school staff about their experience and qualifications to teach students diagnosed with Dyslexia. The correspondence from August 8, 2017 through May 10, 2018 documented the school staff reported having “no experience or qualifications,” that the training was “outdated” and that “there will be a program available for Dyslexic students at XXXXXXXXXXXXXXXXXXXXXXXXXX for the 2017-2018 school year.”
19. In response to the complainant’s concerns, FCPS Central Office staff, corresponded in writing to the complainant and explained that “in essence, there is no one best method or program for teaching students who experience reading difficulty or who are identified as Dyslexic learners at the intermediate grade level in elementary school.” “As opposed to a specific program requiring a specific sequence to instruction, it becomes more important that multisensory strategies and techniques be used based on the individual student’s needs.”

#### **August 28, 2017 IEP Team Meeting**

20. On August 28, 2017, the IEP team reconvened to address the complainant’s concerns and determine updated assessments as part of the student’s reevaluation. The complainant requested a teacher trained in the *Orton-Gillingham* reading intervention to provide reading services to the student. The IEP team instead proposed an Orton-Gillingham approach embedded into the reading program which would enable instructors to focus on the student’s individualized needs while using multiple approaches.
21. The IEP team also decided that the student would be provided with a home-school communication tool, a referral to the assistive technology team, and alternative methods for the student to share his thinking. The IEP team discussed that the reading program will entail forty (40) minutes outside of the classroom for reading services. The IEP team refused the complainant’s request to have the student attend another school which provides the *Orton-Gillingham* reading intervention citing the FCPS confidence in the evidenced-based program that was recommended at the IEP team meeting.
22. On October 9, 2017, the student was reported to have achieved the written language goal. The progress report for reading phonics indicated that the student did not meet the goal despite quarterly progress reports throughout the year that they were in effect that progress was sufficient. The special education teacher noted that the student’s reading goal and programming changed several times, and that progress was not monitored since he began receiving instruction using the current intervention, *Recipe for Reading*, sequence of skills.

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### **October 17, 2017 IEP Team Meeting**

23. On October 17, 2017, the IEP team convened to complete a reevaluation. In a review of the reevaluation assessments, results indicated that the student scored in the “low range” on the Broad Reading cluster of tests which included reading phonics, vocabulary development and word attack skills. On the psychological assessment, the student’s scores were in the “average” range. The results of the formal assessment revealed little difference since the last assessment which was conducted three years ago.
24. The results of the Gray Oral Reading Test – Fifth Edition indicated that the student scored below the level expected for a student his age. All of his scores were described as “poor” or “very poor.” His overall reading quotient also indicated “very poor” performance which is consistent with his known reading difficulties and his disability. Regardless of the level of difficulty, the student struggled with his fluency in reading. The documentation indicates that he reads out loud with a rather flat tone, and very little inflection without acknowledging punctuation, and when reading he spends most of his time decoding. He is able to understand the meaning of passages and answer comprehension questions.
25. The results of the Woodcock-Johnson IV, Tests of Achievement, indicated the student had a standard score of 85 on the Broad Written Language Cluster, which is in the “low” range. The cluster consisted of spelling, sentence writing fluency and writing samples. On the spelling subtest, the student performed in the “low” range, with a standard score of 73. On the writing subtest, the student performed in the high-average range, with a standard score of 114. On the spelling of sounds subtest, the student performed in the “low-average” range, with a standard score of 80.
26. There is documentation of samples of the student’s writing independently, with a scribe, and using the accommodation of speech-to-text. The special education teacher reported that the student’s writing included theme, content, a topic sentence, concluding sentence and supporting details when using the speech-to-text accommodation. There is also documentation by a special education specialist, that the student’s written language skills show progress through the provision of the intervention *On Demand Writing* tasks with the 2017-2018 third quarter samples demonstrating that the student was meeting expectations for craft and mechanics of writing.
27. The teacher reported that the student is reading in Level N, which is a mid-third grade reading level. The FCPS staff explained that the reading phonics goal was not achieved since it was revised in June 2017. The lack of progress was not addressed prior to the completion of the year of the IEP. With updated information, the goal was revised to state that given enrolled grade level text and/or instructional word lists, the student will read with sufficient accuracy and fluency to support comprehension by increasing his fluency

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- rate after repeated readings and reading word lists with 80% accuracy with up to 3 verbal prompts.
28. The reading comprehension goal was revised to reflect that, given an enrolled grade level section of text and access to text-to-speech software, the student will determine two or more main ideas of a text and explain how they are supported by key details with up to three (3) verbal prompts.
  29. A new written language goal was developed to reflect that, when given a proofreading checklist, dictated sentences, and up to two (2) prompts, the student will demonstrate command of the conventions of standard English using capitalization, punctuation, and spelling when writing by appropriately using these conventions on 80% of the assignment. Two objectives for spelling were added to include writing words with long vowel patterns and consonant blends correctly.
  30. Despite the lack of skills growth, the IEP team determined that there was no data to support the student needing one-to-one support. The IEP team determined the student met the requirement for the human reader and scribe accommodations for the statewide assessment.
  31. The parents expressed their concerns about the student's phonics needs, reading fluency, and the reading intervention program. They suggested that the student needs to have additional support in reading because he has not made progress. The IEP team decided that the FCPS is able to meet the student's reading needs, stating that the program is not *Orton-Gillingham* but is grounded in *Orton-Gillingham* principles, including multisensory strategies and the presentation of skills in a structured, sequential manner. However, the complainant was informed that staff would not be trained based on the *Orton-Gillingham* approach. The staff indicated that the plan was to support the staff in the development, implementation, and progress monitoring of the evidence-based intervention program that has been developed for the student's specific needs.
  32. The IEP team discussed that instruction will be delivered for forty (40) minutes five (5) times per week in a one-to-one pull out by the special education teacher. The IEP team decided that explicit instruction of phonics, word analysis skills, and sound-spelling correspondence will be provided using lessons/resources from the *Institute for Multisensory Education (IMSE)*, *Recipe for Reading*, *Reading A-Z*, and teacher made materials. The IEP team also decided that a multisensory approach would be used to help the student blend, segment, and isolate sounds in one-syllable words and to learn Stage 1 of the IMSE high frequency word list. A variety of decodable books would be used to support the application of the phonics skills being taught, in addition, the student would practice encoding learned sounds and patterns into words and sentences via multi-sensory approaches.



### **CONCLUSIONS:**

Based on the Findings of Facts #1, #11, #13, #25, #22, #26 and #29, the MSDE finds that the IEP team addressed the student's written language needs, in accordance with 34 CFR §300.324. Therefore, the MSDE does not find that a violation occurred with this aspect of the allegation.

However, based on the Findings of Facts #1, #5, #10, #11, #13 - #20 and #21, the MSDE finds that the FCPS did not ensure that the student was provided with explicit, systematic, cumulative, and diagnostic instruction and that frequent, ongoing and consistent progress monitoring was used to ensure that the student was responding adequately to the instruction provided, in accordance with 34 CFR §300.324 and the MSDE Technical Assistance Bulletin, *Specific Learning Disability and Supplement*, November 7, 2016. Further, based on those Findings of Facts, the MSDE finds that the student did not make adequate skills growth in this area and did not achieve the reading goal that was in effect while the student was enrolled in the FCPS. Therefore this office finds that a violation occurred with this aspect of the allegation.

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

#### **Student-Specific**

The MSDE requires the FCPS to provide documentation by the start of the 2018-2019 school year, if the student re-enrolls in the FCPS, that the IEP team has convened and determined the amount of tutoring services designed to accelerate the student's growth in reading skills, in order to redress the lack of progress, and developed a plan for the provision of those services within a year of the date of this Letter of Findings.

Should the student re-enroll, the FCPS must provide documentation by the end of the first quarter of the 2018-2019 school year, that the student is being provided with explicit, systematic, cumulative, and diagnostic instruction and that frequent, ongoing and consistent progress monitoring was used to ensure that the student was responding adequately to the instruction provided.

The FCPS must ensure that the complainant is provided with written notice of the IEP team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the IEP team's decisions.

#### **System-Based**

During the course of this investigation, a similar violation has been identified with respect to the use of a reading intervention in an investigation involving another FCPS student attending a

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different school (see State complaint #18-113). Therefore, the MSDE requires the FCPS to provide documentation by the start of the 2018-2019 school year of the steps it has taken to determine if the violation identified in this Letter of Findings represents a pattern of noncompliance within the school system.

Specifically, a review of student records, data, or other relevant information must be conducted in order to determine if reading interventions are being properly implemented and documentation of the results of this review must be provided to the MSDE. If compliance with the requirements is reported, the MSDE staff will verify compliance with the determinations found in the initial report.

Where the requirements for implementing reading interventions are not met, the FCPS must ensure that the IEP team meets and takes appropriate steps to ensure that each student's IEP addresses the student's needs and that compensatory services are determined to redress the loss of an appropriate educational program. In addition, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, the MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

Please be advised that both the complainant and the FCPS 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.

**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 both the complainant and the FCPS 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

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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 and conclusions contained in this letter should be addressed to this office in writing. The parties 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 Free and 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 a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Special Education/Early Intervention Services

MEF:sf

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