

Colorado Department of Education
Decision of the State Complaints Officer
Under the Individuals with Disabilities Education Act (IDEA)

**State-Level Complaint 2018:517
Fort Lupton/Keenesburg Consortium**

DECISION

INTRODUCTION

This state-level complaint (Complaint) was filed on April 24, 2018, by the parent of a child identified as a child with a disability under the Individuals with Disabilities Education Act (IDEA).¹

Based on the written Complaint, the State Complaints Officer (SCO) determined that the Complaint identified three allegations subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 CFR §§ 300.151 through 300.153.² The SCO has jurisdiction to resolve the Complaint pursuant to these regulations.

SUMMARY OF COMPLAINT ALLEGATIONS

Whether the District violated the IDEA and denied Student a free appropriate public education (FAPE) by:

1. Failing to review and revise Student's IEP to address lack of expected progress on annual goals in reading for the 2017-18 school year;
2. Failing to provide Parent with periodic reports on Student's progress on annual goals in reading for the 2017-18 school year; and
3. Failing to ensure that the April 3, 2018 IEP meeting included the full participation of an individual capable of interpreting the instructional implications of evaluation results in the area of reading.

¹ The IDEA is codified at 20 U.S.C. § 1400, *et seq.* The corresponding IDEA regulations are found at 34 CFR § 300.1, *et seq.*

² Hereafter, only the IDEA regulation and any corresponding Exceptional Children's Educational Act (ECEA) rule will be cited (e.g., § 300.000, Section 300.000 or Rule 1.00).

FINDINGS OF FACT

After thorough and careful analysis of the entire record,³ the SCO makes the following FINDINGS:

Background:

1. Student is a high school student eligible for special education and related services based on a specific learning disability (SLD) in the areas of reading and math.⁴
2. In the area of reading, Student has recognized deficits in comprehension and fluency. The results of the Woodcock Johnson IV, administered in March of 2017, indicated that Student's fluency in reading was equivalent to eight years and three months, and her reading comprehension was equivalent to seven years and eight months.⁵ Student's performance on the AIMSweb was slightly higher, placing her at a third-grade reading level in both fluency and comprehension.⁶
3. Student's deficits in reading are entwined with deficits in expressive and receptive language. The results of the Clinical Evaluation of Language Fundamentals (CELF-5), administered most recently in September of 2015, demonstrated a core language score of 51, placing Student in the very low to severe range of language disorder.⁷ Underscoring the interrelationship between Student's reading and language deficits, SLP and Special Education Director agreed that it was essential that Student's special education teacher work closely with SLP in supporting Student's needs in reading and language.⁸
4. Although the District performed a record review and informal assessment in April of 2017, Student's most recent formal assessment in the area of language was conducted in September of 2015 as part of a reevaluation.⁹ At the time the reevaluation was conducted, the IEP team determined that "[Student] should be reassessed the next school year to determine if assessment results were consistent."¹⁰ The assessment in language conducted in April of 2017 was an informal assessment of Student's progress on annual goals in reading and language.¹¹

³ The appendix, attached and incorporated by reference, details the entire record.

⁴ Exhibit 1, p.1.

⁵ Exhibit 1, p. 3. Because Parent filed this Complaint to address concerns with Student's reading skills, deficits and goals in math are outside the scope of this investigation.

⁶ Exhibit 1, p. 3. The AIMSweb is a progress monitoring system.

⁷ Exhibit 6, p. 19. The Core Language Score has a mean of 100 and a standard deviation of 15. See Determining the Severity of a Language Disorder (Pearson), available at https://www.speechandlanguage.com/wp-content/uploads/2013/06/celf-5_determining_severity_lang_disorder.pdf.

⁸ Interviews with SLP, Special Education Teacher, and Special Education Director.

⁹ Exhibit 6, pp. 16-20.

¹⁰ Exhibit 6, p. 16.

¹¹ Exhibit 6, pp. 19-20.

2017-18 School Year

5. To address Student's need in reading fluency, her 2017 IEP contained the following annual goal: Student will increase her reading fluency from the fourth grade to the fifth grade, as measured by the Basic Reading Inventory (BRI).¹² Because Student had not met her annual goal in reading for the 2016-17 school year, defined as "increasing her wpm from the 25% percentile (72) at fourth grade to 50% wpm at fifth-grade level (121)," the SCO finds that Student's annual goal in reading remained essentially the same for the 2017-18 school year.¹³ Acknowledging that the 2017-18 goal adds the BRI as an instrument for measuring progress in reading fluency, there is nothing in the IEP to demonstrate that this goal is substantively different from the 2016-17 goal, particularly given the lack of expected progress.

6. Student's progress on this goal was not regularly monitored or assessed for the 2017-18 school year.¹⁴ In the fall and winter of 2017, Special Education Teacher conducted the i-Ready assessment, an assessment provided to all high school students. The results of the i-Ready placed Student at an average of first to fourth-grade reading level in the fall of 2017 and at an average of all fourth-grade reading level in December of 2017.¹⁵

7. In January of 2018, Special Education Teacher administered the BRI on one occasion. Based on this single assessment, Special Education Teacher reported that Student was reading at the instructional level of first grade and was unable to read most words (80%) accurately.¹⁶ There is no evidence that Special Education Teacher performed additional progress monitoring of this goal using the BRI, the specific measure identified in the IEP, following the January assessment. Additionally, there is no evidence that Special Education Teacher performed any other progress monitoring or assessment to determine if Student's performance on the BRI in January was an isolated incident or indicated a regression in reading skills.

8. Special Education Teacher did not share the limited progress monitoring data described above with Parent prior to Student's annual IEP meeting in April of 2018.¹⁷

¹² Exhibit 1, pp. 8-9. The BRI is an individually administered informal reading assessment designed to provide teachers with insight into a student's reading behavior to support instructional decisions. The baseline for this IEP goal was based on Student's performance on her 2016 IEP goal, performance that placed her at a fourth grade reading level, at 99 words per minute (wpm), and not on the 2017 AIMSweb or Woodcock Johnson assessments. Exhibit 1, P. 7.

¹³ Exhibit 1, pp. 7 and 21. Student finished the school year reading 99 wpm at the fourth grade level.

¹⁴ Student's annual goal was measured from April 2017 to April 2018. Exhibit 1.

¹⁵ The i-Ready is a diagnostic and instructional tool that aligns with Common Core. Exhibit 5; Exhibit 2, p. 4; and Exhibit 7.

¹⁶ Exhibit 2, p. 11.

¹⁷ District's Response at page 1; Exhibit 5; and Interviews with Special Education Teacher and Parent. Special Education Teacher shared the results of the BRI conducted in January at the April 3, 2018 IEP meeting. He did not share the results of the i-Ready assessment until the April 19, 2018 IEP meeting.

9. To address Student's need in reading comprehension, the 2017 IEP contained the following annual goal: Student will determine the meaning of unknown words using context clues and then generating a new sentence using that word with 70% accuracy, as measured by SLP data collection.¹⁸

10. Student did not meet this goal for the 2017-18 school year. On April 3, 2018, SLP reported that Student was able to determine the meaning of unknown words using context with 60% accuracy, thus failing to meet the 70% target identified in the annual goal.¹⁹ By the date of her annual review in April of 2018, the available progress monitoring data demonstrated that Student had not met this goal. As with the goal in reading fluency, there is no evidence that progress was reported for this goal during the 2017-18 school year or prior to the April 2018 IEP meeting.²⁰

11. Student's IEP specified that progress reports would be sent home with trimester report cards.²¹ Based on the facts described above, the SCO finds that Parent was not provided with progress reports consistent with her IEP.²² Rather, Parent was informed of Student's progress in reading during the 2017-18 school year for the first time at Student's IEP meeting on April 3, 2018. Based on the credible evidence, the SCO further finds that the failure to monitor and report progress was limited to the specific circumstances presented here and does not indicate a District-wide or systemic failure in this area.²³

12. On April 3, 2018, the District convened Student's annual IEP meeting. The notice of meeting notified Parent that the meeting would include participants with the following roles: general education teacher, special education teacher, and speech language pathologist.²⁴ Consistent with the notice, the meeting included Parent, Student, Graphic Arts Teacher, Special Education Teacher, and Speech Language Pathologist.²⁵

13. During this meeting, Special Education Teacher reported that Student was reading at a first-grade level based on the results of the BRI administered in January of 2018. No other reading assessment data was presented or discussed at this meeting.²⁶

¹⁸ Exhibit 1, p. 9.

¹⁹ Exhibit 2, p. 12.

²⁰ Exhibit 5, p. 5.

²¹ Exhibit 1, p. 8. When the IEP was developed in the spring of 2017, Student was still in middle school. Middle school grades are reported on a trimester schedule, whereas high school grades are reported on a semester schedule. Inadvertently, the IEP reflected the schedule report cards would be issued in middle school instead of high school.

²² Response at page 1.

²³ Exhibit 5 (Progress Monitoring Reports for the 2016-17 school year); Interviews with Special Education Director and Special Education Teacher.

²⁴ Exhibit 4, p. 1.

²⁵ Exhibit 2, p. 8.

²⁶ Response, p. 1.

14. Because Parent had not been informed of Student's progress during the 2017-18 school year, she was surprised and concerned by Special Education Teacher's report, particularly given that the baseline for this goal indicated Student was reading at a fourth-grade level at the beginning of the school year. Upon learning this information, Parent wanted to ask Student's general education teacher questions about Student's reading skills. The general education teacher participating in this meeting taught graphic arts, a class that required little reading, and was therefore unable to answer Parent's questions about Student's ability to read class materials.²⁷ In addition, Student's SLP, a participant who could have addressed some of Parent's concerns about reading left the meeting 10 minutes after the meeting started and was unavailable to answer Parent's questions about reading following disclosure of Student's reading assessment.²⁸ Parent left the meeting with questions and concerns about the assessment of Student's reading skills and why she had not made progress during the school year.²⁹

15. On April 4, 2018, Special Education Teacher contacted Special Education Director to inform her that the IEP meeting had not gone well and to ask her how he should proceed. On April 5, 2018, Special Education Director contacted Parent to discuss Parent's concerns. Following this discussion, Special Education Director instructed Special Education Teacher to conduct additional assessments in reading and schedule another IEP meeting that would be used to discuss the additional assessment data and address Parent's concerns in the area of reading.³⁰

16. On April 19, 2018, the District convened an IEP team that included History Teacher, SLP, School Psychologist, Special Education Teacher, Special Education Director, Assistant Principal, and Parent.³¹ Because his class requires a significant amount of reading, History Teacher is familiar with how Student's needs in the area of reading impact her academic performance and access to the general education curriculum. Notably, History Teacher has worked directly with Student to support her in the area of reading with specific strategies in his classroom that influenced the accommodations and objectives described in Finding of Fact (FF) 18 and 19 below.³²

17. At this meeting, Special Education Teacher shared the results of the i-Ready, as well as additional assessments in reading that were conducted following the April 3 IEP meeting. These

²⁷ Interviews with Parent, Special Education Teacher, and SLP. Special Education Teacher had asked History Teacher to attend the IEP meeting, but he was unexpectedly unavailable that day. Of Student's current high school teachers, the only one available for the meeting that day was Graphic Arts Teacher.

²⁸ Complaint.

²⁹ Interview with Parent.

³⁰ Exhibit 7, pp. 2-3; Interviews with Special Education Teacher and Special Education Director.

³¹ Exhibit 2, p. 2. (IEP sign-in sheet dated April 19, 2018).

³² Interviews with History Teacher, Special Education Teacher, and Special Education Director.

assessments included the AIMSweb reading-curriculum-based measurement (RCBM),³³ MAZE,³⁴ and CLOZE.³⁵ Although performance on these additional assessments indicated that Student was reading at a fourth-grade level, three of the assessments were based on a warm read, meaning that Student was already familiar with the passage on which she was tested.³⁶ Finally, Student was provided with another BRI and performed at a fourth-grade level on a cold read with 65% accuracy.³⁷ Although these results indicated that Student was not reading at a first-grade level, they also demonstrated that Student failed to make progress on her reading skills during the 2017-18 school year or meet her goal of reading at a fifth grade level. As described in FF # 5, this is the second year that Student has failed to meet the same annual goal in reading, i.e., to read at a fifth-grade level.

18. During the meeting, SLP and History Teacher discussed the assessment results and instructional implications for Student's access to the general education curriculum. As a result of this discussion, the IEP team revised Student's annual goal in reading to include objectives and monthly progress monitoring. Student's 2018 annual goal in reading is to increase reading comprehension (cold reads) from the fourth grade to the fifth grade, as measured by the BRI. To that annual goal, the IEP team added the following objectives:

- Student will increase her reading comprehension on a MAZE warm read from 78% at fourth grade to 85% at fifth grade, as measured by monthly progress monitoring.
- Student will increase her reading comprehension on a CLOZE warm read from 60% at fourth grade to 85% at fifth grade, as measured by monthly progress monitoring.
- Student will increase her reading comprehension on a BRI warm read from 62% at fourth grade to 85% at fifth grade, as measured by monthly progress monitoring.³⁸

Notably, this is the third consecutive year that Student will begin the school year with essentially the same annual goal in reading, i.e., to finish the year reading at a fifth-grade level.

19. The IEP team also added various supports, accommodations, and strategies to the IEP, including: fluency drills, pre-teaching vocabulary, warm reads, study guides, and visuals

³³ RCBM is a measurement system for evaluating basic skill growth in reading.

³⁴ The AIMSweb MAZE is a supplemental and corroborative measure intended to provide a more complete picture of a student's reading skills, particularly when reading comprehension is a suspected area of concern.

³⁵ A CLOZE test is an assessment consisting of fill-in-the blank exercises where a word is missing from the middle of a sentence.

³⁶ Exhibit 2 at page 12. The BRI, MAZE, and CLOZE assessments were based on warm reads.

³⁷ Exhibit 2 p. 4.

³⁸ Exhibit 2, p. 17.

(highlighting, pictures, diagrams, and maps).³⁹ SLP discussed the importance of adding context, visuals, and providing extra processing time to improve comprehension.⁴⁰

20. To ensure regular progress monitoring for the coming school year, Special Education Teacher developed data sheets that will be used to regularly monitor progress. To address the past failure to share progress reports with Parent, Special Education Teacher reported that he will provide these data sheets to Parent on a monthly basis for the coming school year.⁴¹

21. In addition, Special Education Teacher and SLP plan to collaborate on reading instruction and class planning to more effectively address Student's needs in reading fluency and comprehension for the 2018-19 school year.⁴² As described in FF # 3 above, the interrelationship between Student's reading and language deficits require that Student's special education teacher work closely with SLP in designing effective intervention and instruction in reading.⁴³

22. Despite the recognized need for collaboration and consultation between Special Education Teacher and SLP, the 2018 IEP does not provide indirect or consultative services from an SLP.⁴⁴ By contrast, Student's 2017 IEP provided 15 minutes per month of indirect services from SLP.⁴⁵

23. On April 23, 2018, School Psychologist met with Parent and Student to explain the reading assessments results and share strategies identified by the IEP team to support Student's needs in reading comprehension.⁴⁶

24. On May 11, 2018, Special Education Teacher provided the results of progress monitoring that he had conducted following the April IEP meeting. Special Education Teacher used the data sheets he had specifically developed to address the lack of progress monitoring for the 2017-18 school year, as described in FF # 20 above. The results of these informal assessment indicated that Student made some progress on warm reads and when she was assessed using the same passage on multiple occasions.⁴⁷ Special Education Teacher and Special Education Director also agreed to meet with Parent in the fall to evaluate and discuss Student's progress in reading.⁴⁸

25. For the 2017-18 school year, Student primarily received A's and B's on her report card. Student's grades, however, do not necessarily demonstrate that she is making progress on her

³⁹ Exhibit 2, pp. 4-5.

⁴⁰ Exhibit 2, p. 4.

⁴¹ Exhibit 7, p. 3; Exhibit 9, p. 5; and interviews with Special Education Teacher and Special Education Director.

⁴² Interviews with Special Education Teacher, SLP, and Special Education Director.

⁴³ Interviews with SLP, Special Education Teacher, and Special Education Director.

⁴⁴ Exhibit 2, p. 21.

⁴⁵ Exhibit 1, p. 13.

⁴⁶ Exhibit 9, p. 2; Interviews with Special Education Director and Parent.

⁴⁷ Exhibit 9, pp. 5-10.

⁴⁸ Interviews with Parent, Special Education Director, Special Education Teacher, and SLP.

IEP goals and in the general education curriculum. Three of Student's classes are special education courses that are based on modified curricula. In addition, Student receives points for effort and participation in all classes. Because Student has a strong work ethic, completes her assignments, and participates in class, Student's grades are enhanced by participation points. Based on these factors, the SCO finds that Student's grades are not reliable indicators of progress toward her IEP goals in reading or the general education curriculum.

CONCLUSIONS OF LAW

Based on the Findings of Fact above, the SCO enters the following CONCLUSIONS OF LAW:

Conclusion to Allegations One and Two: By failing to monitor and report Student's progress on IEP goals throughout the 2017-18 school year, the District consequently failed to review and revise Student's IEP to address lack of progress in reading, resulting in a denial of FAPE.

To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174, 137 S. Ct. 988, 999 (U.S. 2017). As the vehicle for defining and providing FAPE, "[t]he IEP must aim to enable the child to make progress." *Id.* In emphasizing the importance of this aim, the Court further stated that "[a] substantive standard not focused on student progress would do little to remedy the pervasive and tragic academic stagnation that prompted Congress to act." *Id.*

While the IDEA does not promise a particular educational or functional outcome for a student with a disability, it does provide a process for reviewing an IEP to assess achievement and revise the program and services, when necessary, to address a lack of progress. *Id.* To that end, school districts have an affirmative duty to ensure that a student's IEP team meets no less than annually to review and revise the IEP. 34 CFR § 300.324(b). In conducting an annual IEP review, the IEP team must consider whether the annual goals are being achieved, and revise the IEP, as appropriate, to address any lack of expected progress toward annual goals and in the general education curriculum, the results of any reevaluation, information about the student provided to or by the parents, the student's anticipated needs, or other matters. 34 CFR § 300.324(b).

IDEA's procedures contemplate that a student's IEP may need to be reviewed and revised more frequently than once a year to address changing needs or an unexpected lack of progress. See 34 CFR § 300.324 (a)(4)-(6) and (b); *Endrew F.*, 37 S. Ct. at 994. In its recent Questions and Answers (Q&A) on *U. S. Supreme Court Case Decision Endrew F. v. Douglas County School District Re-1*, the United States Department of Education (ED) provided the following guidance concerning a school district's obligation to monitor progress and convene the IEP team if expected progress has not occurred:

The IEP Team also may meet periodically throughout the course of the school year, if circumstances warrant it. For example, if a child is not making expected progress toward his or her annual goals, the IEP Team must revise, as appropriate, the IEP to address the lack of progress. Although the public agency is responsible for determining when it is necessary to conduct an IEP Team meeting, the parents of a child with a disability have the right to request an IEP Team meeting at any time. If a child is not making progress at the level the IEP Team expected, despite receiving all the services and supports identified in the IEP, the IEP Team must meet to review and revise the IEP if necessary, to ensure the child is receiving appropriate interventions, special education and related services and supplementary aids and services, and to ensure the IEP's goals are individualized and ambitious.

Applying this guidance to the findings of fact, the SCO concludes that the District failed to appropriately review and revise Student's IEP to address a lack of progress in reading for the 2017-18 school year. To identify a lack of progress, the school district must perform regular progress monitoring throughout the school year. In this case, the evidence demonstrates that Special Education Teacher monitored Student's progress on her IEP goal in reading on only one occasion in January of 2018. Student's performance on this informal assessment indicated that she was reading at a first-grade level, performance well below what was identified as her present level of performance for the beginning of the school year. Despite below-expected performance on this assessment, there is no evidence that Special Education Teacher conducted further progress monitoring prior to Student's annual IEP meeting on April 3, 2018.

Moreover, the failure to monitor and report progress denied Parent the opportunity to recognize concerns about Student's reading skills and request that the IEP team reconvene prior to the annual review to address a lack of progress. A parent's right to participate in the development of their child's educational program requires that they be regularly informed of progress toward IEP goals. *See M.C. v. Antelope Valley Union High Sch. Dist.*, 858 F.3d 1189, 1198 (Ninth Cir. 2017), *cert. denied*, 138 S. Ct. 556 (2017) (“[I]n enacting the IDEA, Congress was as concerned with parental participation in the *enforcement* of the IEP as it was in its *formation*.”) For that reason, school districts must periodically report a student's progress toward meeting annual goals to her parents, in accordance with the schedule described in the IEP. 34 CFR § 300.320(a)(3). In light of *Andrew F.*, the ED has provided additional guidance concerning the importance of sharing progress monitoring data with Parents:

“Public agencies may find it useful to examine current practices for engaging and communicating with parents throughout the school year as IEP goals are evaluated and the IEP Team determines whether the child is making progress toward IEP goals. IEP Teams should use the periodic progress reporting required at 34 CFR

§300.320(a)(3)(ii) to inform parents of their child's progress. Parents and other IEP Team members should collaborate and partner to track progress appropriate to the child's circumstances.

Questions and Answers (Q&A) on *U. S. Supreme Court Case Decision Endrew F. v. Douglas County School District Re-1*, 71 IDELR 68 (OSEP 2017).

As described in FF ## 8-11, the District failed to monitor and report progress on Student's IEP goals during the 2017-18 school year, as specified in her IEP. Although the District promptly addressed Parent's concern following the April 2018 IEP meeting by conducting additional progress monitoring and scheduling a second IEP meeting, the annual review period had passed, and the school year was almost over. Furthermore, the recent progress monitoring data indicated Student was reading at a fourth-grade level on warm reads and had not met her annual goal of reading at a fifth-grade level for the second consecutive year. Student is thus set to begin the 2018-19 school year with the same annual goal in reading that she had for the 2016-17 and 2017-18 school years, i.e., to read at a fourth-grade level. Ultimately, the District's failure to regularly monitor and report Student's progress prevented the IEP team, including Parent, from recognizing the need to review and revise Student's IEP for lack of progress, resulting in a denial of FAPE.

Given Student's lack of progress in reaching her annual goals in reading fluency for two consecutive school years, combined with the failure to meet her language goal in reading comprehension for the 2017-18 school year, the SCO concludes that further evaluation in this area is necessary to adequately address the lack of progress and design meaningful compensatory education services. In reaching this conclusion, the SCO acknowledges that Student's lack of progress may be related to the severity of her disability in reading. Mindful of this possibility, it is relevant that the most recent formal evaluation in the areas of reading and language was conducted in 2015. At the time of Student's reevaluation in 2015, the IEP team determined that additional assessment in the area of reading should be conducted the following school year. That additional assessment, however, consisted only of a description of Student's progress on reading and language goals for the 2016-17 school year. A comprehensive evaluation in this area will assist Student's IEP Team in designing an educational program reasonably calculated to enable Student to make progress appropriate in light of her circumstances, as well as in determining effective compensatory services.

Because she was denied FAPE, Student is entitled to compensatory services. Compensatory education is an equitable remedy intended to place a student in the same position she would have been, if not for the violation. *Reid v. District of Columbia*, 401 F.3d 516, 518 (D.C. Cir. 2005). Calculating compensatory education is not an hour-for-hour calculation. Instead, compensatory services should be calculated to help Student make the progress she would have made, if not for the violation. After a review of the record, including interviews with Parent, Special Education Director, Special Education Teacher, and SLP, and consultation with CDE specialists, the SCO concludes that Student is entitled to 30 hours of

compensatory education services to remedy the denial of FAPE, as more fully described in the Remedies section below.

Conclusion to Allegation Three: Although the District failed to include the full participation of an individual capable of interpreting the instructional implications of evaluation results in the area of reading at the April 3 IEP meeting, this violation was promptly remedied through the April 19 IEP meeting.

A school district must ensure that an IEP team include an individual who can interpret the “instructional implications of evaluation results.” 34 CFR § 300.321(a)(5). A failure to include such an individual may result in a denial of FAPE because the IEP team could not develop an appropriate IEP without understanding the instructional implications for a particular student. *See Anchorage School District*, 51 IDELR 230 (SEA AK 2008), *aff'd*, 54 IDELR 29 (D. Alaska 2009).

In this case, Parent had specific questions and concerns related to progress monitoring data presented at the April 3 IEP meeting that indicated Student was reading a first-grade level. Specifically, Parent wanted to ask one of Student’s general education teachers how Student was performing in class. Although Graphics Art Teacher attended the meeting as the general education teacher she was unable to answer Parent’s questions about Student’s reading skills or discuss the assessment results because her class does not require much reading. In addition, SLP left the IEP meeting early and was unavailable to answer Parent’s questions. Consequently, the April 3 IEP meeting did not include an individual who could address the instructional implications of the informal assessment or Student’s performance in the general education environment.

The District promptly remedied this violation by convening another IEP meeting on April 19, 2018 that included the participation of History Teacher and SLP for the entire meeting. As described more fully in FF ## 19-23, both History Teacher and SLP contributed significantly to the discussion about Student’s reading deficits and how she can be effectively supported in the general education environment. The robust discussion that resulted from the participation of SLP and History Teacher in the April 19 IEP meeting underscores the critical role that general education teachers and relevant related services providers play in the development of a student’s educational program.

REMEDIES

The SCO concludes that the District has violated the following IDEA requirements:

- a) Review and revision of the IEP, 34 CFR § 300.324(b)(2);
- b) Reporting progress to parent in accordance with the IEP, 34 C.F.R. § 300.320(a)(3); and
- c) Provision of FAPE, 34 C.F.R. § 300.17.

To remedy these violations, the District is ordered to take the following actions:

- 1) By August 1, 2018, the District must submit to the Department a proposed corrective action plan (CAP) that addresses the violations noted in this Decision.
- 2) To remedy the failure to provide Student with a FAPE, the District is ordered to take the following actions:
 - a) Conduct a comprehensive evaluation of Student in the areas of reading and receptive and expressive language as soon as possible, but no later than August 31, 2018. Although the District has the right to determine the appropriate evaluations and evaluators, the evaluation must include the following:
 - i) Formal and informal assessments in reading. The reading assessment must include a diagnostic assessment in each of the five essential components of reading, i.e., phonemic awareness, phonics, fluency, reading vocabulary, and comprehension. This assessment must be conducted by a reading specialist who has demonstrated experience providing targeted and evidence-based reading interventions. At the request of the District, and upon consent of Parent, CDE is able to offer a reading specialist to consult with the evaluation team.
 - ii) Formal and informal assessments in expressive and receptive language. This assessment must be conducted by a licensed speech language pathologist who has demonstrated experience with severe language disorders. At the request of the District, and upon consent of Parent, CDE is able to offer an SLP to consult with the evaluation team.

If Parent does not provide consent to the evaluation within 10 days of receiving the request to evaluate, the District will be excused from conducting the evaluation ordered in this decision. Parent's consent to evaluate is separate from consent to include a CDE consultant, if requested by the District.

- b) Convene an IEP team to review and revise Student's IEP immediately following completion of the evaluation, but no later than September 7, 2018. Specifically, the IEP Team must consider the following:
 - i) Revision of Student's IEP goals and services in the areas of reading and language, including the appropriateness of consultative services from an SLP, based on the new evaluation data described above.

- ii) A plan for using progress monitoring data to regularly inform reading intervention. At the request of the District, CDE is willing and able to provide training in progress monitoring. Should the District choose to request training from CDE, it must coordinate any such training with the CDE.
- iii) A progress monitoring schedule and plan for sharing this information with Parent on a monthly basis for the 2018-19 school year.

The District shall provide the Department a copy of the IEP and prior written notice within 10 business days of the IEP meeting. Together, these documents must demonstrate that the IEP Team meaningfully considered items (i)-(iii) above.

c) Provide the following compensatory services:

- i) 30 hours of one-on-one instruction in the area of reading comprehension and fluency by a qualified teacher with demonstrated experience providing evidence-based reading interventions. To document the provision of these services, the District must submit records of service logs to CDE by the second Monday of each month until compensatory services have been completed and no later than one year following the date of this decision.
- ii) Monthly consultation between the reading specialist delivering compensatory services and the SLP providing direct services on Student's IEP to evaluate Student's progress and adjust instruction accordingly. The purpose of this consultation is to incorporate language strategies to support reading comprehension and fluency based on Student's needs. The District must submit documentation that these consultations have occurred by the second Monday of each month until compensatory services have been completed and no later than one year following the date of this decision.
- iii) Within 10 days after receiving this Decision, the District must meet with Parent to schedule compensatory services. These compensatory services shall begin as soon as possible and will be in addition to any services Student currently receives, or will receive, that are designed to advance Student towards IEP goals and objectives.
- iv) The Parties shall cooperate in determining how the compensatory education services will be provided. If Parent refuses to meet with the District within this time period, the District will be excused from providing compensatory services, provided that the District diligently attempts to meet with Parent and documents its efforts. The determination that the District has diligently attempted to meet with Parent and should therefore be excused from providing these services rests solely with the CDE.
- v) The District must submit the schedule of compensatory services to the Department no later than August 31, 2018.

- vi) If for any reason, including illness, Student is not available for any scheduled compensatory services, the District will be excused from providing the service scheduled for that session. If for any reason, the District fails to provide a scheduled compensatory session, the District will not be excused from providing the scheduled service and must immediately schedule a make-up session in consult with Parent, as well as notify the Department of the change in the monthly service log.

The Department will approve or request revisions to the CAP. Subsequent to approval of the CAP, the Department will arrange to conduct verification activities to verify the District's timely correction of the areas of noncompliance.

Please submit the documentation detailed above to the Department as follows:

Colorado Department of Education
Exceptional Student Services Unit
Attn.: Beth Nelson
1560 Broadway, Suite 1100
Denver, CO 80202-5149

NOTE: Failure by the District to meet any of the timelines set forth above may adversely affect the District's annual determination under the IDEA and subject the District to enforcement action by the Department.

CONCLUSION

The Decision of the SCO is final and is not subject to appeal. If either party disagrees with this Decision, their remedy is to file a Due Process Complaint, provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. See, 34 CFR § 300.507(a) and Analysis of Comments and Changes to the 2006 Part B Regulations, 71 Fed. Reg. 156, 46607 (August 14, 2006).

This Decision shall become final as dated by the signature of the undersigned State Complaints Officer.

Dated this 22nd day of June, 2018.

Candace Hawkins, Esq.
State Complaints Officer

Appendix

Complaint, pages 1-3.

Exhibit A: 2014 IEP.

Exhibit B: 2017-18 Grade Report.

Response, pages 1-2.

Exhibit 1: 2017 and 2016 IEPs.

Exhibit 2: 2018 IEP and notice of meeting.

Exhibit 3: Prior written notices.

Exhibit 4: Notices of meeting.

Exhibit 5: Grade reports and IEP progress reports.

Exhibit 6: Evaluation data.

Exhibit 7: Narrative prepared by District.

Exhibit 8: Contact information for District witnesses.

Exhibit 9: Description of services provided.

Reply, page 1.

Exhibit C: Progress monitoring data for April and May of 2018.

Interviews with:

- Parent
- Special Education Director
- Special Education Teacher
- History Teacher
- SLP