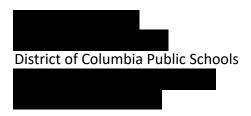
August 12, 2011



RE: State Complaint No. 010-021

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 , hereinafter "complainant" or on alleging violations in the special education program of School, a private residential day and boarding school in School, a private residential day and boarding school in The District of Columbia Public Schools (DCPS) is the geographical local educational agency (LEA) for students who are residents of the District of Columbia.

The complainant alleged that the school violated certain provisions of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq. and regulations promulgated at 34 CFR Part 300, specifically, failure to provide the student with a free appropriate public education; failure to review the child's IEP at least annually; and failure to provide special education and related services to a parentally placed private school child with a disability.

In accordance with the IDEA regulations at 34 CFR §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. While this Letter of Decision will detail the student's placement more than one year prior to the filing of the complaint, any findings or corrective actions may address only noncompliance that occurred between and the complaint.

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, further clarified by a review of documents and interviews or revealed in the course of the investigation, raised the following issues under the jurisdiction of the State Complaint Office:

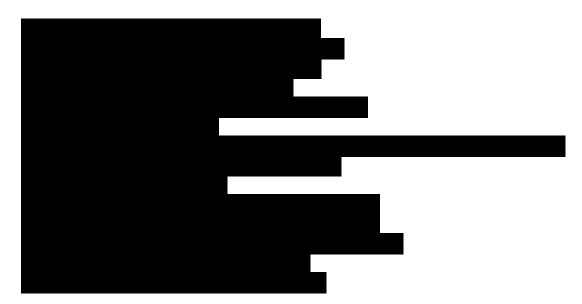
- 1. Whether DCPS failed to provide the student with a free appropriate public education, as required by 34 CFR §300.101?
- 2. Whether DCPS failed to review the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved, as required by 34 CFR §300.324(b)(1)(i)?
- 3. Whether DCPS failed to provide special education and related services to a parentally-placed private school child with a disability, as required by 34 CFR §§300.132(a) and 300.137?

INVESTIGATIVE PROCEDURE

This investigation included interviews with the following individuals:

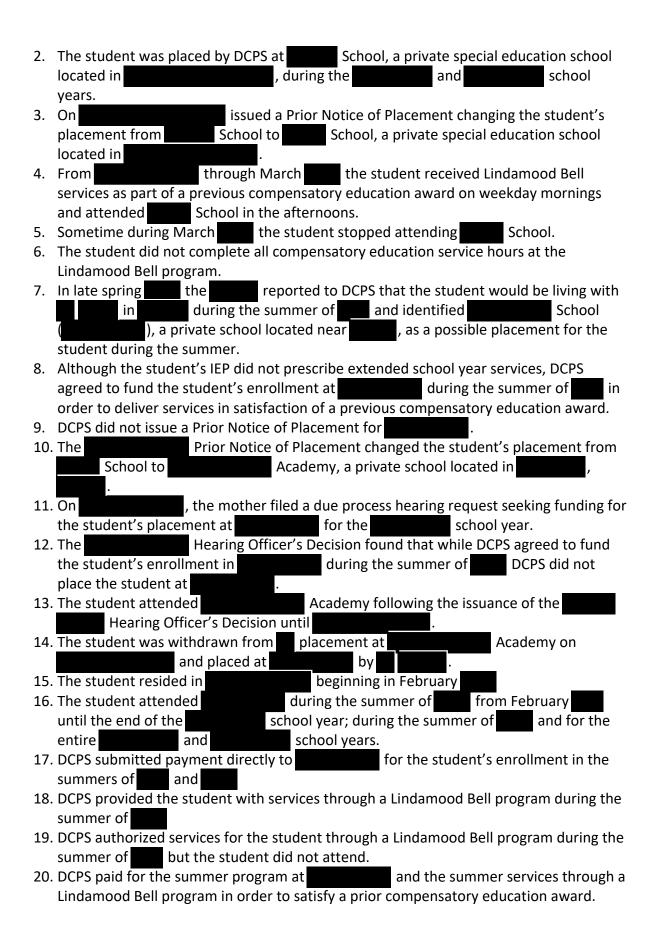
- 1. Complainant
- 2. Former DCPS

The investigation also included review of the following documents which were either submitted by the complainant, submitted by DCPS or accessible via the Special Education Data System (SEDS):



PRELIMINARY ANALYSIS: IS THE CHILD A PARENTALLY-PLACED PRIVATE SCHOOL CHILD? Findings of Fact

1. The student is a child with a disability as defined by 34 CFR §300.8.



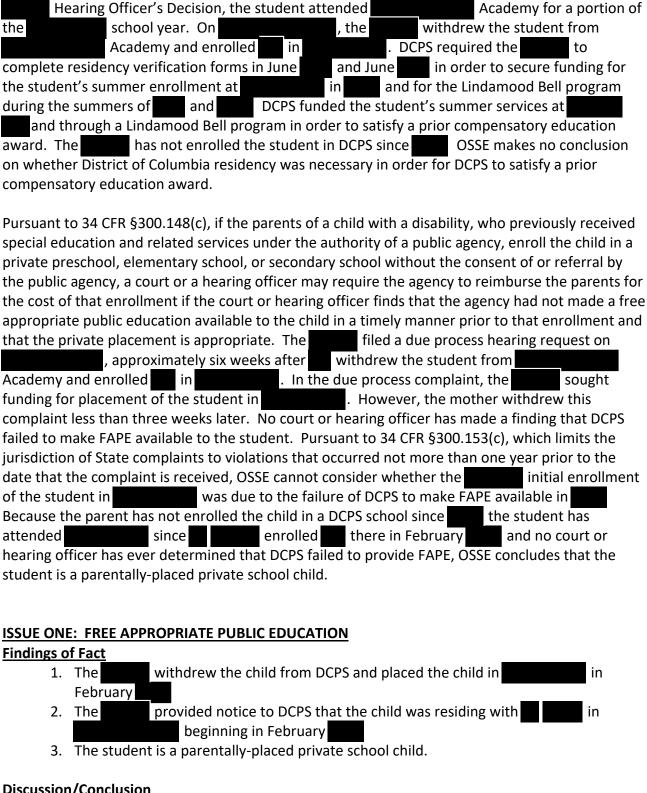
21.	1. DCPS required the			to complete residency verification forms in June				
	June	to verify t	hat the		was a resident	of the District o	f Columbia.	
22.	The	did not	did not enroll the student in DCPS at any time after the spring of					
23.	23. The filed a due proces of the student in			ss hea	ring request on		seeking place	ment
				; this due process complaint was withdrawn by the				
	OI	n		_				

Discussion/Conclusion

The student is a parentally-placed private school child.

The IDEA sets out a different framework for the delivery of services for students with disabilities who are publicly placed in private schools and those who are parentally placed in private schools. Pursuant to 34 CFR §300.132(a), to the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. (34 CFR §300.137) By contrast, the IDEA at 34 CFR §300.146 requires each state educational agency (SEA) to ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency is provided special education and related services in conformance with an IEP, at no cost to the parents, that meets the standards that apply to education provided by the SEA and LEAs, and has all of the rights of a child with a disability who is served by a public agency. As a preliminary issue, OSSE must determine whether the student is a parentally-placed private school child or was placed in the private school by a public agency.

During the and	school years, the student w	as placed by DCPS at							
School, a private special education schoo	l located in	. On ,							
DCPS issued a prior notice of placement of	changing the student's place	ement from School to							
School, another private special ed	lucation school located in	. The							
student received Lindamood-Bell services	s during the morning and at	tended School in the							
afternoons until March In late spring the mother indicated to DCPS that the student									
would be living with in	during the summer of	the identified							
School (), a pri	vate school located near	, as a possible placement							
for the student during the summer. Although the student's IEP did not prescribe extended school									
year services, DCPS agreed to fund the student's summer enrollment at . DCPS did									
not issue a prior notice of placement for	the student to attend	, but it did reimburse							
the mother for the cost of the student's attendance at in the summer of									
On , DCPS sent a prior no	tice of placement changing	the student's placement from							
School to Acaden	ny, a private school located	in . On							
		ich included a demand that							
DCPS fund the student's placement at	for the	school year. On							
, the hearing officer found that DCPS only agreed to fund the summer program at									
and did not agree to change the stud	lent's placement to	. Following the							



Discussion/Conclusion

DCPS is in compliance with 34 CFR §300.101.

Pursuant to 34 CFR §300.101, a free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school. The IDEA at 34 CFR §300.145 requires each

State educational agency (SEA) to ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency is provided special education and related services in conformance with an IEP, at no cost to the parents, that meets the standards that apply to education provided by the SEA and LEAs, and has all of the rights of a child with a disability who is served by a public agency. However, if a parent enrolls a child in a private elementary school or secondary school located in the geographic area of another LEA, the LEA where the private school is located must make FAPE available to the child. (See 71 Federal Register 46540: 46593 (14 August 2006)) OSSE makes no determination of whether the student is a District of Columbia resident by virtue of residency. Such a determination is not relevant because the student attends a private school located in another LEA. is located near School District (SD); therefore, within the responsible for making FAPE available. The student was not placed in the private school by DCPS and no court or Hearing Officer determined that DCPS failed to provide FAPE. The student is a parentally-placed private school child. DCPS was not obligated to provide FAPE to the child.

Therefore, DCPS is in compliance with 34 CFR §300.101.

ISSUE TWO: ANNUAL IEP REVIEW

Findings of Fact

- 1. DCPS developed and implemented an IEP for the student for the year.
- 2. The withdrew the student from DCPS in February
- 3. DCPS has not drafted an IEP for the child since the school year.
- 4. The child has attended since February
- 5. is located near
- 6. The student is a parentally-placed private school child.

Discussion/Conclusion

DCPS is in 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, to determine whether the annual goals for the child are being achieved. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. (34 CFR §300.137) Pursuant to 34 CFR §300.132(b), a services plan must be developed and implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part.

The student is a parentally-placed private school child. The LEA where the child's private school is located is responsible for developing and implementing a services plan for the student. The LEA of the child's residence is not responsible for developing and implementing a services plan if the child's private school is located in another LEA. As discussed above, whether the student is a District of Columbia resident is not relevant because the private school in the LEA where the student attends school is responsible for developing and implementing a services plan for the

student. SD is responsible for developing and implementing a services plan for the student.

Therefore, DCPS is in compliance with 34 CFR §300.324(b)(1)(i).

ISSUE THREE: PROVIDE SERVICES TO PARENTALLY-PLACED PRIVATE SCHOOL CHILD Findings of Fact

- 1. The student is a parentally-placed private school child.
- 2. The student attends a private school in

Discussion/Conclusion

DCPS is in compliance with 34 CFR §§300.132(a) and 300.137.

Pursuant to 34 CFR §300.132(a), to the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools *located in the school district served by the LEA*, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services. Further, no parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. (34 CFR §300.137) The student is a parentally-placed private school child who attends a private school in DCPS only has an obligation to provide equitable services to parentally-placed students with disabilities who attend private schools located in the District of Columbia.

Therefore, DCPS is in compliance with 34 CFR §§300.132(a) and 300.137.

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

Sincerely,

Amy Maisterra, Ed.D., MSW Interim Assistant Superintendent for Special Education

cc: , Complainant _______, DCPS