



January 21, 2011

[REDACTED]

District of Columbia Public Schools

[REDACTED]

[REDACTED]

Public Charter School

[REDACTED]

Re: State Complaint: #010-006

## LETTER OF DECISION

### **PROCEDURAL BACKGROUND**

The State Complaint Office of the Office of the State Superintendent of Education (OSSE), Division of Special Education received a State Complaint from [REDACTED], hereinafter “complainant” or “parent,” on November 23, 2010 alleging violations in the special education program of [REDACTED] [REDACTED] [REDACTED] (Student ID # [REDACTED] hereinafter “student,” while attending [REDACTED] Public Charter School (PCS). [REDACTED] PCS is a charter school which has elected the District of Columbia Public Schools (DCPS) as its local educational agency (LEA) for special education purposes.

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 CFR Part 300); specifically, failure to timely conduct evaluations; failure to provide appropriate special education services in accordance with the child’s IEP; failure to revise the student’s IEP to address any lack of expected progress toward the annual goals and in the general education curriculum; failure to revise the student’s IEP to address information about the child provided by the parent; failure to include on the IEP the special education and related services, supplementary aids and services, and program modifications necessary to allow the child to advance appropriately toward attaining the annual goals and be involved in and make progress in the general education curriculum; failure to provide specialized instruction by a special education teacher; and,

denial of enrollment on the basis of a child’s disability or status as a child with special needs, the child’s need or potential need for special education services, supplementary aids or services, or any other accommodation.

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

1. Whether DCPS failed to timely conduct reevaluations, as required by 34 CFR §300.303?
2. Whether DCPS denied the student a free appropriate public education by failing to provide appropriate special education services in accordance with the child’s IEP, as required by 34 CFR §300.323?
3. Whether DCPS failed to revise the student’s IEP to address any lack of expected progress toward the annual goals and in the general education curriculum, as required by 34 CFR §300.324(b)(1)(ii)?
4. Whether DCPS failed to revise the student’s IEP to address information about the child provided by the parent, as required by 34 CFR §300.324(b)(1)(ii)?
5. Whether [REDACTED] PCS denied enrollment on the basis of a child’s disability or status as a child with special needs, the child’s need or potential need for special education services, supplementary aids or services, or any other accommodation, as prohibited by D.C. Code §38-1802.06(b) and 5E DCMR §3019.1?
6. Whether DCPS failed to include on the IEP the special education and related services, supplementary aids and services, and program modifications necessary to allow the child to advance appropriately toward attaining the annual goals and be involved in and make progress in the general education curriculum, as required by 34 CFR §300.320(a)(4)?

**INVESTIGATIVE PROCEDURE**

The investigation included interviews with the following individuals:

1. Parent
2. [REDACTED] PCS – [REDACTED]
3. [REDACTED] PCS – [REDACTED]

The investigation also included review of the following documents which were either submitted by [REDACTED] [REDACTED] PCS or DCPS or accessible via the Special Education Data System:

[REDACTED]

[REDACTED]

**FINDINGS OF FACT**

**General Findings**

1. The student is a child with a disability as defined by 34 CFR §300.8.
2. The student's disability category is specific learning disability.
3. The student was born on [REDACTED] and was [REDACTED] ) and [REDACTED] ) years of age during the period of investigation.
4. The student attended [REDACTED] PCS [REDACTED] during the [REDACTED] school year and is currently attending [REDACTED] PCS [REDACTED] .
5. The student's IEPs dated [REDACTED] , [REDACTED] and [REDACTED] were in effect during the period of investigation.

### **Failure to Timely Conduct Reevaluations**

6. An academic evaluation was conducted on [REDACTED], prior to the development of the [REDACTED] IEP.
7. At the [REDACTED] IEP meeting, the IEP Team determined that the student remained eligible for special education services.
8. At the [REDACTED] IEP meeting, the IEP Team determined that the student needed to be reevaluated. Consequently, the IEP Team requested psychological, speech-language and occupational therapy evaluations at the [REDACTED] IEP meeting.
9. The parent signed the DCPS Consent for Evaluation Form on [REDACTED].
10. The speech-language evaluation was completed on [REDACTED].
11. The speech-language evaluation concluded that the student's communication abilities were adequate for participation in academic activities.
12. The occupational therapy evaluation was completed on [REDACTED].
13. The occupational therapy evaluation concluded that occupational therapy services were not warranted for the student.
14. The psychological evaluation was completed on [REDACTED].
15. DCPS admits the psychological evaluation was delayed because the request for evaluation was filed through a database system that has since been replaced.

### **Provision of Special Education Services**

16. The [REDACTED] and [REDACTED] IEPs provided for 12 hours per week of specialized instruction within the general education setting and 3 hours per week of specialized instruction outside of the general education setting.
17. The student received the 12 hours of specialized instruction within the general education setting specified on the [REDACTED] and [REDACTED] IEPs, via small group instruction from a special education teacher, during mathematics and English classes.
18. The student received the 3 hours per week of specialized instruction outside of the general education setting during a lunch-time reading group taught by the special education teacher and after-school mathematics instruction delivered by the special education teacher.
19. The [REDACTED] IEP provided for 5 hours per week of specialized instruction delivered in the general education setting and 15 hours per week of specialized instruction delivered outside of the general education setting.
20. [REDACTED] PCS asserts that it maintains a full inclusion program for high school students at the [REDACTED] Campus.
21. The special education coordinator admitted that the student has not received the 15 hours per week of specialized instruction outside the general education setting specified on the [REDACTED] IEP since the development of the IEP.
22. The student is currently receiving the services specified on the [REDACTED] IEP.
23. In the fall [REDACTED] semester, the student received instruction from one special education teacher.
24. Over the [REDACTED] winter break, the student's special education teacher left her employment at [REDACTED] PCS.
25. In the spring [REDACTED] semester, the student's specialized instruction services were provided by two other special education teachers.
26. In the fall [REDACTED] semester, the student's specialized instruction services were provided by another special education teacher.

### **Revision of the IEP to Reflect Lack of Progress**

27. The [REDACTED] IEP Progress Report showed that the student had made progress on the mathematics, reading and written expression goals during every quarter of the [REDACTED] school year.
28. The [REDACTED] IEP Quarterly Progress Report showed that the student had failed to make progress on 2 of 4 mathematics goals and 2 of 3 written expression goals.
29. The [REDACTED] Bilingual Psychological Reevaluation indicated that the student passed all of [REDACTED] classes in the [REDACTED] school year but was failing five out of six classes in Fall [REDACTED].
30. The [REDACTED] Bilingual Psychological Reevaluation indicated that the student's progress had slowed and the student was unable to successfully complete grade level work without intensive and ongoing interventions.
31. The [REDACTED] Evaluation Summary Report showed that the student had made only minimal progress and performed below grade level in mathematics, reading and written expression.
32. The [REDACTED] IEP Meeting Notes indicate that the student had difficulty accessing the information in class even with the modifications outlined in the student's IEP.
33. The [REDACTED] IEP Meeting Notes indicated that the 30 minutes per day of one-on-one attention from the special education teacher that the student received during after-school tutoring sessions, was insufficient to enable the student to pass comprehension quizzes.
34. The [REDACTED] IEP Meeting Notes show that the IEP Team reviewed the results of the [REDACTED] Bilingual Psychological Reevaluation, student work samples, quizzes and tests at the IEP meeting.
35. The special education teacher recommended that the student required more special education services outside of the general education setting in order to make progress on [REDACTED] annual goals.
36. The [REDACTED] IEP increased the number of hours of specialized instruction outside of the general education setting from 3 to 15 and reduced the number of hours of specialized instruction within the general education setting from 12 to 5.

### **Revision of the IEP to Reflect Information Provided by the Parent**

37. The [REDACTED] IEP Meeting Notes showed that the parent provided information indicating that the student consistently worked on reading and writing skills at home.
38. The [REDACTED] IEP Meeting Notes indicate that the special education teacher acknowledged that the student is working, but that the student does not understand the work [REDACTED] is doing.
39. The [REDACTED] IEP Meeting Notes showed that the parent expressed [REDACTED] belief that the student was not receiving the services listed on the [REDACTED] IEP.
40. The [REDACTED] IEP Meeting Notes indicate that the special education coordinator, special education teacher and parent's advocate attempted to explain to the parent that the student was receiving services via small group instruction within the classroom, a lunchtime reading group and after-school tutoring, however the parent persisted in [REDACTED] belief that the student was not receiving any services.

### **Denial of Enrollment on the Basis of Disability**

41. The [REDACTED] IEP Meeting Notes indicated that the high school's full inclusion program was not appropriate because the student required more small group support in order to make progress on [REDACTED] annual goals.
42. At the [REDACTED] IEP Meeting, the SEC told the parent that [REDACTED] could either voluntarily withdraw the student from [REDACTED] PCS and enroll [REDACTED] at another school, go through the DCPS placement process to find the student a different school or file a due process complaint.
43. At the [REDACTED] IEP Meeting, the SEC gave the parent until [REDACTED] to disenroll the student or begin the DCPS Change in Placement process.
44. The parent, through [REDACTED] advocate, requested that [REDACTED] PCS begin the DCPS Change in Placement process on [REDACTED].
45. The parent admits that the student was never barred from attending [REDACTED] PCS.

### **Failure to Include Appropriate Specialized Education and Services on the IEP**

46. The [REDACTED] Bilingual Psychological Reevaluation concluded that the student would benefit from more individual and small group help.
47. The [REDACTED] Bilingual Psychological Reevaluation suggested that the number of hours of specialized instruction that the student received outside of the general education setting required adjustment.
48. The [REDACTED] IEP noted that other supplemental supports and services, including small group instruction, leveled texts, graphic organizers, phonics instruction, reading strategies and extra math classes had been attempted during the first quarter of the [REDACTED] school year without success.
49. The [REDACTED] IEP Meeting Notes indicated that the school could not schedule enough hours of tutoring to meet the student's needs.
50. The [REDACTED] IEP Meeting Notes indicated that the student requires more special education services outside of the general education setting.

### **Failure to Annually Review the IEP**

51. The student's [REDACTED] IEP was due for review by [REDACTED].
52. A letter of invitation to review the IEP was sent to the parent on [REDACTED], with a suggested meeting date of [REDACTED].
53. The student's next IEP meeting was held on [REDACTED].

### **DISCUSSION/CONCLUSION**

**DCPS is in compliance with 34 CFR §300.324(b) with respect to the revision of the IEP to address reevaluations but out of compliance with 34 CFR §300.303 with respect to the timely completion of reevaluations.**

Pursuant to IDEA at 34 CFR §300.303(b), a reevaluation may occur not more than once a year, unless the parent and the public agency agree otherwise; and must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary. Reevaluations should be conducted in a reasonable period of time, or without undue delay, as determined in each individual case. (*Herbin ex rel. Herbin v. District of Columbia*, 362 F. Supp. 2d 254, 259 (D.D.C. 2005), quoting Office of Special Education Programs Policy Letter in Response to Inquiry from Jerry Saperstone, 21 Individuals with Disabilities Education Law Report 1127, 1129 (1995)) An academic evaluation was most recently

administered to the student on [REDACTED] and the student was determined eligible for special education services at the [REDACTED] IEP meeting. Under the IDEA, the student was not due for reevaluation until [REDACTED]. However, the parent and the LEA agreed that reevaluations were necessary. Therefore, DCPS was required to administer these reevaluations within a reasonable time and without undue delay following the request. At the [REDACTED] IEP meeting, the IEP Team ordered psychological, speech-language and occupational therapy evaluations to determine whether the student required a change in special education or related services. The parent signed the DCPS Consent for Evaluation Form that same day. The psychological evaluation was delayed because the request for evaluation was filed through a system that was being phased out of use. The psychological evaluation was not completed until [REDACTED], nearly eight months after the parent provided consent.

In *Herbin*, 362 F. Supp. 2d at 260, the court examined the specific circumstances involved in a delay of four months, which included the lack of an emergency, the existence of current evaluations and the school's inability to determine based on the plaintiff's initial request why the reevaluation was necessary. In the present complaint as well as in *Herbin*, there were no emergency circumstances and some current evaluations were available. However, in this complaint, only current academic evaluations were available. In addition, the reevaluations here were not prompted by a parental request; the IEP Team agreed that additional evaluations were necessary. Under these circumstances, OSSE finds that eight months far exceeds what can be considered a reasonable amount of time to complete evaluations.

DCPS avers in its response that the student did not suffer any harm as a result of the delay in completing the psychological assessment. While the IDEA at 34 CFR §300.513(a)(1) requires that hearing officer's determinations of whether a child received a free appropriate public education be based on substantive grounds, the State Complaint process detailed in 34 CFR §§300.151 through 300.153 contains no such limitation. A state may base its finding that an LEA has violated the IDEA on procedural grounds.

The IDEA at 34 CFR §300.303 also requires that reevaluations must be conducted in accordance with §§300.304 through 300.311, including the requirements at 34 CFR §300.306 regarding eligibility determination meetings to discuss the results of a reevaluation and the provision of copies of reevaluations to the parent. The speech-language and occupational therapy evaluations were completed on [REDACTED] and [REDACTED], respectively. These evaluations concluded that the student did not require speech-language or occupational therapy services. DCPS did not conduct an IEP Team meeting to review the results of these reevaluations and provide copies to the parent because all of the evaluations were not complete. However, because the results of the speech-language and occupational therapy evaluations did not indicate that the student required additional services, DCPS was not required to revise the IEP.

Therefore, DCPS is out of compliance with 34 CFR §300.303 in that it failed to timely conduct the bilingual psychological evaluation.

**DCPS is out of compliance with 34 CFR §300.323.**

The IDEA at 34 CFR §300.323(c)(2) requires each public agency to ensure that as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. The student's IEPs dated [REDACTED] and [REDACTED] provided that the student should receive twelve (12) hours per week of specialized instruction

within the general education setting and three (3) hours per week of specialized instruction outside of the general education setting. The student received the hours of specialized instruction within the general education setting via small group instruction during mathematics and English classes and the hours of specialized instruction outside of the general education setting during a lunch-time reading group and after-school mathematics instruction with the special education teacher. The [REDACTED] IEP provided for five (5) hours per week of specialized instruction delivered in the general education setting and fifteen (15) hours per week of specialized instruction delivered outside of the general education setting. The special education coordinator maintains that [REDACTED] PCS is unable to deliver the fifteen hours per week of specialized instruction outside of the general education setting because it has a full inclusion program for high school students at the [REDACTED] Campus. [REDACTED] PCS admitted that the student has not been receiving the services in accordance with [REDACTED] IEP since [REDACTED].

Therefore, DCPS is out of compliance with 34 CFR §300.323 in that it failed to provide appropriate special education services in accordance with the student's [REDACTED] IEP.

The IDEA at 34 CFR §§300.156(c) and 300.207 also requires an LEA to ensure that all personnel necessary to implement the requirements of the Act are appropriately and adequately prepared, which includes the responsibility to ensure that each person employed as a public school special education teacher is highly qualified as a special education teacher. Along with [REDACTED] complaint that the student did not receive services, the parent also alleged that the student did not receive instruction from a special education teacher during the spring [REDACTED] semester. While the student did not receive specialized instruction from the same special education teacher during the fall [REDACTED] and spring [REDACTED] semesters because of a personnel change at the school, OSSE finds that the student did receive specialized instruction from special education teachers during the period of investigation. Therefore, DCPS is in compliance with 34 CFR §§300.156(c) and 300.207.

**DCPS is in compliance with 34 CFR §300.324(b)(1)(ii) with respect to revising the IEP to reflect lack of expected progress.**

Pursuant to 34 CFR §300.324(b)(1)(ii), each public agency must ensure that the IEP Team revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum. Prior to the [REDACTED] school year, the student made progress on [REDACTED] annual goals and passed all of [REDACTED] classes. The first IEP quarterly progress report for the [REDACTED] school year, dated [REDACTED], showed that the student was no longer making progress on a majority of [REDACTED] annual goals. The [REDACTED] Bilingual Psychological Reevaluation indicated that the student's progress had slowed and [REDACTED] was unable to complete grade-level work without intensive and ongoing interventions. The [REDACTED] Evaluation Summary reported that the student was making only minimal progress on [REDACTED] mathematics, reading and written expression goals. At the [REDACTED] IEP meeting, the IEP Team reviewed the results of the psychological evaluation, the evaluation summary, student work samples, quizzes and tests, and discussed the student's lack of progress on [REDACTED] annual goals and the student's inability to access the general education curriculum even with the modifications specified on the previous IEP.

The student did not make progress on annual goals and in the general education curriculum during the Fall [REDACTED] semester. The IEP Team reviewed data on the student at the [REDACTED] IEP meeting,



including the recommendations on the psychological evaluation and from the special education teacher that the student required more services outside of the general education setting. The IEP Team then increased the student's total hours per week of specialized instruction from fifteen (15) to twenty (20), and the hours per week of specialized instruction delivered outside of the general education setting from three (3) to fifteen (15). The IEP Team responded to the student's lack of progress on annual goals and in the general education curriculum by revising [REDACTED] IEP to include additional hours of specialized instruction. Therefore, DCPS is in compliance with 34 CFR §300.324(b)(1)(ii).

**DCPS is in compliance with 34 CFR §300.324(b)(1)(ii) with respect to revising the IEP to reflect information provided by the parent.**

Pursuant to 34 CFR §300.324(b)(1)(ii), each public agency must ensure that the IEP Team revises the IEP, as appropriate, to address information about the child provided to, or by, the parents, as described under §300.305(a)(2). The IDEA at 34 CFR §300.305(a)(2) requires an IEP Team to review information provided by the parents to determine whether the child is or continues to be a child with a disability and the educational needs of the child; the present levels of academic achievement and related developmental needs of the child; whether the child needs or continues to need special education and related services; and, whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum. At the [REDACTED] IEP meeting, the parent provided information on the student's study habits at home and stated [REDACTED] belief that the student was not receiving the services detailed on the [REDACTED] IEP. It is apparent from the meeting notes that IEP Team members responded to the parent's concerns about the student's lack of progress in spite of [REDACTED] study habits and attempted to explain the delivery of special education services in a full inclusion program. The parent has not alleged that [REDACTED] provided any information about the child to which the IEP Team did not respond and was unable to provide OSSE with any evidence that [REDACTED] PCS or any member of the IEP Team failed to respond to information [REDACTED] provided about the student. Therefore, DCPS is in compliance with 34 CFR §300.324(b)(1)(ii).

**[REDACTED] PCS is in compliance with D.C. Code §38-1802.06(b) and 5E DCMR §3019.1 but out of compliance with 5E DCMR §3019.8.**

The District of Columbia Municipal Regulations at 5E DCMR §3019.1 provide that a public charter school in the District of Columbia may not deny enrollment or otherwise discriminate in its admissions policies or practices on the basis of a child's disability or status as a child with special needs, the child's need or potential need for special education services, supplementary aids and services, or any other accommodation. At the [REDACTED] IEP meeting, the IEP Team determined that [REDACTED] PCS's high school program was not appropriate because the student required more small group support in order to make progress on [REDACTED] annual goals. The special education coordinator gave the parent until [REDACTED] to either voluntarily withdraw the student from [REDACTED] PCS and enroll [REDACTED] in the school of [REDACTED] choice or [REDACTED] PCS staff would notify DCPS to begin the DCPS Change in Placement process to determine an appropriate placement. On [REDACTED], the parent, through [REDACTED] advocate, requested that [REDACTED] PCS begin the DCPS Change in Placement process. The student has remained enrolled and in attendance at [REDACTED] PCS through the date listed on this report and the parent has confirmed that the student has never been prevented from attending [REDACTED] PCS. Because [REDACTED] PCS has not prevented the student from attending or disenrolled the student, it is in compliance with 5E DCMR §3019.1.

Pursuant to 34 CFR §300.115(a), each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must include the alternative placements listed in the definition of special education (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and make provision for supplementary services (such as a resource room or itinerant instruction) to be provided in conjunction with regular class placement. (34 CFR §300.115(b)) Public agencies include the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities. (34 CFR §300.33) Public agencies must not make placement decisions based on the agency's needs or available resources. (71 Federal Register 46540:46587 (14 August 2006))

In the District of Columbia, public charter schools may elect to have DCPS serve as its LEA for purposes of the IDEA. (D.C. Code §38-1802.10(c) and 5E DCMR §3019.2) If a charter school that has elected DCPS as its LEA for special education purposes anticipates that it may be unable to meet its obligation to provide a free appropriate public education to a child with a disability currently enrolled in its program, it shall make an appeal to DCPS consistent with the policies, procedures, and guidelines established by DCPS. (5E DCMR §3019.8(a)) [REDACTED] PCS admits that it only offers an inclusion program for ninth grade students at the [REDACTED] Campus. Only offering an inclusion program is soundly contrary to the spirit of the IDEA even if [REDACTED] PCS has elected DCPS as its LEA for special education purposes. Such action fails to afford parents with the opportunity to have their child receive necessary special education services in the school of the parents' choice. OSSE strongly encourages [REDACTED] PCS to work with DCPS to make available a continuum of alternative placements at [REDACTED] PCS. Further, informing a parent that [REDACTED] may voluntarily withdraw [REDACTED] student from the charter school or go through the DCPS placement process to find a different school does not constitute making an appeal to DCPS. While the District regulations are silent on the particular content of the appeal, OSSE contemplates that, at a minimum, the public charter school could request additional resources from DCPS, request professional development and training from DCPS or collaborate with DCPS regarding other options within the charter school building that could be developed to meet the needs of the child. Therefore, [REDACTED] is out of compliance with 5E DCMR §3019.8(a).

**DCPS is in compliance with 34 CFR §300.320(a)(4).**

Pursuant to 34 CFR §300.320(a)(4), an IEP must include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining the annual goals and be involved in and make progress in the general education curriculum. At the [REDACTED] IEP meeting the IEP Team reviewed the list of services, accommodations and modifications that the student had received, but which had not enabled the student to make progress on the annual goals or in the general education curriculum. The IEP Team reviewed the [REDACTED] Bilingual Psychological Reevaluation, which advised that the student needed more one-on-one or small group instruction and that the number of hours of specialized instruction delivered outside of the general education setting required adjustment. The IEP Team concluded that the student required more hours of specialized instruction delivered outside of the general education setting. Based on these recommendations as well as the student's lack

of progress on annual goals and in the general education curriculum, the IEP Team revised the student's IEP to include a greater number of hours of special education services. The IEP Team unanimously agreed to increase the student's hours per week of specialized instruction delivered in the general education setting from three (3) to fifteen (15) and the total hours per week of specialized instruction from fifteen (15) to twenty (20). Although [REDACTED] PCS subsequently indicated that it could not implement the [REDACTED] IEP, OSSE cannot conclude from these facts that the IEP Team failed to revise the student's IEP to include the special education and related services and supplementary aids and services that would enable the child to advance appropriately toward attaining the annual goals and be involved in and make progress in the general education curriculum. Therefore, DCPS is in compliance with 34 CFR §300.320(a)(4).

The IDEA at 34 CFR §300.324(b)(1)(ii) also requires the public agency to revise the IEP to address any lack of expected progress toward the annual goals and in the general education curriculum. The parent also alleged that DCPS did not promptly respond to [REDACTED] request to meet after receipt of the [REDACTED] IEP Quarterly Progress Report, and only met with [REDACTED] after she retained the services of an advocate. An IEP meeting was held for the student on [REDACTED], twenty-four (24) days after the date of the progress report. OSSE finds that in these circumstances twenty-four (24) days is not an unreasonable amount of time to respond to a request for and hold an IEP meeting. Therefore, DCPS is in compliance with 34 CFR §300.324(b)(1)(ii).

#### **DCPS is out of compliance with 34 CFR §300.324(b)(1)(i).**

The IDEA at 34 CFR §300.324(b)(1)(i) requires each public agency to ensure that the IEP Team reviews the child's IEP periodically, but not less than annually. While the parent did not raise the periodic review of the student's [REDACTED] IEP as an issue in the complaint, OSSE notes that during the period of investigation, DCPS failed to annually review the student's IEP. The student's [REDACTED] IEP was due for review by [REDACTED]. The parent was not sent a letter of invitation to review the [REDACTED] IEP until [REDACTED]. Even if the IEP meeting had been held on the date listed on this letter of invitation, [REDACTED], the review would have been untimely. The student's next IEP meeting was not held until [REDACTED], fifteen days past the deadline for annual review of the IEP. Therefore, DCPS is also out of compliance with 34 CFR §300.324(b)(1)(i) for failing to review the student's [REDACTED] IEP not less than annually.

#### **CORRECTIVE ACTION**

In order to correct the noncompliance with the provisions in 34 CFR §§300.303, 300.323, 300.324(b)(1)(i) and 5E DCMR §3019.8(a), DCPS is required to take the following actions:

1. In order to correct the noncompliance with 34 CFR §§300.303 and 300.323, by [REDACTED], DCPS must convene a meeting of the IEP Team, at a time and place determined in consultation with the parent to create a Compensatory Education Plan for the specialized instruction that has not been delivered between [REDACTED] and the date listed on this report, and to compensate the student for the failure to timely complete the psychological evaluation. If DCPS and the parent cannot agree on the amount of compensatory education hours, DCPS shall provide a minimum of 68 hours of specialized instruction as compensatory education.

2. In order to correct the noncompliance with 34 CFR §324(b)(1)(i), DCPS must ensure that at least two [REDACTED] PCS staff members, including the special education coordinator, attend the OSSE training SP-1: Individualized Education Program Process on [REDACTED]. Documentation of attendance must be forwarded to OSSE by [REDACTED].
3. In order to correct the noncompliance with 5E DCMR §3019.8(a), DCPS must ensure that at least three [REDACTED] PCS staff members, including the principal and the special education coordinator, attend the OSSE training SP-10: Least Restrictive Environment: Planning for Student Success on [REDACTED]. Documentation of attendance must be forwarded to OSSE by [REDACTED].
4. In order to correct the noncompliance with 34 CFR §324(b)(1)(i), DCPS must ensure that for every [REDACTED] PCS student with an IEP meeting due date between the date of this report and the end of the [REDACTED] school year, the IEP is reviewed according to the one-year timeline established in 34 CFR §300.324(b)(1)(i).
  - a. By [REDACTED], DCPS must either submit proof of timely IEP meetings to OSSE or take steps to ensure that the documentation is available electronically and submit to OSSE a list of names of students who fit the criteria established in this paragraph.
  - b. If any IEP meetings for [REDACTED] PCS students between the date of this report and the end of the [REDACTED] school year are not completed in compliance with the one-year timeline, by [REDACTED], DCPS must ensure that at least two [REDACTED] PCS staff members from each campus, not including those staff members who attended per corrective action #2 above, attend either OSSE training SP-1: Individualized Education Program Process, or with the prior approval of the OSSE Director of Compliance & Monitoring, some another nationally recognized program on the development of IEPs. Documentation of attendance must be forwarded to OSSE by [REDACTED].

If you have any questions regarding this report, please contact Mary Boatright, State Complaints Manager, at [mary.boatright@dc.gov](mailto:mary.boatright@dc.gov) or 202-741-0264.

Sincerely,

Tameria J. Lewis  
Assistant Superintendent of Special Education

cc: [REDACTED], Parent  
[REDACTED], DCPS [REDACTED]