



Office of the State Superintendent of Education

DISTRICT OF COLUMBIA
MAYOR ADRIAN M. FENTY

May 13, 2010

[Redacted]
[Redacted]
District of Columbia Public Schools
[Redacted]
[Redacted]

Re: State Complaint # 08-011
Student Name:
Date of Birth:

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 in the special education program of [Redacted] while attending [Redacted] SHS, a school within the District of Columbia Public Schools (DCPS).

The complainant alleged that the school 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, a failure to provide the student adaptive physical education, occupational therapy, and speech services in accordance with [Redacted] IEP and the failure of DCPS to have an IEP in effect for the student for the [Redacted] school year. The complainant also raised personnel issues regarding the student's case manager. However, personnel issues are not within the jurisdiction of the State Complaint system and these issues were not accepted for investigation.

In accordance with the IDEA, 34 C.F.R. § 300.153(c), a complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received. Therefore, this complaint investigation is limited to the period from [Redacted] to [Redacted]. OSSE's State Complaint Office 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 allegations 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:

1. Whether DCPS made special education and related services available to the student in accordance with [REDACTED] IEPs in effect from [REDACTED] to [REDACTED], specifically with regard to adaptive physical education, occupational therapy, and speech services.
2. Whether DCPS timely conducted the annual review of the student's IEP in effect for the [REDACTED] [REDACTED] school year.

INVESTIGATIVE PROCEDURE

FINDING OF FACTS

General Findings of Fact

The student is a student with disabilities who attends [REDACTED] SHS, a school within DCPS. The student's primary disability category is mental retardation. The student's IEPs, dated [REDACTED] and [REDACTED], were in effect for the [REDACTED] school year.

Adaptive Physical Education, Occupational Therapy, and Speech Services

1. The student's IEPs for the [REDACTED] school year all included speech and language therapy, occupational therapy and adaptive physical education services;
2. The student's IEP dated [REDACTED] included occupational therapy one-hour (60 min) per month, speech and language therapy sixty-minutes (60) per week, and adaptive physical education thirty-minutes (30 min) per week;
3. The [REDACTED] IEP additionally required the same amount of hours for the same services;
4. The IEP team determined that the student was eligible for [REDACTED] extended school year services in specialized instruction and therapy, and it was documented on the IEP. Time and intensity of services for occupational therapy, the speech and language therapy and the adaptive physical education is constituent with the [REDACTED] IEP;
5. The student attended extended school year in [REDACTED] but did not receive occupational therapy, speech and language therapy, or adaptive physical education;

6. The student's IEP did not include [REDACTED] extended school year period for [REDACTED] however, an interview with the secretary at the school revealed that the extended school year services were provided from [REDACTED] [REDACTED] [REDACTED];
7. As noted at the [REDACTED] IEP meeting and as documented on the DCPS Compensatory Education Continuation of Services form, the special education coordinator agreed that DCPS did not provide the student the required speech and language therapy, occupational therapy, and adaptive physical education; and, as confirmed in the interview with the coordinator, the student was not provided eighteen (18) hours of speech and language therapy, eighteen (18) hours of adaptive physical education or any of the required occupational therapy during the [REDACTED] regular school year;
8. The DCPS Compensatory Education Continuation of Services form was completed on [REDACTED] by the school because of missed services in speech and language, occupational therapy and adaptive physical education for the [REDACTED] regular school year. This Compensatory Education Plan did not include the missed services during the [REDACTED] extended school year program;
9. The Compensatory Education Plan was created by the school entitling the student to a laptop computer and two (2) pieces of software and tutoring in the home once per week for sixty (60) minutes for three (3) months and specialized instruction by a special education teacher for three (3) months in functional reading and functional math. The complainant indicated that [REDACTED] was in agreement with the Compensatory Education Plan created by DCPS for the failure to provide the speech and language therapy, occupational therapy and adaptive physical education;
10. The Compensatory Education Plan became effective on [REDACTED]. DCPS has provided the student a laptop computer and two (2) pieces of software. DCPS has additionally provided for a tutor in the home once a week for sixty (60) minutes for three (3) months. DCPS has not provided for the required specialized instruction by a special education teacher in the areas of functional reading and functional math.

DISCUSSION/CONCLUSION

DCPS is out of compliance with the provisions of IDEA at 34 C.F.R. §300.323(c)(2).

The student attended extended school year in [REDACTED] but did not receive occupational therapy one (1) hour per month, speech and language therapy sixty (60) minutes per week, and adaptive physical education thirty (30) minutes per week as required by the student's IEP. Based on the extended school year period from [REDACTED] [REDACTED] until [REDACTED] [REDACTED], the student missed sixty (60) minutes of occupational therapy; two hundred forty (240) minutes of speech and language therapy and one hundred twenty (120) minutes of adaptive physical education.

The student also did not receive the following services required by the student's IEPs in effect for the [REDACTED] regular school year: sixty (60) minutes per week of speech and language therapy; sixty (60) minutes per week of adaptive physical education and any of the required occupational therapy of one (1) hour per month. Although DCPS and the parent developed and agreed upon the [REDACTED] Compensatory Education Plan for the services the student did not receive for the [REDACTED] regular

school year, and DCPS partially fulfilled the plan, DCPS did not provide the required specialized instruction by a special education teacher in the areas of functional reading and functional math.

Pursuant to IDEA, 34 C.F.R. §300.323(c)(2), special education and related services must be made available to the child in accordance with the child's IEP. Therefore, DCPS is out of compliance with the IDEA, 34 C.F.R. §300.323(c)(2) in that the student did not receive speech and language therapy, occupational therapy, and adaptive physical education in accordance with the student's IEP for the [REDACTED] regular school year and the [REDACTED] extended school year.

FINDING OF FACTS

Timely Annual Review and Current [REDACTED] IEP

1. At the commencement of the [REDACTED] school year on [REDACTED], the student had an IEP in effect dated [REDACTED];
2. The student's IEP Team reconvened to review and revise the student's [REDACTED] annual IEP on [REDACTED] and again on [REDACTED];
3. The parent documented [REDACTED] participation in the development and revision of the student's IEPs dated [REDACTED] and [REDACTED].

DISCUSSION/CONCLUSION

DCPS is out of compliance with the provisions of IDEA at 34 C.F.R. §300.324(b)(1).

Pursuant to 34 C.F.R. §300.324(b)(1), the agency must review the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved and revise the IEP as appropriate. The student's [REDACTED] IEP expired on [REDACTED]. Although the DCPS convened the student's IEP Team, and revised the annual IEP on [REDACTED], this was over two (2) months past the date the student's IEP was required to be reviewed and revised as appropriate. Therefore, DCPS is in violation of 34 C.F.R. §300.324(b1).

CORRECTIVE ACTION

In order to become compliant, OSSE requires DCPS to ensure that the following actions be taken:

1. Within fourteen (14) business days of the date of this letter, DCPS must work in conjunction with the [REDACTED] SHS special education department to reconvene an IEP/MDT meeting with the complainant to:
 - a) determine whether the Compensatory Education Plan agreed to at the [REDACTED] IEP/MDT meeting has been implemented; including a plan to provide missed services which considers the impact on the student for the LEA's failure to provide services in functional reading and functional math, and the incorporation of these services in the student's most recent IEP; and
 - b) create a Compensatory Education Plan for missed services in speech and language therapy, occupational therapy, and adaptive physical education during the [REDACTED] extended school year period.

2. Within fourteen (14) business days of the date of this letter, DCPS must provide the [REDACTED] SHS special education coordinator with at least two (2) hours of one-on-one or small group technical assistance and training regarding implementation of IEP goals and services, documenting related service delivery, accuracy of data entry into the service tracker and compliance with Compensatory Education Plans.
3. Within thirty (30) calendar days of the date of this letter, DCPS must provide documentation to OSSE that the above actions have been completed. Documentation must be submitted to James Brooks, Complaint Investigator, Office of the State Superintendent of Education, 810 First Street NE, 5th Floor, Washington DC 20002.

Sincerely,



Cathie Carothers

Acting Assistant Superintendent of Special Education

cc: