

**Special Education Complaint Investigative Report**  
**September 5, 2019**

Stephanie Moody  
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Local Educational Agency (LEA): Killeen ISD Co-Dist: 014-906  
FY: 2019-2020  
Complaint:

To the Individuals Addressed:

The attached report is the final written decision of the Texas Education Agency (TEA) regarding the above-referenced complaint.

**Allegations, Conclusions, and Reasons for TEA's Decision**  
TEA investigated the following allegations.

Allegation One: Did the LEA ensure that it implemented the student's individualized education program (IEP) regarding the student's dyslexia reading program and reading program requirements for student progress, and did the LEA ensure that it provided the parent with progress reports in accordance with 34 CFR §300.323?

Allegation Two: Did the LEA ensure that it developed, reviewed, and/or revised the student's IEP regarding the student's progress in the student's dyslexia reading program and in occupational therapy in accordance with 34 CFR §300.324?

Allegation Three: Did the LEA ensure that it developed, reviewed, and/or revised the student's IEP to meet the student's needs in reading and in occupational therapy during the student's enrollment in extended school year (ESY) services for the 2018-2019 school year in accordance with 34 CFR §300.324 and 19 TAC §89.1055?

Allegation Four: Did the LEA ensure that it created measurable goals in reading, typing, and occupational therapy and updated the student's present levels of academic achievement and functional performance (PLAAFP) when it developed, reviewed, and revised the student's IEP in accordance with 34 CFR §300.324?

Allegation Five: Did the LEA ensure it developed, reviewed, and/or revised the student's IEP regarding assistive technology in accordance with 34 CFR §300.324?

Allegation Six: Did the LEA ensure the written statement of the student's IEP documented the decisions of the IEP team meeting with respect to issues discussed in the IEP team meeting in accordance with 19 TAC §89.1055?

TEA determined the following noncompliance and required corrective actions of the LEA.

The LEA does not always ensure that it develops, reviews, and/or revises students' IEPs in accordance with 34 CFR §300.324.

The LEA does not always ensure that it implements the student's IEP accordance with 34 CFR §300.323.

The LEA does not always ensure the written statement of the students' IEP documented the decisions of the IEP team meeting with respect to issues discussed in the IEP team meeting in accordance with 19 TAC §89.1055.

If a party to a complaint believes that TEA's written report includes an error that is material to the determination in the report, the party may submit a signed, written request for reconsideration to TEA by mail, hand-delivery, or facsimile within 15 calendar days of the date of the report. Reconsideration requests may not be submitted by email. The party's reconsideration request must identify the asserted error and include any documentation to support the claim. The party filing a reconsideration request must forward a copy of the request to the other party at the same time that the request is filed with TEA. The other party may respond to the reconsideration request within five calendar days of the date on which TEA received the request. TEA will consider the reconsideration request and provide a written response to the parties within 45 calendar days of receipt of the request. The filing of a reconsideration request must not delay a public education agency's implementation of any corrective actions required by TEA.

This concludes TEA's investigation. Please direct questions regarding this investigative report to

Respectfully,



Keith Swink  
Manager of Dispute Resolution  
Division of Special Education

KS: TB

enclosure: satisfaction survey

This report is the written decision of the Texas Education Agency (TEA) regarding the complaint filed on behalf of a student in the Killeen Independent School District (ISD), herein referred to as the local educational agency (LEA). For the purposes of confidentiality, student gender pronouns are made neutral. Brackets have been removed from quotes with regard to substituting gender pronouns for the purposes of readability. The complaint alleges violations of federal and state special education laws and the implementing regulations pertaining to the Individuals with Disabilities Education Act (IDEA), Texas Education Code (TEC), and/or the Texas Administrative Code (TAC).

The six specific allegations and TEA's findings of fact and conclusions, together with the reasons for TEA's final decision, are as follows.

**Allegation One**

Did the LEA ensure that it implemented the student's individualized education program (IEP) regarding the student's dyslexia reading program and reading program requirements for student progress, and did the LEA ensure that it provided the parent with progress reports in accordance with 34 CFR §300.323?

**Statement of the Complaint for Allegation One**

In the July 10, 2019 complaint letter, the complainant alleges that the LEA did not follow the student's reading program for dyslexia (the Wilson Reading Program) when it delivered instruction to the student.

**Allegation Two**

Did the LEA ensure that it developed, reviewed, and/or revised the student's IEP regarding the student's progress in the student's dyslexia reading program and in occupational therapy (OT) in accordance with 34 CFR §300.324?

**Statement of the Complaint for Allegation Two**

In the July 10, 2019 complaint letter, the complainant alleges the LEA did not ensure the student's IEP addressed his/her needs in reading and OT so that s/he could make progress in the dyslexia reading program and in OT.

**Allegation Three**

Did the LEA ensure that it developed, reviewed, and/or revised the student's IEP to meet the student's needs in reading and in OT during the student's enrollment in extended school year (ESY) services for the 2018-2019 school year in accordance with 34 CFR §300.324?

**Statement of the Complaint for Allegation Three**

In the July 10, 2019 complaint letter, the complainant alleges the LEA did not develop an ESY program in reading and in OT that addressed the student's needs.

**Allegation Four**

Did the LEA ensure that it created measurable goals in reading, typing, and OT and updated the student's present levels of academic achievement and functional performance (PLAAFP) when it developed, reviewed, and revised the student's IEP in accordance with 34 CFR §300.324?

#### Statement of the Complaint for Allegation Four

In the July 10, 2019 complaint letter, the complainant alleges that the school did not develop the student's IEP to contain measurable goals in reading, typing, and OT and that the LEA did not update the student's PLAAFP.

#### Findings of Fact for Allegations One Through Four

June 25, 2018 IEP

- On April 4, 2017, the LEA provided written notice to the parent, in the form of a letter sent through regular and certified mail that the LEA was granting the parent's request for an Independent Educational Evaluation (IEE).
- On September 9, 2017, Texas School Neuropsychology and Educational Services provided the student with the IEE and evaluated the student for dyslexia. The following table provides a summary of the student's testing results.

Area Evaluated	Below Average	Average	Above Average
Phonological Awareness	X		
Phonological Memory	X		
Rapid Naming	X		
Letter Identification		X	
Sound Symbol Knowledge	X		
Word Attack		X	
Fundamental Literacy Ability	X		
Word Identification		X	
Word Identification	X		
Informal Word Reading	X		
First Grade Reading Skills		X	
Oral Reading		X	
Rate		X	
Fluency		X	
Oral Reading		X	
Informal First Grade Passage			X
Accuracy		X	
Spelling	X		
Reading Comprehension		X	
Written Expression - Untimed Alphabet Letters	X		

- The September 9, 2017 Texas School Neuropsychology and Educational Services evaluation summary reads as follows.

[Student] exhibits several areas of phonological processing which are contributing to his/her frustration in reading proficiency. His/Her ability to manipulate and segment sounds in chunks has allowed his/her decoding to develop at an average rate; however, s/he is unable to isolate, retain individual sounds and blend sounds together accurately and with automaticity to support his/her reading skills. S/He is currently proficient at foundational sound/symbol correspondence and shows visual memory, reading skills; however, multisyllabic word reading will be difficult for him/her as it requires phonological memory and rapid naming skills in order to process more complicated text.

- The student's *Characteristics of Dyslexia Profile* indicates the student qualified for special education services as a student with dyslexia on November 13, 2017.

5. The LEA conducted an OT evaluation for the student and received a report dated January 17, 2018, which contained recommended goals for the student.
6. The June 25, 2018 IEP contains OT goals that incorporate all of the recommended goals from the January 17, 2018 evaluation.
7. The student's June 25, 2018 IEP was in effect at the beginning of the 2018-2019 school year and reports the student is eligible for special education services under the following categories.
  - i. Other Health Impairment (OHI)
  - ii. Speech Impairment (SI)
8. The June 25, 2018 IEP reports that the student was assessed and met criteria to receive dyslexia services on November 13, 2017.
9. The student receives specialized instruction for dyslexia through the Wilson Reading System.
10. The June 25, 2018 IEP PLAAFP, under *Academic Performance*, read, "No concerns at this time." The LEA uses Northwest Evaluation Association (NWEA) Measures of Academic Progress (MAP) for its benchmarking. The PLAAFP provide the following description of the student's areas of strength and performance for reading for 2017-2018. The student had not yet taken any assessments for 2018-2019.

Assessment	Grade Norm	Score	Statistically Significant Increase, Yes/No	Student's Grade Norm Level Performance
2017-2018 Beginning of the Year (BOY) MAP	160.7	165	N/A	Above
2017-2018 Middle of the Year (MOY) MAP	171.5	177	Yes	Above
2017-2018 End of the Year (EOY) MAP	187	177.5	No	Below
Fountas and Pinnell	1 <sup>st</sup> Grade D-J	Level K	N/A	

11. The June 25, 2018 IEP PLAAFP, under *Functional – Physical Factors*, read, "The student needs specialized instruction to address the following areas of need: Gross and Fine Motor, [attention deficit disorder/attention deficit hyperactivity disorder] ADD/ADHD." The PLAAFP do not provide a description of how the student's gross and fine motor needs affect his/her ability to participate in the general education curriculum. The PLAAFP do provide a description of how the student's disability of ADD/ADHD affects his/her ability to participate in the general education curriculum. The PLAAFP provide the following description for occupational therapy (OT).

Previously reported by []: [Student] is able to pay attention to a task that s/he prefers or enjoys. S/He will work hard, add details, and draw pictures to convey his/her meaning.

OT: [Student] was noted to be [right] handed and demonstrated to use a dynamic tripod grasp with fingers extended. When performing fine motor skills with [handwriting], [Student] performed task with age appropriate pressure with his/her pencil. S/He was able to copy simple shapes with good accuracy and performed complex shapes with fair accuracy. When demonstrating visual motor skills, [Student] was noted to use a whole arm movement instead of using an isolated wrist movement and had difficulty with line orientation. When performing motor planning skills of cutting, [Student] was able to perform cutting on bold line, however was noted to have deviations from the line when performing cutting



complex shapes. When performing B coordination skills and motor planning skills, once visual cues were provided, [Student] was able to perform functional tasks.

Concern: Previously reported by []: [Student] has difficulty paying attention to tasks of non-preferred activities (topics/assignments that do not interest him/her). When asked about these activities, s/he will respond that they are boring and will not do his/her best. This impacts his/her ability to successfully complete his/her assignments. [Student] continues to benefit from visual, verbal or tactile reminders to stay on task and visual cues for the directions or steps to be followed.

OT: fine motor skills, motor coordination and visual motor skills.

12. The student's June 25, 2018 IEP does not include reading goals; however, it contains a writing goal with one of the three objectives indicate reading. It reads as follows.

- i. Under the following conditions: By the next annual [IEP team meeting] within the classroom with inclusion support, [Student] will understand and use the verbs (past, present, and future) in the context of reading, writing, and speaking. Progress will be determined using the following measurement criteria: Percent of Time. [Student's] baseline score was 25(%) on 06/25/2018. [Student] will achieve 75(%) by 03/04/2019.

13. The student's June 25, 2018 IEP OT goals read as follows.

- i. Goal: Within approximately 36 instructional weeks, with educational staff and therapist assistance/supervision, [Student] will improve the ability to perform fine motor and visual motor tasks as they related to the educational IEP by mastering 2 of the 3 objectives listed below measurement criteria using observations, work samples and teacher/education report. Progress will be determined using the following measurement criteria: Percent Accuracy. [Student's] baseline score was 25(%) on 06/25/2018. [Student] will achieve 80(%) by 03/04/2019.

Objective 1: Within 36 instructional weeks, with education staff and therapist assistance/supervision, [Student] will perform hand eye coordination skills as seen by cutting out complex shapes staying within 1/8 inch of the line using smooth strokes to promote separation of sides of hands for optimal participation/success in school setting. Progress will be determined using the following measurement criteria: Percent of Trials. [Student's] baseline score was 50(%) on 06/25/2018. [Student] will achieve 75(%) by 03/04/2019.

Objective 2: Within 36 instructional weeks, with educational staff and therapist assistance/supervision, [Student] will demonstrate the ability to perform freestyle writing with correct letter formation, letter sizing, and good orientation to line as evidenced by observations, work samples and teachers reports. Progress will be determined using the following measurement criteria: Percent of trials. [Student's] baseline score was 25(%) on 06/25/2018. [Student] will achieve 75(%) by 03/04/2019

Objective 3: Within approximately 36 instructional weeks, with educational staff and therapist assistance/supervision, [Student] will perform visual motor activities as seen by coloring objectives or completing complex mazes with minimal deviations from the lines to work on wrist isolation. Progress will be determined

using the following measurement criteria: Percent of Trials. [Student baseline score was 70(%) on 06/25/2018. [Student] will achieve 100(%) by 03/04/2019.

Objective 4: Within approximately 36 instructional weeks, with educational staff and therapist assistance/supervision, [Student] will attain and maintain an appropriate level of arousal for activities during the school hours after rest breaks initiated by teacher or student as measured by teacher report. Progress will be determined using the following measurement criteria: Percent Accuracy. [Student's] baseline score was 10(%) on 06/25/2018. [Student] will achieve 50(%) by 03/04/2019.

Implementer: Special Education Teachers, General Education Teacher, Other  
Other Goal Implementer: OT personnel and educational staff

- ii. Goal: By the next annual [IEP team meeting] with inclusion support in the classroom, [Student] will attend to a task for approximately ten to fifteen consecutive minutes for 4 out of 4 tasks present daily. By the end of the first grading period, [Student] will attend to a task for approximately ten to fifteen consecutive minutes in 1 out of 4 tasks presented daily. By the end of the second grading period, [Student] will attend to a task for approximately ten to fifteen consecutive minutes in 2 out of 4 tasks presented daily. By the end of the third grading period, [Student] will attend to a task for approximately ten to fifteen consecutive minutes in 3 out of 4 tasks presented daily. By the next annual [IEP team meeting], [Student] will attend to a task for approximately ten to fifteen consecutive minutes in 4 out of 4 tasks presented daily. Progress will be determined using the following measurement criteria: Number of Different Trials. [Student's] baseline score was 0.0 Trials on 06/25/2018. [Student] will achieve 4.0 Trials by 03/04/2019.

Implementer: Special Education Teacher, General Education Teacher, Other  
Other Goal Implementer: Instructional Assistant

14. The June 25, 2018 IEP accommodations and modifications are noted in Appendix A.  
15. The June 25, 2018 Schedule of Services indicates the student receives four sessions per week for 45 minutes per session of accelerated reading instruction, using the Wilson Reading System, in the general education setting.  
16. On June 25, 2018, the parent signed that the parent agreed with the IEP.

*August 23, 2018 Annual IEP Team Meeting*

17. On August 23, 2018, the LEA held the student's annual IEP team meeting and reviewed the student's independent educational evaluation (IEE). The deliberations report that the IEP team added the identifier of specific learning disability (SLD) in written expression to the student's eligibility for receiving special education services and that the parent disagreed with written expression identifier but agreed with the goals and services.  
18. The student's May 2018 IEE reports that the student reads on Level K in Wilson Reading Program and that Level K is one level above the reading expectation for students at the end of the first-grade year.  
19. The student's August 23, 2018 IEP team did not update the student's PLAAFP to reflect the student's new reading level as reported in the student's May 2018 IEE.  
20. The August 23, 2018 IEP team meeting did not make any changes to the student's PLAAFP, under *Functional – Physical Factors*, and OT.

21. The student's August 23, 2018 IEP reading goal reads as follows.

Goal: By the next annual [IEP team meeting], [Student] will continue to read 13 out of 15 nonsense words within the Wilson program five out of seven times per grading period as the levels of difficulty increase. Progress will be determined using the following measurement criteria: Percent Accuracy. [Student's] baseline score was 10(%) on 08/23/2018. [Student] will achieve 40(%) by 08/22/2019.

Objective 1: By the next annual [IEP team meeting], [Student] will use the tapping strategy to decode step appropriate nonsense words accurately in 8/10 trials 90% of the time. Progress will be determined using the following measurement criteria: Percent of Time. [Student's] baseline score was 30(%) on 08/23/2018. [Student] will achieve 70(%) by 08/22/2019.

Objective 2: By the next annual [IEP team meeting], [Student] will fluently read step appropriate nonsense words without tapping in 8/10 trials 90% of the time. Progress will be determined using the following measurement criteria: Percent of Time. [Student's] baseline score was 0.0(%) on 08/23/2018. [Student] will achieve 50(%) by 08/22/2019.

Implementer: Other

Other Goal Implementer: Dyslexia Teacher

22. The student's August 23, 2018 IEP team meeting did not make any changes to the student's OT goals other than to change the date the goal begins and ends.
23. The student's August 23, 2018 IEP accommodations and modifications are noted in Appendix B.
24. The August 23, 2018 Schedule of Services did not change from the previous IEP.
25. The parent signed that she agreed with the August 23, 2018 IEP. However, the deliberations note that the parent disagreed with the written expression identifier but agreed with goals and services.
26. On September 12, 2018 the LEA reconvened the student's August 23, 2018 IEP team meeting. The deliberations show that [LEA Representative] reported that the student was supposed to get 120 minutes of OT services in the summer, and the LEA offered compensatory services to make up for the time missed over the summer.
27. The September 12, 2018 deliberations show the IEP team discussed the student's SLD in written expression eligibility and agreed the SLD eligibility should not be removed. The parent signed that she agreed with the September 12, 2018 IEP.
28. The LEA held a revision IEP team meeting on January 15, 2019. The IEP team did not make changes to the student's IEP related to dyslexia or OT.
29. The parent signed that she agreed with the January 15, 2019 IEP.

*May 23, 2019 IEP Annual Team Meeting*

30. On May 13, 2019, the LEA administered the Word Identification and Spelling Test (WIST) from the Wilson Reading System. The student, in the second grade and eight years and five months old at the time of the assessment, has the following scores.

Skill Set	Age Equivalent	Grade Equivalent
Reading Regular Words	N/A	4 <sup>th</sup> Grade
Reading Irregular Words	N/A	Above 6 <sup>th</sup> Grade
Word Identification	10-1	4.6 Grade
Spelling Regular Words	N/A	3 <sup>rd</sup> Grade



Spelling Irregular Words	N/A	4 <sup>th</sup> Grade
Spelling	9-1	3.9 Grade
Functional Literacy Ability Index	9-4	4.3
Pseudo Words	N/A	4 <sup>th</sup> Grade
Letter Sounds	N/A	Below 2 <sup>nd</sup> Grade*

\*A raw score below 68 is considered below 2<sup>nd</sup> grade. Student's raw score is 47.

31. On May 16, 2019, the District Specialist for At Risk, Section 504, Dyslexia, and General Education Homebound contacted the Education Service Center (ESC) Region 13 Dyslexia Education Specialist for feedback regarding the student's performance on the WIST and the Wilson Assessment of Decoding and Encoding Test (WADE) assessments. The ESC Region 13 Dyslexia Education Specialist made the following initial analysis of the data the LEA provided.

The WIST scores look quite strong, but the spelling scores on the WADE, do not quite match what the student was able to demonstrate on the WIST spelling. The student had strong mastery through substep 1.6 at the end of 2018 and strong mastery of substep 2.1 at the end of 2019. That would be an easy task for almost any struggling reader and the skills assessed in Substep 2.1 are well below expected skills of a student at the end of Grade 2. When instruction is delivered with fidelity, students are expected to gain mastery of at least 2 to 3 steps which are composed of multiple substeps in a school year.

32. On May 16, 2019, the LEA OT proposed the following goals and services, which were later included in the student's May 23, 2019 IEP.

- i. ELA/Reading Goal: Within 36 instructional weeks, provided with access to word processing software, [Student] will use elements of the writing process (planning, drafting, revision, editing and publishing) to compose text. (ELA TEKS 3.17) [Student] will

Objective: Demonstrate keyboarding skills at 10 wpm with a minimum of 80% accuracy as recorded in five observations (currently at 4wpm).

Objective: Develop a draft by completing a graphic organizer to categorize 3 ideas and 2 supporting details into paragraphs as reported in five observations.

Objective: Revise and edit a draft for coherence, capitalization, grammar, and punctuation with 80% accuracy as recorded in five observations.

- ii. Social Skills Goal: Within 36 instructional weeks, provided with modeling, direct instruction, multisensory prompts and visual supports, [Student] will explain the importance of basic rules and use sportsmanship skills in settling disagreements in socially acceptable ways such as remaining calm, identifying the problem, listening to others, generating solutions, and choosing a solution acceptable to all (Social Skills TEKS 3.L034) [Student] will:

Objective: Demonstrate self-coping strategies using visual graphic to communicate problem and select a socially acceptable response as reported in five observations

Objective: Increase perspective sharing to complete social map of conflict resolution as reported in five observations

Objective: Demonstrate self-regulation strategies to identify and communicate sensory needs to initiate, attend, and complete structured work activities as reported in five observations.

- iii. S/He currently receives a frequency of 30 minutes, 16/9 weeks. My recommendation is a change to 45 min 8x/9 weeks direct; & 10 min consult 8x/9weeks.
33. On May 22, 2019, the LEA Elementary District Specialist for At Risk, Section 504, Dyslexia, and General Education Homebound emailed the ESC Region 13 Educational Specialist for Dyslexia. The email reads as follows.

I had sent over the additional materials last week and I just wanted to make sure that you had everything that you needed in your review. We are scheduled to have an [IEP team meeting] tomorrow at 2:30 on the student to discuss dyslexia services. If there is any further information or input I can provide, please do not hesitate to ask. Thank you.

34. On May 23, 2019, the ESC Region 13 Education Specialist for Dyslexia responded with an analysis of the student's individual data and recommendations. The email reads as follows.

Thank you for sending the WADE protocols. Seeing the types of errors s/he is making with reading words in isolation and his/her spelling errors helps tremendously. [Student] is performing well with the skills s/he has been explicitly taught. S/He is decoding words with word structures that s/he has not yet been explicitly taught, but his/her spelling errors indicate problems with phonemic awareness that you would not expect a second-grade student to have. Additionally, s/he is not applying some of the spelling rules s/he has been explicitly taught. The types of errors s/he is making with reading and spelling nonsense words strongly indicates that his/her phonemic awareness has not yet fully developed. S/He sometimes adds, deletes or transposes the sounds. While s/he was able to complete the WADE nonsense word reading before reaching the ceiling, s/he made several errors on each list, just not consecutively. There is much research in the field of reading now reporting that students need to continue in their development of advanced phonemic awareness tasks beyond second grade (see research reports by Dr. Did Kilpatrick and others.) This skill underlies a student's ability to map graphemes to phonemes and become a proficient speller with both regular and irregular words. As a consequence, student will develop a larger automatic sight word vocabulary which will improve their overall reading fluency.

I recommend that s/he continue with the Wilson Reading System [(WRS)], but with lessons paced much faster. The teacher could instruct Parts 1, 2, 6, 7 and 8 and each day include either Part 9 or 10 to support application of skills. I believe that focusing heavily on his/her encoding skills will strongly support his/her decoding skills, too. I would do this for Steps 2, 3, and 4 as s/he is able to read many words with the phonetic concepts taught in those 3 steps; therefore his/her pacing could be fast tracked with the above lesson design and focus on spelling. It will be

important to teach his/her spelling option rules and I feel the morphology materials in the 4th edition of WRS would greatly support his/her decoding, encoding, and vocabulary. I also recommend that the intervention teacher administer the [Phonological Awareness Screening Test] PAST assessment to him/her to help determine what level of phonemic awareness level s/he has mastered, and then follow-up with the one-minute activities to help develop phonemic awareness in the Equipped for Reading Success book by Dr. David Kilpatrick. I have attached a copy of the PAST informal assessment for your teacher's resources and some additional activities that will help develop orthographic mapping.

Please let me know if you would like more specific feedback on the types of errors or clarification on anything stated.

35. On May 23, 2019, the LEA held the student's annual IEP team meeting.
36. The student's May 23, 2019 IEP PLAAFP for the 2019-2020 school year for English Language Arts/Reading (ELAR) contain the performance measures from the 2017-2018 year in reading but no performance measures from the 2018-2019 school year, which would be the student's present levels of academic achievement for the development of the May 23, 2019 IEP.
37. The student's May 23, 2019 IEP OT PLAAFP contain the same data from previous IEPs, but the May 23, 2019 OT PLAAFP also contains the following update.

OT: 5/23/19 [Student] demonstrates the ability to print letters in isolation with sizing accuracy when using accommodated paper (3 lined paper). S/He continues to require verbal reminders for generalizing skill to classroom setting for written expression assignments, especially when challenged with the writing process (drafting, organizing, and editing). When given the choice [Student] elects to complete written expression assignments using word processing software. S/He does not use his/her hands on his/her home keys when keyboarding but use index finger to "peck" at keyboard at an adjusted rate of four [words per minute] WPM.

38. The student's May 23, 2019 IEP team changed the student's reading goal and lowered the number of nonsense words the student would read from 13 out of 15 words to five out of seven words and changed the criteria from five out of seven attempts to four out of five attempts. The baseline score for the goal remains 10% and the achievement goal remains 40%. The May 23, 2019 IEP team did not change the reading objectives related to the goal. The new goal reads as follows.

Goal: By the next annual [IEP team meeting] when working on encoding strategies, will continue to read and spell five to seven nonsense words in four out of five trials. Progress will be determined using the following measurement criteria: Percent Accuracy. [Student's] baseline score was 10(%) on 05/23/2019. [Student] will achieve 40(%) by 05/21/2020.

Objective: By the next annual [IEP team meeting], [Student] will use the tapping strategy to decode step appropriate nonsense words accurately in 8/10 trials 90% of the time. Progress will be determined using the following measurement criteria: Percent of Time. [Student's] baseline score was 30(%) on 05/23/2019. [Student] will achieve 70(%) by 05/21/2020.

Objective: By the next annual [IEP team meeting], [Student] will fluently read step appropriate nonsense words without tapping in 8/10 trials 90% of the time. Progress will be determined using the following measurement criteria: Percent of Time. [Student's] baseline score was 0.0 (%) on 05/23/2019. [Student] will achieve 50(%) by 05/21/2020.

Implementer: Other

Other Goal Implementer: Dyslexia Teacher

39. In a recording of the student's May 23, 2019 IEP team meeting, the IEP team discusses how best to address the student's keyboarding needs and where keyboarding would fit into the IEP, in OT or in speech services.
40. The student's May 23, 2019 IEP English Language Arts – Written Expression goal includes an objective that reads as follows.

Within 36 instructional weeks, provided with access to word processing software, multisensory prompts that include verbal cues, [Student] demonstrate keyboarding skills at 10 wpm with a minimum of 80% accuracy as recorded in five observations. Progress will be determined using the following measurement criteria: Count. [Student's] baseline score was 0.0 Times on 05/23/2019. [Student] will achieve five Times by 05/21/2020.

41. The student's May 23, 2019 IEP goals are noted in Appendix C.
42. The student's May 23, 2019 IEP accommodations and modifications are noted in Appendix D.
43. The May 23, 2018 Schedule of Services indicates the student continues instruction in an accelerated reading instruction program using the Wilson Reading System four sessions per week for 45 minutes per session in the general education setting.
44. The parent signed that she agreed with the May 23, 2019 IEP.
45. The student's May 23, 2019 IEP contains the following goals for which the LEA submitted no May 30, 2019 progress reports.

- i. ELA – Written Expressions: Within 36 instructional weeks, provided with access to word processing software during writing process assignments and with teacher discretion, multisensory prompts that include verbal cues, will use elements of the writing process (planning, drafting, revising, editing and publishing) to compose text with 50% accuracy as reported in five observations. Progress will be determined using the following measurement criteria: Percent Accuracy. [Student's] baseline score was 50(%) on 5/23/2019. [Student] will achieve 70(%) by 05/21/2020.

Implementer: Special Education Teachers General Education Teacher, Other

Other Goal Implementer: Educational Staff, OT Provider

Time frame when this goal will be reviewed and sent home to parent: Concurrent with the issuance of progress reports and report cards, every nine weeks.

- ii. Social Skills: Within 36 instructional weeks, provided with modeling, direct instructions, multisensory prompts, and visual supports, will explain the importance of basic rules and use sportsmanship skills in settling disagreements in socially acceptable ways such as remaining calm, identifying the problem, listening to others, generating solutions and choosing a solution acceptable to all as reported

in five observations. Progress will be determined using the following measurement criteria: Count. [Student's] baseline score was 0.0 times on 05/23/2019. [Student] will achieve five times by 05/21/2020.

Implementer: General Education Teachers, Speech Therapy Service Provider, Other  
 Other Goal Implementer: Educational Staff, OT Provider

Time frame when this goal will be reviewed and sent home to parent: Concurrent with the issuance of progress reports and report cards, every nine weeks.

46. The LEA provided the following benchmark information for 2018-2019.

Assessment	Grade Norm	Score	Statistically Significant Increase Yes/No	Alignment with State of Texas Assessments of Academic Readiness (STAAR) Predictor
2018-2019 BOY MAP	174.72	188	Yes	Did not meet
2018-2019 MOY MAP	184.17	192	Yes	Approaches
2018-2019 EOY MAP	188.69	Not Provided	---	---

47. The LEA provided the following data regarding the student's progress in the Wilson Reading System in the 2018-2019 school year for the Standard Lesson Plan and as listed in the table below. The LEA provided evidence that the student completed work in all three Blocks of the Wilson Reading System. The LEA did not provide progress monitoring in the Wilson Reading System prior to September 10, 2018 or after April 29, 2019.

Week	Date	Substep	Lesson
1	September 10, 2018	1.6	1
3	September 24, 2018	1.4	2
4	October 1, 2018	1.4	3
4	October 5, 2018	1.4	4
6	October 15, 2018	1.4	5
7	October 22, 2018	1.4	6
7	October 25, 2018	1.4	7
8	October 30, 2018	1.5	8
9	November 6, 2018	1.5	9
10	November 15, 2018	1.5	10

Week	Date	Substep	Lesson
12	November 27, 2018	2.1	11
14	December 10, 2018	2.1	12
15	January 8, 2019	2.1	13
18	January 28, 2019	2.1	14
20	February 11, 2019	2.1	15
22	February 25, 2019	2.1	16
24	March 18, 2019	2.1	16
25	March 27, 2019	2.1	17
27	April 11, 2019	2.1	18
29	April 22, 2019	2.1	19
30	April 29, 2019	2.2	20

48. The May 23, 2019 IEP deliberations indicate the student would receive ESY services for the 2019 summer and reads in part,

The [IEP team] agrees to offer [Student] 60 hours of instruction during the ESY 2019. S/He will receive instruction on his/her IEP goals in math, reading, and writing. [], his/her classroom teacher, has given the district explicit teaching concepts for ESY. The hours of instruction during ESY satisfies the facilitated resolution agreement ([Office of Civil Rights] OCR Complaint No. 06-18-1230) between Mrs. Moody and the district that was signed on October 16, 2018. Additionally, [Student] will be offered four sessions per week/60 minutes per session of Wilson Reading system Dyslexia instruction, sensory breaks incorporated within the session, five 20 minute sessions of speech working on



expressive language with five 10 minute OT consultative sessions incorporating keyboarding during ESY.

49. In a June 17, 2019 email, the ESY teacher reports, "[Student] did not have his/her wiggle seat last week . . . I have [Student] using some lined paper I have left over from one of my son's notebooks. I have not been given any other lined paper for him/her to use."
50. The LEA submitted the explicit teaching concepts for the 2019 ESY provided by the student's teacher as described in the May 23, 2019 IEP deliberations. The explicit teaching concepts for the 2019 ESY services are in Appendix D.
51. The LEA provided the following data regarding the student's progress in the Wilson Reading System in the 2019 ESY for the Standard Lesson Plan and as listed in the table below. The LEA provided evidence that the student completed work in all three Blocks of the Wilson Reading System.

Day	Week	Date	Substep	Lesson	Day	Week	Date	Substep	Lesson
1	1	June 10, 2019	2.2	1	9	3	June 24, 2019	2.5	9
2		June 11, 2019	2.2	2	10		June 25, 2019	2.5	10
3		June 12, 2019	2.3	3	11	4	July 9, 2019	3.1	12
4		June 13, 2019	2.3	4	12		July 10, 2019	3.2	13
5	2	June 17, 2019	2.3	5	13		July 11, 2019	3.2	14
6		June 18, 2019	2.4	6	14	5	July 15, 2019	3.2	15
7		June 19, 2019	2.4	7	15		July 16, 2019	3.2, 3.3	16
8		June 20, 2019	2.4	8	16		July 17, 2019	3.3	17
					17		July 18, 2019	3.3	18

52. According to the OT notes for the 2019 ESY services, the student received OT services on the following days for the specified goals as indicated in the table.

Date	Duration	Goal/Task
06/12/2019	10 minutes	Consult with classroom teacher on ESY OT objectives. Observed/Collaborated with student to establish and increase clinician/student rapport.
06/20/2019	10 minutes	Consulted with student on preferred book of interest with brainstorming book synopsis to increase thought process and categorization of plot/main idea. Goal 1: use elements of writing process (planning, drafting, revising, editing, and publishing) to compose text with 50% accuracy as reported in five observations.
06/25/2019	10 minutes	Consult with classroom teacher on self-coping strategy with visual chart model. Goal: will explain importance of basic rules and use sportsmanship skills in settling disagreements in socially acceptable ways such as remaining calm, identifying the problem, listening to others, generating solutions, and choosing a solution acceptable to all as reported in five observations.
07/09/2019	10 minutes	Consult and review with student during classroom computer activity. [Student] observed with using left and right hand single digit to "peck" at keyboard with typing activity. Reviewed with student with visuals and demonstration of using bilateral hand/finger placement on "home keys". Goal: use elements of the writing process (planning, drafting, revising, editing, and publishing) to compose text with 50% accuracy as reported in five observations. Objective: demonstrate keyboarding skills at 10 wpm with minimum of 80% accuracy as recorded in five observations.
7/11/2019	10 minutes	Consult with student during classroom computer activity bilateral hand/finger placement on keyboard. Student observation using alternating hand to finger "peck" on keys on keyboard. Provided visual marks for student with "home key" stickers to place on digits during computer typing tasks. Goal: use elements of writing process (planning, drafting, revising, editing and publishing) to compose text with 50%

		accuracy as reported in five observations. Objective: demonstrate keyboarding skills at 10 wpm with a minimum of 80% accuracy as recorded in five observations.
7/11/2019	10 minutes	Consulted with classroom teacher post consultation with student, on visual marks with "home key" stickers to increase [Student's] hand/finger placement and awareness during computer typing tasks. Goal: will use elements of writing process (planning, drafting, revising, editing and publishing) to compose text with 50% accuracy as reported in five observations. Objective: demonstrate keyboarding skills at 10 wpm with a minimum of 80% accuracy as recorded in five observations.
07/15/2019	10 minutes	Consultation with student.

53. On August 19, 2019, during a phone call with Wilson Language Training Corporation, the representative confirmed that the company does recommend Level One Certification for teachers using the Wilson Reading System with students for dyslexia services, but that the Level One Certification is not a requirement in order for a person to be an instructor in the Wilson Reading System used for students with dyslexia, as long as a person delivering the Wilson Reading System instruction to students does not represent himself/herself as an instructor with the Level One Certification in the Wilson Reading System.
54. On August 20, 2019, in a phone call with a Wilson Language Training Corporation, the literacy representative explained that the Wilson Reading System is not a grammar program, but that the Wilson Reading System does touch on the use and understanding of verbs (past, present, future) such as regarding the use of the suffixes -ing and -ed, and that the program would also touch on the differing pronunciations for -ed that are /d/, /t/, and /ed/. The literacy representative did not indicate that a one-on-one student to service provider ratio was a requirement of the Wilson Reading System. The literacy representative explained that each student, depending on each student's independent level of need or severity of disability, will advance through the Wilson Reading Program at different rates and that there is not a specific amount of material or a specific number of steps that students will complete within a specific amount of time. Students continue with the material and the step until automaticity and fluency for that material and step are reached.
55. The Wilson Reading System webpage, under parents (<https://www.wilsonlanguage.com/parents/wrs-instruction/>) explains progress within the Wilson Reading System and reads in part,

Depending on the frequency and intensity of delivery, it may take 2-3 years (or more) to complete all 12 Steps of the curriculum.

Pacing through substeps and Steps can vary greatly and is determined by student mastery. To successfully progress through each WRS substep, students must become accurate and fluent with the skills and concepts taught in that substep.

56. The Wilson Reading System webpage, under implementation (<https://www.wilsonlanguage.com/programs/wilson-reading-system/implementation/scheduling/>) explains instruction and reads in part,

Block 1: Parts 1-5 emphasize word study/foundational reading skills.  
 Block 2: Parts 6-8 emphasize spelling/foundational writing skills.  
 Block 3: Parts 9-10 emphasize fluency and comprehension.

One full lesson consists of all 3 Blocks of instruction (20-30 minutes to complete each Block). A minimum of two complete lessons per week should be taught by (or under the guidance of) a [Wilson Reading System] certified instructor.

For small-group instruction or one-on-one instruction, the length and frequency should be at least 45 minutes for four times per week.

#### **Conclusions and Reasons for TEA's Final Decision for Allegation One**

34 CFR §300.323 requires that, as soon as possible following development of the IEP, special education and related services are made available to the student in accordance with the student's IEP.

The student's IEPs in effect for the 2018-2019 school year specify that the student would receive instruction in the Wilson Reading System to address the student's identified disability of dyslexia. While the Wilson Reading System does not require instruction to be delivered by a Certified Level One teacher and explains that progress varies from student to student, the Wilson Reading System webpage does provide a guide for pacing, frequency, and duration of instruction in order for student's to make adequate progress in the Wilson Reading System curriculum. The Wilson Reading System webpage indicates a minimal service level to be at least two lessons per week covered in at least four sessions per week for at least 45 minutes per session. During the 2018-2019 school year, the LEA provided the student with 20 lessons in 30 weeks when the Wilson Reading System webpage indicates a pace that in 30 weeks would have moved the student through at least 60 lessons. The LEA's pacing for the Wilson Reading System was only about 30% of what the Wilson Reading System webpage indicates to be appropriate. After reviewing the student's individual data, the ESC Region 13 Dyslexia Specialist recommended for the LEA to use a faster pace with the student. When the LEA did follow the minimal service level, as indicated on the Wilson Reading System webpage, during ESY services for the student, the student was able to keep up with the pace and make progress. During the ESY services, the student completed 18 lessons in five weeks. The student did not require a slower pace than the Wilson Reading System indicates is appropriate on the Wilson Reading System webpage. The LEA did not implement the Wilson Reading System with fidelity and thus did not meet the student's need in reading instruction for dyslexia.

The student's May 23, 2019 IEP specifies that the LEA would provide progress reports for IEP goals concurrent with the issuance of report cards. The LEA did not provide May 30, 2019 IEP progress reports for the following goals for the student for the following goals.

- i. ELA – Written Expressions: Within 36 instructional weeks, provided with access to word processing software during writing process assignments and with teacher discretion, multisensory prompts that include verbal cues, will use elements of the writing process (planning, drafting, revising, editing and publishing) to compose text with 50% accuracy as reported in five observations. Progress will be determined using the following measurement criteria: Percent Accuracy. Samantha's baseline score was 50(%) on 5/23/2019. [Student] will achieve 70(%) by 05/21/2020.  
Implementer: Special Education Teachers General Education Teacher.
- ii. Social Skills: Within 36 instructional weeks, provided with modeling, direct instructions, multisensory prompts, and visual supports, will explain the importance of basic rules and use sportsmanship skills in settling disagreements in socially acceptable ways such as remaining calm, identifying the problem, listening to others, generating solutions and choosing a solution acceptable to all as reported

in five observations. Progress will be determined using the following measurement criteria: Count. [Student's] baseline score was 0.0 times on 05/23/2019.

Allegation One is substantiated.

#### **Conclusions and Reasons for TEA's Final Decision for Allegation Two**

34 CFR §300.324 requires that, in developing each student's IEP, the IEP team consider the strengths of the student, the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, and the academic, developmental, and functional needs of the student.

The LEA conducted an OT evaluation on the student and received a report dated January 17, 2018, which contained recommended goals for the student. The June 25, 2018 IEP contains OT goals that incorporate all of the recommended goals from the January 17, 2018 evaluation.

On September 9, 2017, the LEA provided an IEE for the student to be evaluated for dyslexia. The student's LEA Dyslexia Profile indicates the student qualified for special education as a student with dyslexia on November 13, 2017. The student's June 25, 2018 IEP does not include reading goals to guide the student's progress in the student's dyslexia reading program, even though the student's September 9, 2017 dyslexia evaluation identified weakness in nine areas of reading including phonological awareness, phonological memory, rapid naming, sound symbol knowledge, fundamental literacy ability, word identification, informal word reading, spelling, and written expression – untimed alphabet letters. However, the student's August 23, 2018 revised IEP includes a reading goal for the student's Wilson Reading System reading program. The first day of school for the 2018-2019 school year was August 27, 2018. The reading goals for the student's 2018-2019 school year are not aligned to the student's identified weaknesses in reading. For example, on May 13, 2019, the LEA administered the WIST/WADE from the Wilson Reading System. The student's ability in Letter Sounds is below 2<sup>nd</sup> grade. A raw score below 68 is considered below 2<sup>nd</sup> grade. Student's raw score in Letter Sounds is 41. The student's performance in the other reading categories on the May 13, 2019 WIST/WADE assessment were at or above grade level. The student's May 23, 2019 IEP does not contain a reading goal specifically addressing the student's weakness in reading.

Allegation Two is substantiated regarding reading.

Allegation Two is not substantiated regarding OT.

#### **Conclusions and Reasons for TEA's Final Decision for Allegation Three**

While the authority for this allegation was initially identified as 34 CFR §300.324, additional authority is found at 34 CFR §300.323.

34 CFR §300.324 requires that, in developing each student's IEP, the IEP team consider the strengths of the student, the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, and the academic, developmental, and functional needs of the student.

34 CFR §300.323 requires that, as soon as possible following development of the IEP, special education and related services are made available to the student in accordance with the student's IEP.



The May 23, 2019 IEP specifies that the student would receive 60 hours of instruction during the 2019 ESY period focusing on the student's math, reading, and writing goals with an additional instructional component in the Wilson Reading System for dyslexia instruction consisting of sessions that are 60 minutes in duration with a frequency of four sessions per week, a second additional component for speech services of five 20-minute sessions with no frequency specified, and a third additional component for expressive language with five 10-minute OT consultative session and no frequency specified for incorporating keyboarding during the 2019 ESY. Based on the OT notes, the writing goals, including the typing component, are the student's OT goals.

The May 23, 2019 IEP specifies that an LEA representative, the student's classroom teacher, gave the LEA explicit teaching concepts for the 2019 ESY. The classroom teacher's explicit teaching concepts for reading and writing reads as follows.

Reading: Identifying main ideas/supporting details in a text, making inferences, main character trait/feelings, literal/non-literal meanings (sensory language).

Writing: Brainstorming about a topic (using graphic organizer), staying on topic when writing.

The ESY plan indicates 60 hours of instruction for the student's May 23, 2019 IEP goals in math, reading, and writing to be delivered to the student. The ESY plan for teaching explicit concepts does not align with the student's May 23, 2019 IEP reading and writing goals as specified in the student's May 23, 2019 IEP.

The LEA did not provide progress monitoring notes or other data demonstrating the implementation of the student's reading and writing goals during the 2019 ESY session, no work samples, and no documentation for the required 60 hours of instruction on the IEP goals as specified in the May 23, 2019 IEP. The LEA provided detailed work samples for the student's dyslexia services in the Wilson Reading System that included the student's Step and Substep progression through the Wilson Reading System, but no documentation for the required minutes of instruction. The OT notes indicate the student received a total seven consult services, which does not match number of consult services specified regardless of frequency whether that frequency was to be per day, per week, or per 2019 ESY session.

The student's IEP accommodations for a wiggle/squishy seat and accommodated lined paper was not always available for the student to use during the 2019 ESY services. For these reasons, Allegation Three is substantiated.

#### **Conclusions and Reasons for TEA's Final Decision for Allegation Four**

34 CFR §300.324 requires that, in developing each student's IEP, the IEP team consider the strengths of the student, the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, and the academic, developmental, and functional needs of the student.

The student's August 23, 2018 and September 12, 2018 IEPs do not contain typing goals, and there is no indication that the parent or other IEP team members raised typing as a concern for the student at that time. In a recording of the May 23, 2019 IEP meeting, the IEP team discussed keyboarding (typing) for the student to meet the student's needs related to dysgraphia, dyslexia, and written expression. The student's May 23, 2019 IEP includes a typing objective in the student's written expression goal. The typing objective specifies a baseline, a percent



measurement for growth, number of words per minute for the student to achieve, and a measurement criteria of words per minute count.

The student's August 23, 2018 IEP reading and OT goals specify a baseline, a percent measurement for growth, number of trials, and content to be covered. The student's May 23, 2019 IEP contains reading and OT goals that specify a baseline, a percent measurement for growth, number of trials, and content to be covered. The student does not have a specific typing goal. The student's writing goals specify that the student is "provided access to word processing software".

The student's May 23, 2019 PLAAFP for reading and math contains the BOY, MOY, and EOY data from the 2017-2018 school year and no present data from the 2018-2019 school year. None of the PLAAFP, except for the speech and language PLAAFP, for the 2018-2019 school year or the May 23, 2019 IEP, contain data explaining how the student's disabilities of dyslexia, dysgraphia, and written expression affect the student's ability to access the general education curriculum nor data linking/aligning the student's needs with the student's goals. For example, but not limited to this one instance, the student has an identified reading weakness in Letter Sounds, but this is not addressed in the May 23, 2019 PLAAFP as to how this weakness impacts the student's ability to perform in reading, nor does the PLAAFP explain how the student's reading goals address the student's weakness and meet the student's need with regard to Letter Sounds. The same is true for the student's OT PLAAFP. For example, but not limited to this one instance, the student's May 23, 2019 OT PLAAFP do not contain any data about the student's disability or weakness in written expression or in typing, but the written expression and typing goals/objectives are the OT services the student receives.

Allegation Four is substantiated regarding the student's PLAAFP.

Allegation Four is not substantiated regarding the IEP containing measurable goals.

#### **Allegation Five**

Did the LEA ensure it developed, reviewed, and/or revised the student's IEP regarding assistive technology in accordance with 34 CFR §300.324?

#### **Statement of the Complaint for Allegation Five**

In the July 10, 2019 complaint letter, the complainant alleges, "Clearly, discussions have been made and it has been identified that [Student] needs to be able to use a word processing device to receive FAPE. One is not specified in his/her IEP."

#### **Findings of Fact for Allegation Five**

1. The student's May 23, 2019 IEP provides the following assistive technology for the student to support the student's needs in dysgraphia, dyslexia, and written expression, which are identified in the student's accommodations or goals/objectives.
  - i. Accommodated lined paper
  - ii. Graphic organizer(s)
  - iii. Access to word processing.
2. The student's parent has reported that the LEA is currently assessing the student for the student's assistive technology needs.

#### **Conclusions and Reasons for TEA's Final Decision for Allegation Five**

34 CFR §300.324 requires that in developing each student's IEP, the IEP team must consider the strengths of the student, the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, and the academic, developmental, and functional needs of the student.

The recording of the student's May 23, 2019 IEP indicates that the IEP team discussed assistive technology in the form of low-tech technology including accommodated lined paper and graphic organizers. Both accommodated lined paper and graphic organizers are included in the student's IEP. The recording of the student's May 23, 2019 IEP indicates that the IEP team discussed the student would have access to word processing technology. The student's IEP writing goals include access to word processing technology. Additionally, since the July 10, 2019 complaint letter, the parent has reported that the LEA is conducting an assistive technology assessment for the student to determine the student's assistive technology needs.

Allegation Five is not substantiated.

#### **Allegation Six**

Did the LEA ensure the written statement of the student's IEP documented the decisions of the IEP team meeting with respect to issues discussed in IEP team meeting in accordance with 19 TAC §89.1055?

#### **Statement of the Complaint for Allegation Six**

In the July 10, 2019 complaint letter, the complainant alleges,

By law, in an annual [IEP team meeting] such as his/her last [IEP team meeting], we are supposed to document and update all current data. Some data was verbally discussed, but [LEA] did not add it into the IEP. With the way his/her IEP currently reads, it is left to be confusing and misleading about [Student's] actual current abilities.

#### **Findings of Fact for Allegation Six**

1. The student's May 23, 2019 IEP was not updated with the student's present levels of academic achievement and functional performance.
2. The IEP team discussed, and agreed, to decrease the student's OT services, but to offset that decrease of services with an increase in speech services to better address the student's needs related to the student's disabilities.
3. The May 23, 2019 IEP indicates a decrease in OT services but not an increase in speech services as discussed in the May 23, 2019 IEP team meeting.

#### **Conclusions and Reasons for TEA's Final Decision for Allegation Six**

19 TAC §89.1055(m) requires the written statement of the IEP to document the decision of the IEP team with respect to issues discussed at each IEP team meeting.

A recording of the student's May 23, 2019 IEP team meeting indicates that the May 23, 2019 IEP team discussed the student's PLAAFP but not update the student PLAAFP in the student's May 23, 2019 written IEP. Additionally, the student's May 23, 2019 IEP team discussed and agreed that the student would receive a reduction in OT services to be offset by an increase in speech services because speech could better address the student's needs as those needs relate to the student's disabilities of dyslexia, dysgraphia, and written expression.

Allegation Six is substantiated.

#### **Identified Noncompliance**

Based on the evidence and current state and federal requirements, TEA finds the following noncompliance.

The LEA does not always ensure that it implements the student's IEP regarding the students' dyslexia reading program and reading program requirements for student progress, and the LEA does not always ensure that it provided the parent with progress reports in accordance with 34 CFR §300.323.

The LEA does not always ensure that it develops, reviews, and/or revises students' IEPs in accordance with 34 CFR §300.324.

The LEA does not always ensure that it implements the student's IEP accordance with 34 CFR §300.323.

The LEA does not always ensure the written statement of the students' IEP documented the decisions of the IEP team meeting with respect to issues discussed in the IEP team meeting in accordance with 19 TAC §89.1055.

#### **Required Corrective Actions**

In accordance with 34 CFR §300.151, TEA must address: (1) how to remediate the denial of those services based on the needs of the student and (2) appropriate future provision of services for all students with disabilities when resolving a complaint in which appropriate services were not provided. TEA requires the following corrective actions of the LEA.

#### **For the student subject to this complaint:**

The LEA must convene an IEP team meeting to review the student's IEP and current progress. The IEP team must determine if the student requires compensatory services based on the student's needs to address the following issues.

1. Inadequate progress made in the student's reading program for dyslexia due to not following the student's reading program as indicated by the program design during the 2018-2019 school year
2. Missing progress reports for the last reporting period of the 2018-2019 school year
3. Not developing goals aligned to the student's needs as indicated by evaluation data
4. Not developing an appropriate ESY program aligned to the students IEP goals and as specified in the student's IEP
5. Not implementing the student's ESY program as written in the IEP
6. Not implementing the student IEP accommodations during the 2019 ESY services
7. Not increasing the student's speech services to meet the student's needs when the OT services were decreased

If the IEP team determines that the student requires compensatory services, the IEP team must include a statement of the frequency, location, and duration of the compensatory services in the student's IEP. Compensatory services are services that the student needs to make up for any reduced educational benefit caused by the noncompliance cited in this report and are services that are over and above the student's current IEP services.

**For all students with disabilities in the LEA:**

The LEA shall review its policies and related guidelines pertaining to the noncompliance cited in this report to determine if revision is necessary to prevent the noncompliance from reoccurring. If the LEA revises its policies and related guidelines, the LEA must provide written notice of revised policies/guidelines to LEA staff affected by the revisions.

The LEA must provide staff development to the individuals who were involved in or contributed to the noncompliance and to the administrators of the campus subject to the complaint to provide guidance to address the noncompliance cited in this report.

**Required submission:**

By **September 25, 2019**, the LEA must provide TEA with a proposed timeline for completing the corrective actions or must provide TEA with the following documentation to TEA demonstrating completion of the corrective actions.

- A copy of the IEP team report documenting the compensatory services determination.
- A copy of service logs or other documentation showing the implementation of the compensatory services.
- A copy of any revised portions of special education policies and related guidelines.
- A copy of any relevant memoranda and/or guidance letters issued to staff.
- A copy of the training agenda describing the information presented in the staff development and a listing of the individuals, indicating their positions, who participated in the staff development.
- By **September 25, 2019**, the LEA shall develop a self-monitoring system for the campus subject to the complaint to ensure the following.
  - i. The LEA delivers instruction in accordance with the LEA's reading program for students receiving special education reading services through the LEA's reading program.
  - ii. The LEA provides IEP progress reports to the parents of students receiving special education at the same time the LEA provides report cards for students not receiving special education services.
  - iii. The LEA tracks the progress that students receiving special education services make in the LEA's reading program and develops, reviews, and revises each student's IEP based on each student's individual progress.
  - iv. The LEA tracks the implementation of students' IEPs during the delivery of ESY services.
  - v. The LEA documents verbal agreements made during IEP team meetings and tracks incorporation of verbal agreements made during the IEP team meetings into the written IEP document.
- By **September 25, 2019**, the LEA shall provide a copy of the monitoring plan to TEA, including any proposed forms with an explanation of how the LEA intends to use the form and an example of the proposed use.
- By **October 15, 2019**, The LEA shall also provide documentation demonstrating the implementation of the self-monitoring plan to TEA and continue submission of documentation demonstrating the implementation of the self-monitoring plan, by the 15<sup>th</sup> of each month, ending with the last submission on **September 5, 2020**.

Further intervention by TEA may result if the LEA does not provide the requested information or respond within the required timeline. In accordance with 34 CFR §300.600(e), TEA must ensure that the LEA corrects identified noncompliance "as soon as possible, and in no case later than one year after the State's identification of the noncompliance." Therefore, all required corrective actions must be completed no later than **September 5, 2020**. Failure to correct the cited noncompliance by this date will result in an additional finding of noncompliance under 34 CFR §300.600(e) and may result in additional sanctions against the LEA as outlined in 19 TAC §89.1076.

This concludes TEA's investigation of the complaint.