



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

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May 1, 2018

Ashley S. VanCleaf, Esq.  
Law Office of Brian K. Gruber, P.C.  
6110 Executive Boulevard, Suite 220  
Rockville, Maryland 20852

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

RE: XXXXX  
Reference: #18-113

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 March 2, 2018 the MSDE received correspondence from Ashley S. VanCleaf, Esq., hereafter, “the complainant” on behalf of Mr. XXXXXX and Ms. XXXXXX and their 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, in accordance with 34 CFR §300.324.

**BACKGROUND:**

The student is twelve (12) years old 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. At the start of this investigation, the student attended XXXXXXXXXXXXXXX  
XXXXXXXX. He now attends XXXXXXXXXXXXXXXXXXXXXXX.

### **FINDINGS OF FACTS:**

1. The IEP in effect at the start of the investigation period was developed on October 19, 2016, documented that the student's reading phonics, written language content and fine motor skills were two or more years below grade level, and that he was participating in a research-based intervention to assist him with his decoding skills. It also documented that the student was generally able to verbally express and elaborate on his ideas and form sentences about short stories that he has repeatedly read. However, when he writes, complex sentences become shorter and misspellings, combined with fine motor difficulties make his handwriting difficult to read. The IEP also documented that the student uses a computer to assist with his writing mechanics.
2. The IEP required the accommodations of a human reader, a scribe, a computer, extended time and reduced distractions to other students. The supplementary aids, services, program modifications and instructional supports required by the IEP, include daily use of assistive technology such as a "Smart Pen" and word prediction software, alternative ways for the student to demonstrate learning, and use of a word bank to reinforce vocabulary when extended writing is required. The IEP also required occupational therapy consultation with school staff.
3. The IEP included a goal for the student to be able to read multi-syllable words and irregularly spelled words with 90% accuracy and a goal to improve his written language content skills by completing a graphic organizer, and writing two or more paragraphs with a topic sentence, details and a conclusion.
4. The IEP stated that the student will participate in a special education classroom with a teacher and paraprofessional for participation in a research based decoding intervention three (3) hours per week. It also stated that the student will receive assistance with writing while in the general education classroom for one (1) hour per week.
5. The research-based decoding intervention the student participated in was *Corrective Reading*, a remedial reading series, which is designed to promote decoding skills for students who are reading below their grade level. The student participated in the *Corrective Reading* intervention for four (4) years, an extended period of time according to school staff, with a lack of positive outcomes, according to the student data results on the IEP present levels of performance.
6. The student, who is in the sixth grade, performed at a second/third grade level on a reading inventory and at a first grade level on a benchmark assessment during the 2016-2017 school year. There is data that shows that the student did not meet expectations to progress

through the *Corrective Reading* levels, but was moved to the next level as a result of reaching the end of the school year.

### **October 12, 2017 IEP Team Meeting**

7. On October 12, 2017, the IEP team at XXXXXXXXXXXXXXXXXXXX considered information that the student performed well on one of the assessments used in progress monitoring with the reading intervention, which does not assess his ability to generalize skills. Based on this information, the team decided that the student no longer has needs in the area of decoding, despite the fact that he had not achieved the annual goal in this area. The IEP team decided that, instead, the student would focus on improving reading comprehension.
8. In discussion about the student's reevaluation, the IEP team noted that the student does not qualify for the text-to-speech accommodation on the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment since he is no longer working on phonics skills. The IEP team determined the student's special education services reflected two (2) hours thirty (30) minutes weekly, changing from receiving the intervention outside of the classroom to within the language arts class. This change in the IEP was not reflective of the services the student was to receive.
9. The teacher reported that the student's grades in reading and writing were low, and on the 2017-2018 school year first quarter report card the student received a D in language arts and an F in math. She reported that the student could improve on adding detail to his writing content and elaborating on the writing process by expanding on the technical aspects of writing mechanics. After a review of the IEP, the team decided the student needed a reevaluation in the areas of reading, writing and math since the student's mother reported that the student struggles with math word problems and that the student also loses his place when completing equations.

### **February 2, 2018 IEP Team Meeting**

10. On February 2, 2018, the IEP team convened, reviewed the results of the educational assessment, and determined that the student continued to meet the criteria for identification as a student with a Specific Learning Disability in the area of reading and writing. In order to respond to the questions and concerns the parents raised about reading interventions, the IEP team determined that additional assessments would be needed to assist in the development of a plan to address the student's phonological needs.

### **February 20, 2018 IEP Team Meeting**

11. On February 20, 2018, the IEP team reconvened to review the assessment results which 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. When the student read vocabulary containing three or more syllables, he often looked at the first

letter and quickly responded with a word that sometimes had very few letters in common. The student did not try to sound out or decode the words. On the Word Attack subtest, the student was able to read nonsense one-syllable words, making errors with vowel combinations and suffixes. The results of the formal assessment showed very little progress since the last assessment which was conducted three years ago.

12. The teacher reported when the student accepts the his accommodations, he achieves better grades. She reported that the student is hesitant to use speech-to-text because he is embarrassed to use it in the classroom. She also reported that the student struggles on assessments and with getting his ideas on paper. The IEP team discussed having the student use a less intrusive microphone but the IEP team made no decisions about using alternative accommodations to address the student's behavior about using his accommodations.
13. The parents expressed their concerns about the student's comprehension needs, reading fluency, and reading interventions. They suggested that the student needs to have additional accommodations, such as tests read to him, and that his decoding and that the mechanics of writing, such as spelling skills are of major concern and also in need of intensive intervention. In response, the IEP team determined that Assistive Technology may need to be revisited.
14. As a result of the student's parent's concerns, the IEP team decided to reexamine the student's phonological abilities since the previous assessment results were inconsistent and difficult to determine the student's needs. The student's parents requested the IEP team consider a different reading intervention or a combination of interventions for the student to be able to be a successful reader. The IEP team also discussed collecting additional information to determine the appropriate reading and writing accommodations for the student.

### **March 8, and 28, 2018 IEP Team Meetings**

15. On March 8, 2018, the IEP team convened and determined that while the student had made small gains on a reading benchmark assessment, the IEP team needed additional information about the student's reading, phonics, vocabulary, spelling, and writing. The IEP team agreed to reconvene with the results of testing in those areas.
16. On March 28, 2018, the IEP team reconvened in order to review the results of phonics reading, vocabulary and writing assessments, and revise the IEP accordingly. On a vocabulary test, the student scored at the second grade level and a first/second grade level on a word recognition assessment. On a private assessment the student was in the "low" range with word identification and word attack skills and visual motor integration. On an informal writing assessment, the student struggled with the mechanics of writing, including task initiation, being productive, sentence fragmentation, grammatical errors, capitalization, poor letter formation, and incomplete thoughts.

17. The results of the student's benchmark assessments indicated that the student has limited comprehension of ideas, either explicitly or inferentially, and his analysis of the material is minimally accurate. The student's writing development of ideas is undeveloped and inappropriate to the task. His writing organization "has limited coherence," with an unclear progression of ideas and a style that is limited in its effectiveness. His fluency assessment data reflects that he reads primarily word-by-word with occasional two-or-three word phrases where the phrases do not reflect the meaning of the sentence.
18. The IEP team determined that the student was not making sufficient progress on the IEP goals. In response, the IEP was revised to provide the student with additional support in reading and on accommodations, such as additional extended time, and supplementary aids and supports such as breaking tasks into smaller chunks of material in science and social studies. The IEP team also documented that the student demonstrated regression in the area of reading and qualifies for Extended School Year services.
19. The revised IEP includes goals for reading fluency, phonemic awareness, reading comprehension, decoding, and written language content/mechanics.
20. The IEP team determined the student needs a multi-sensory, systematic, structured and sequential reading intervention to address the student's characteristics of Dyslexia and Dysgraphia. The reading intervention program, *Language Foundations*, uses a multisensory approach and is for students who demonstrate characteristics of Dyslexia, is forty (40) minutes daily and concentrates on phonemic awareness, alphabet sounds, spelling and writing.
21. On March 28, 2018, the IEP team decided to increase the student's special education services to five (5) sessions of forty-five (45) minutes weekly for the reading intervention, two (2) sessions of thirty (30) minutes weekly for reading fluency, and five (5) sessions, twenty (50) minutes weekly in the general education class to support the student during language arts and math class.

### **CONCLUSIONS:**

Based on the Findings of Facts #1- #21, the MSDE finds that while the IEP team met numerous times, it wasn't until March 28, 2018, that the IEP team addressed the student's lack of progress in reading, in accordance with 34 CFR §300.324.

In addition, based on the Findings of Facts #1 - #5, #10, #11, #13 - #20 and #21, the MSDE finds that the IEP did not address the student's lack of progress in written language mechanics until March 28, 2018. Therefore the MSDE finds that violations occurred, in accordance with 34 CFR §300.324.

Ashley S. VanCleaf, Esq.  
Ms. Michelle Concepcion  
May 1, 2018  
Page 6

## **CORRECTIVE ACTION/TIMELINES:**

### **Student-Specific**

The MSDE requires the FCPS to provide documentation by the end of the 2017-2018 school year that the IEP team determined the compensatory services needed to remediate the delay in addressing the student's reading and writing needs from March 2, 2017 until March 28, 2018.

### **School-Based**

The MSDE requires the FCPS to provide documentation by the end of the 2017-2018 school year, of the steps it has taken to ensure that XXXXXXXXXXXXXXXX and XXXXXXXXXXXX XXXXXXXXs staff properly implements reading interventions and ensures that the IEP addresses student needs. The documentation must include a description of how the FCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violation does not recur.

### **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 different school (see State complaint #18-114). 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 education 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.

Ashley S. VanCleaf, Esq.  
Ms. Michelle Concepcion  
May 1, 2018  
Page 7

**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 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

c:     XXXXXX  
       XXXXXX  
       Theresa Alban  
       Carol Breeze  
       Linda Chambers

XXXXXXXXX  
XXXXXXXXXX  
Dori Wilson  
Anita Mandis  
Sharon Floyd