



Office of the State Superintendent of Education

DISTRICT OF COLUMBIA
MAYOR ADRIAN M. FENTY

July 12, 2010

[REDACTED]
[REDACTED]
District of Columbia Public Schools
[REDACTED]
[REDACTED]

RE: Case No. 08-005

Student Name: [REDACTED]

Date of Birth: [REDACTED]

LETTER OF DECISION

PROCEDURAL BACKGROUND

The State Complaint Office of the State Superintendent of Education (OSSE) received a State Complaint from [REDACTED] hereinafter "the complainant," on [REDACTED] alleging violations that the District of Columbia Public Schools (DCPS) failed to evaluate [REDACTED] hereinafter "the student," for speech/language delays. The complainant alleged that DCPS violated certain provisions of the Individuals with Disabilities Education Act (IDEA: 20 U.S.C. §1400 et seq.; 34 C.F.R. Part 300), specifically, [REDACTED] Education Campus failed to evaluate the student for a speech/language disability after the complainant's oral requests.

The State Complaint Office for OSSE has completed its investigation of the State Complaint. This Letter of Decision is the report of the final results of OSSE's investigation.

COMPLAINT ISSUES

The allegation raised in the complaint, and further clarified by a review of documents and interviews, raised the following issue under the jurisdiction of the State Complaint Office:

Whether DCPS was required to identify, locate and evaluate the student as a student with a disability in need of special education after the parent's oral referral for a student evaluation in the [REDACTED] school year.

INVESTIGATIVE PROCEDURE

The investigation included the review of documents provided by the parent and DCPS, and interviews of the following individuals:

1. Parent

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

FINDING OF FACTS

1. Student was a [REDACTED] year old student that attended [REDACTED] Education Center for the [REDACTED] school year. The parent stated that [REDACTED] made several calls to the school to get the student evaluated because the student displayed challenges in speech. The parent indicated the school consistently gave [REDACTED] the "run around" and was nonresponsive to [REDACTED] requests.

2. Based on the interview with the [REDACTED] at [REDACTED] Education Center, the student displayed challenges in speech at the beginning of the [REDACTED] school year and needed more practice with the use of words. At that time, these challenges in speech did not cause the teacher to suspect that the student may be a student with a disability in need of special education.

3. There was insufficient evidence to determine whether the parent orally referred [REDACTED] child for an evaluation for speech problems at the beginning of the [REDACTED] school year. There is no documentation that the parent suspected [REDACTED] child was a child with a disability and there was no parental written referral for evaluation to DCPS.

4. The Early Childhood teacher administered a battery assessment for all students in the class, on or about [REDACTED].

5. The [REDACTED] [REDACTED] stated that the student performed poorly on the class battery assessment administered on or about [REDACTED]. Although the teacher did not suspect that the student may be a student with a disability in need of special education at this time, she did refer the student to the DCPS [REDACTED], [REDACTED] for further screening.

6. An Early Screening Inventory-Revised (ESI-R) was administered to the student by the DCPS [REDACTED] at [REDACTED] Education Center on [REDACTED]. An [REDACTED] letter to the parent described the ESI-R instrument as a screening instrument used to determine whether the results suggested a need for an in-depth evaluation to determine if the student was in need of special education.

7. Upon receiving the results of the ESI-R, the Early Childhood teacher concluded that the student may have failed the assessment due to cognitive challenges and may need speech therapy at some point in the future.

8. The Early Childhood teacher met the parent at a Parent/Teacher's Meeting on [REDACTED], and set up a private teacher conference with the parent to discuss the student's performance on the [REDACTED] battery assessment, the results of the further individual screening conducted on the student on [REDACTED], and to discuss whether the student should

be referred for evaluation to determine whether the student was a student with disabilities in need of special education.

9. The private teacher conference was set for [REDACTED] with the Early Childhood teacher and the parent. The parent did not attend the scheduled meeting and the Early Childhood teacher followed up with a letter to the parent. The parent did not respond.
10. The Disabilities Coordinator for DCPS [REDACTED] notified the parent in a letter dated [REDACTED] that the ESI-R screening indicated the student needed to be referred for a more formal evaluation to determine if [REDACTED] needed special education intervention. The Coordinator requested that the parent contact her. The parent did not respond to the letter.
11. During the course of this investigation, the student was not referred by a professional staff member of DCPS for evaluation for determination whether the student was a student with disabilities in need of special education.
12. The student is no longer a student of DCPS.
13. To date, the student has not been identified as a student with disabilities and is progressing well in the regular education environment.

DISCUSSION/CONCLUSION

DCPS is out of compliance with provisions of the IDEA at 34 C.F.R. §300.111 of IDEA and DCMR §5-3004.1¹

At the beginning of the [REDACTED] school year, the student displayed challenges in speech. At that time, the Early Childhood teacher at [REDACTED] Education Center did not suspect that the child may be a student with a disability in need of special education. Based on the student's performance on a battery assessment administered to all students within the class, the teacher referred the student to the Disabilities Coordinator for [REDACTED] for further screening. DCPS administered the ESI-R on [REDACTED] to obtain additional information to determine whether an evaluation was needed to determine if the student was in need of special education.

Pursuant to IDEA, 34 C.F.R. §300.111, a State must ensure that all children with disabilities residing in the State, who are in need of special education and related services, are identified, located and evaluated, which includes students that are homeless, wards of the State and children with disabilities attending private schools, regardless of the severity of their disability. "Child Find activities typically involve some sort of screening process to determine whether the child should be referred for a full evaluation to determine eligibility for special education and related services." (Federal Register / Vol. 71, No. 156 / Monday, August 14, 2006 / Rules and Regulations, Pg. 46636)

In this case, the Early Childhood teacher's administration of the battery assessment to all students in the class and the Disabilities Coordinator for [REDACTED] administration of the ESI-R were permissible screenings to determine whether the student might need to be referred for an evaluation to determine if [REDACTED] was a student with disabilities in need of special education. Subsequent to the administration of the ESI-R screening tool on [REDACTED] [REDACTED], professional staff members of DCPS,

¹ Currently reorganized as DCMR §5-E3004.1.

specifically the Early Childhood teacher and the Disabilities Coordinator, concluded that the student may be a student with a disability in need of special education and should be referred for evaluation.

In accordance with the District of Columbia regulations, a student with a suspected disability who may need special education must be referred, in writing, to an IEP team. A referral may be made by the child's parent or a professional staff employee of the local educational agency. (DCMR §5-3004.1) There was insufficient evidence to determine whether the parent orally referred [REDACTED] child for an evaluation for speech problems or otherwise suspected [REDACTED] child was a child with a disability. It is established, however, that DCPS did not receive any written referrals from the student's parent for evaluation to determine whether the child was a student with a disability in need of special education. Therefore, even if oral requests for evaluation for speech problems were made by the parent, DCPS was not required to evaluate the student based solely on the oral requests.

However, in accordance with the IDEA 34 C.F.R. §300.111 and DCMR §5-3004.1, the suspicion by professional staff members that the student may have a disability and need special education required DCPS to refer the student to the IEP Team in writing. Although DCPS did attempt to meet with the parent to discuss whether the student should be referred for evaluation and followed up with written correspondence on two occasions, this was not sufficient since DCPS did have independent suspicion that the student may have a disability and need special education. Therefore, even though DCPS is in compliance with DCMR §5-3004.1 with regard to the parent's alleged oral requests for evaluation, DCPS is out of compliance with DCMR §5-3004.1 and IDEA 34 C.F.R. §300.111 in that it failed to initiate the referral process for a student they suspected may have been a student with disabilities in need of special education.

CORRECTIVE ACTION

Within 60 days of the date of this letter, DCPS must provide [REDACTED] Education Campus with technical assistance and training regarding the requirements of the IDEA and the DCMR on the requirements of Child Find, including the responsibility of professional staff members to refer a student suspected of being a student with a disability in need of special education to the IEP Team. Documentation of the corrective action must be submitted to Melanie L. Byrd, Esq., Director of Compliance & Monitoring, within five business days of the completion of the corrective action.

Sincerely,



Tamera J. Lewis
Assistant Superintendent of Special Education

cc: [REDACTED], DCPS [REDACTED]
Parent