



August 19, 2011

[REDACTED]
District of Columbia Public Schools

RE: State Complaint No. 010-022

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," on [REDACTED] alleging violations in the special education program of [REDACTED] (Student ID # [REDACTED]) hereinafter "student" or "child," while attending [REDACTED], 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. and regulations promulgated at 34 CFR Part 300, specifically, failure to review and revise the student's individualized education program (IEP) to address information about the child provided by the parent, the child's anticipated needs or other matters; failure to ensure that the child's educational placement decision was made within local and Federal timelines; failure to consider any potential harmful effect of the placement decision; failure to allow the parent an opportunity to inspect or review the child's education records; failure to issue written notice of a placement decision; and, failure to ensure the parent was afforded an opportunity to participate in a placement decision.

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 review and revise the student's IEP, as appropriate, to address information about the child provided by the parent, the child's anticipated needs or other matters, as required by 34 CFR §300.324(b)(1)(ii)?
2. Whether DCPS failed to ensure that an educational placement decision for a child with a disability was made within timelines consistent with applicable local law, as required by 5 DCMR §E-3013.1(c)?
3. Whether DCPS failed, in selecting the least restrictive environment, to consider any potential harmful effect on the child or on the quality of services that he or she needs, as required by 34 CFR §300.116(d) and 5 DCMR §E-3013.3?
4. Whether DCPS failed to allow the parent of a child with a disability an opportunity to inspect or review all education records with respect to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child, as required by 34 CFR §300.501(a)?
5. Whether DCPS failed to issue written notice to the parent of a child with a disability a reasonable time before the public agency refuses to initiate or change the identification, evaluation or educational placement of the child or the provision of FAPE to the child, as required by 34 CFR §300.503(a)(2) and 5 DCMR §E-3024.1?
6. Whether DCPS failed to ensure that the parent of a child with a disability was afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child, as required by 34 CFR §300.501(b)?

INVESTIGATIVE PROCEDURE

This investigation included interviews with the following individuals:

1. Complainant
2. [REDACTED] special education teacher
3. [REDACTED]

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):

[REDACTED]

[REDACTED]

GENERAL FINDINGS OF FACT

1. The student is a child with a disability as defined by 34 CFR §300.8.
2. The student’s disability category is multiple disabilities.
3. The student attended [REDACTED] from the beginning of the [REDACTED] school year through the beginning of [REDACTED] and was cross-enrolled in Visiting Instructional Services (VIS) and [REDACTED] from early [REDACTED] through the end of the [REDACTED] school year.
4. The student’s [REDACTED] and [REDACTED] IEPs were in effect during the [REDACTED] school year.
5. The student was hospitalized in [REDACTED] and diagnosed with generalized anxiety disorder and major depression.
6. The student was released from the hospital in early [REDACTED] and referred to VIS.
7. The student began receiving educational services via the VIS program during the week of [REDACTED].
8. On [REDACTED], the student’s IEP Team met and determined that the student should receive instruction through the VIS program and be cross-enrolled in [REDACTED] for the remainder of the [REDACTED] school year.

ISSUE ONE: IEP REVISION TO ADDRESS INFORMATION PROVIDED BY THE PARENTS, THE CHILD’S ANTICIPATED NEEDS OR OTHER MATTERS

Findings of Fact

1. The student began the [REDACTED] school year at [REDACTED].
2. The student’s academic performance and emotional stability began to deteriorate in early [REDACTED].
3. The student was hospitalized in [REDACTED] and diagnosed with generalized anxiety disorder and major depression.
4. The student was released from the hospital in early [REDACTED] and referred to VIS.
5. The student began receiving educational services via the VIS program during the week of [REDACTED].
6. On [REDACTED], the student’s IEP Team met and determined that the student should receive instruction through the VIS program and be cross-enrolled in [REDACTED] for the remainder of the [REDACTED] school year.
7. The student’s [REDACTED] IEP provided for five hours per week of specialized instruction to be delivered outside the general education environment from [REDACTED] through [REDACTED].
8. The [REDACTED] Prior Written Notice included a note that the student would remain “cross-enrolled” in the VIS program and [REDACTED] for the remainder of the [REDACTED] school year.
9. The student continues to experience high levels of anxiety.

10. On [REDACTED], the parent requested a meeting to discuss the student's placement for the [REDACTED] school year.
11. The special education coordinator and the parent communicated via email and chose from among five different dates in order to allow the parent, parent's advocate, student's psychiatrist and required representatives from DCPS to attend.
12. An IEP Team, which included the parent, the parent's advocate, the student's psychiatrist, the special education coordinator, the social worker, the dean of students, the VIS special education teacher and the DCPS placement specialist met on [REDACTED].
13. While not all required participants attended the [REDACTED] meeting, this meeting nevertheless constituted an IEP meeting.
14. At the [REDACTED] meeting, the parent provided information about the student's success in the VIS program and the student's improved but still inconsistent emotional stability. The parent also expressed [REDACTED] opinion that the student should begin to transition out of the VIS program in the [REDACTED] school year.
15. At the [REDACTED] meeting, the student's psychiatrist provided the team with her opinion that the student required a therapeutic environment with a full-time mental health professional on staff, a quiet room or other similar area, a reduced academic load and a modified schedule, but that [REDACTED] could begin to transition out of the VIS program.
16. At the [REDACTED] meeting, the IEP Team agreed that the student required an environment where [REDACTED] could receive specialized instruction and mental health services.
17. At the [REDACTED] meeting, the DCPS placement specialist offered [REDACTED] High School as a possible location for the delivery of the student's services.
18. The IEP Team agreed that [REDACTED] High School would be an inappropriate location for the student because the student required mental health services that were not available at that school.
19. At the end of the [REDACTED] meeting, the IEP Team did not finalize the identification of the educational setting or location of services for the student in the [REDACTED] school year.
20. The student's IEP was not revised following the [REDACTED] meeting.
21. There were no notes taken at the [REDACTED] meeting but the proceedings of the meeting were summarized in a [REDACTED] email from the [REDACTED] special education coordinator to a DCPS program director in the DCPS Office of Special Education.

Discussion/Conclusion

DCPS is out of compliance with 34 CFR §300.324(b)(1)(ii).

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, the child's anticipated needs or other matters. On [REDACTED] the parent requested a meeting to discuss the student's placement for the [REDACTED] school year. The IEP Team met on [REDACTED]. The parent and the student's psychiatrist provided information about the student that led the IEP Team to conclude that the student required placement in an environment that could provide both specialized instruction and mental health services, but that the student should begin to transition out of the VIS program. The DCPS placement specialist offered [REDACTED] High School as a possible location for the delivery of the student's services. The IEP Team agreed that [REDACTED] High School would be an inappropriate location for

the student because the student required the support of mental health practitioners, which was not available at that school. The IEP Team also agreed that [REDACTED] was not an appropriate placement for the student. By the end of the [REDACTED] meeting, the IEP Team had not finalized the identification of the student's placement or location of services in the [REDACTED] school year. The IEP Team did not revise the student's IEP at the [REDACTED] IEP Team meeting.

The parent requested a meeting to determine the student's placement. The IEP Team did not determine the student's placement or otherwise revise the student's IEP to address the information provided by the parent or the psychiatrist at the [REDACTED] meeting. However, even though the [REDACTED] IEP indicated that the student's receipt of services in a home environment would continue until [REDACTED], the [REDACTED] Prior Written Notice indicated that the student's placement in the VIS program receipt of services through the VIS program would continue only through the end of the [REDACTED] school year. DCPS had previously determined the student's placement on [REDACTED], only 55 days before. However, given the student's individual needs and the legal requirement to place students in the least restrictive environment, OSSE does not find the parent's request to determine the student's placement for the [REDACTED] school year unreasonable. OSSE also notes that as of the date of this letter, DCPS has not acted on the parent's request to determine the student's placement for the [REDACTED] school year or otherwise revised the student's IEP.

Therefore, DCPS is out of compliance with 34 CFR §300.320(a)(4)(ii) for failing to revise the IEP to address information provided by the parent, the child's anticipated needs or other matters.

ISSUE TWO: TIMELY PLACEMENT DECISION

Findings of Fact

1. On [REDACTED], the student's IEP Team met and determined that the student should receive instruction through the VIS program and be cross-enrolled in [REDACTED] for the remainder of the [REDACTED] school year.
2. The [REDACTED] IEP provided for five hours per week of specialized instruction to be delivered outside of the general education environment and specified that this specialized instruction would be delivered through the VIS program.
3. On [REDACTED], the student's IEP Team met and discussed, but did not determine, the student's placement for the [REDACTED] school year.

Discussion/Conclusion

DCPS is in compliance with 5 DCMR §E-3013.1(c).

The District of Columbia Municipal Regulations at 5 DCMR §E-3013.1(c) require a local educational agency (LEA) to ensure that the educational placement decision for a child with a disability is made within timelines consistent with applicable local and Federal law. The IDEA at 34 CFR §300.116(b) requires that a child's placement be determined at least annually. The Comments to the Federal Regulations note that "placement" refers to points along the continuum of placement options available for a child with a disability and "location" refers to the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services. (71 Federal Register 46540:46588 (14 August 2006)) The IDEA at 34 CFR §300.115 require public

agencies to ensure that a continuum of alternative placements is available, and specifies that this continuum includes instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions. On [REDACTED], DCPS determined that the student would be provided with five hours per week of specialized instruction to be delivered outside of the general education environment, and that the student would receive this instruction through the VIS program.

In this case, the delivery of services through the VIS program represents a designation of the *location* of service delivery. The provision of five hours per week of specialized instruction outside of the general education environment is insufficient to represent a *placement* in homebound instruction. The purpose of programs like the VIS program is to serve students who do not otherwise require services but must receive instruction within the home for a definite period of time due to a temporary illness or injury. The parent and DCPS treated the student's provision of services through the VIS program as a *placement* in homebound instruction, and OSSE notes that such a placement would have been appropriate. However, due to the student's receipt of five hours per week of specialized instruction outside of the general education environment, the student's placement remained "regular education."

For the purpose of examining DCPS's compliance with 5 DCMR §E-3013.1(c), OSSE need only consider whether it had made a placement decision in conformity with the timelines that are present in Federal and local law. The IDEA at 34 CFR §300.116(b) requires that a child's placement be determined at least annually. DCPS determined a placement for the student on [REDACTED] and has not made another placement determination for the child since the [REDACTED] meeting. In order to comply with the timeliness requirements that are present in the IDEA, DCPS was not required to determine the child's *placement* again until [REDACTED].

The complainant also alleged that DCPS failed in [REDACTED] to comply with the requirements of OSSE's January 5, 2010 Policies and Procedures on Placement Review, specifically, the filing of a Justification for Removal Statement. However, OSSE's policy relating to a Justification for Removal Statement applies when LEAs act to place a child in a *more* restrictive environment. Despite DCPS's apparent belief that it had previously placed the student in homebound instruction, it does not appear that DCPS ever actually considered placing the student in a more restrictive environment. Therefore, OSSE's January 5, 2010 policy does not apply.

Therefore, DCPS is in compliance with 5 DCMR §E-3013.1(c) and 34 CFR §300.116(b).

ISSUE THREE: CONSIDERATION OF POTENTIAL HARMFUL EFFECTS

Findings of Fact

1. At the [REDACTED] meeting, the IEP Team agreed that the student required an environment where [REDACTED] could receive specialized instruction and mental health services.
2. At the [REDACTED] meeting, the DCPS placement specialist offered [REDACTED] [REDACTED] High School as a possible location for the delivery of the student's services.

3. The IEP Team agreed that [REDACTED] High School would be an inappropriate location for the student because the student required mental health services that were not available at that school.
4. At the end of the [REDACTED] meeting, the IEP Team did not finalize the identification of the educational setting or location of services for the student in the [REDACTED] school year.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §300.116(d) and 5 DCMR §E-3013.3.

The IDEA at 34 CFR §300.116(d) and the District of Columbia Municipal Regulations at 5 DCMR §E-3013.3 require that in determining the educational placement of a child with a disability, each public agency must ensure that in selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs. As noted above, the Comments to the Federal Regulations note that “placement” refers to points along the continuum of placement options available for a child with a disability and “location” refers to the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services. (71 Federal Register 46540:46588 (14 August 2006)) Although the student’s placement needs were discussed and the DCPS placement specialist suggested a location for the delivery of services, the IEP Team did not determine an educational placement for the student at the [REDACTED] meeting. Absent a placement decision, OSSE cannot require a demonstration that DCPS considered the potential harmful effect of placing the student in an environment or at a location that did not meet [REDACTED] individualized needs. Further, the IEP Team’s rejection of [REDACTED] High School does indicate consideration of potential harmful effects. Therefore, DCPS is in compliance with 34 CFR §300.116(d).

The parent alleges that a [REDACTED] email from the DCPS program director in the DCPS Office of Special Education contained the determination that it was premature to reconsider the student’s exit from the VIS program and placement at another school. This email has not been made available for OSSE’s review. However, even if the email contained such a statement by an individual, it does not constitute a placement decision. The IDEA at 34 CFR §300.116 requires each public agency to ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. A statement of opinion by a DCPS program director that it was premature to reconsider a student’s placement is not a placement decision.

OSSE notes the perception on the part of some individuals that the DCPS placement specialist was not making recommendations for the location of the student’s services based on an examination of the student’s individual needs. The Comments to the Federal Regulations indicate that, in all cases, placement decisions must be individually determined on the basis of each child’s abilities and needs and each child’s IEP, and not solely on factors such as category of disability, severity of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience. (71 Federal Register 46540:46588 (14 August 2006)) While it is true that a public agency may have two or more equally appropriate locations that meet the child’s special education and related services needs and school administrators should have the flexibility to assign the child to a particular school or

classroom, that determination must be consistent with the decision of the group determining placement. (71 Federal Register 46540:46588 (14 August 2006)) The DCPS placement specialist's offer of a location that does not include a mental health practitioner on staff demonstrates that the placement specialist was not making a recommendation based on the student's individual needs. OSSE encourages DCPS to ensure that its placement specialists are making recommendations based on the individual needs of its students.

ISSUE FOUR: INSPECTION AND REVIEW OF STUDENT RECORDS

Findings of Fact

1. At the [REDACTED] meeting the parent learned of a [REDACTED] email between a DCPS program director and the [REDACTED] special education coordinator that related to the student's placement.
2. The parent alleged that the [REDACTED] email contained a determination that it was premature to reconsider the student's exit from the VIS program and placement at another school and was therefore a part of the student's educational record.
3. The parent requested a copy of the [REDACTED] email.
4. DCPS maintained that the [REDACTED] email was an internal communication which does not appear in the student's file and is therefore not a part of the student's educational record.
5. DCPS denied the parent's request for a copy of the [REDACTED] email.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §300.501(a).

Pursuant to 34 CFR §300.501(a), the parents of a child with a disability must be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education (FAPE) to the child. At the [REDACTED] meeting, the parent learned of a [REDACTED] email exchange between a DCPS program director and the [REDACTED] special education coordinator that related to the student's placement. The parent alleged that the [REDACTED] email contained the determination that it was premature to reconsider the student's exit from the VIS program and placement at another school and, because it was related to the student's placement, was part of the student's educational record. The parent requested a copy of the [REDACTED] [REDACTED] email. DCPS maintained that the [REDACTED] email was an internal communication which does not appear in the student's file and is therefore not a part of the student's educational record. DCPS refused to provide the parent with a copy of the [REDACTED] email.

In *S.A. by L.A. and M.A. v. Tulare County Office of Education* (September 24, 2009), the U.S. District Court for the Eastern District of California upheld the California Department of Education's determination that a local board was not required to provide parents with copies of every email ever written by district staff concerning their student. The court ruled that an email is an education record only if it personally identifies a student and is maintained by the district, and only those documents placed in a student's permanent file are considered "maintained."

While the decision in *Tulare* does not bind the decision in this complaint, OSSE finds the reasoning of the court persuasive. The [REDACTED] email was not maintained in the student's file, therefore, OSSE finds that it is not part of the student's educational record.

Therefore, DCPS is in compliance with 34 CFR §300.501(a).

ISSUE FIVE: PRIOR WRITTEN NOTICE

Findings of Fact

1. On [REDACTED], the parent requested a meeting to discuss the student's placement for the [REDACTED] school year.
2. A meeting was held on [REDACTED].
3. The following persons attended the [REDACTED]: the parent, the parent's advocate, the student's psychiatrist, the [REDACTED] special education coordinator, the [REDACTED] social worker, the [REDACTED] dean of students, the VIS special education teacher and the DCPS placement specialist.
4. At the [REDACTED] meeting, the parent provided information about the student's success in the VIS program, the student's improved but still inconsistent emotional stability and [REDACTED] opinion that the student should begin to transition out of the VIS program in the [REDACTED] school year.
5. At the [REDACTED] meeting, the student's psychiatrist provided the team with her opinion that the student required a therapeutic environment with a full-time mental health professional on staff, a quiet room or other similar area, a reduced academic load and a modified schedule. The student's psychiatrist also expressed the opinion that the student could begin to transition out of the VIS program.
6. At the [REDACTED] meeting, the IEP Team agreed that the student required an environment where [REDACTED] could receive specialized instruction and mental health services.
7. At the [REDACTED] meeting, the DCPS placement specialist offered [REDACTED] High School as a possible location for the delivery of the student's services.
8. The IEP Team agreed that [REDACTED] High School would be an inappropriate location for the student because the student required mental health services that were not available at that school.
9. At the end of the [REDACTED] meeting, the IEP Team did not finalize the identification of the educational setting or location of services for the student in the [REDACTED] school year.
10. There were no notes taken at the [REDACTED] meeting but the proceedings of the meeting were summarized in a [REDACTED] email from the [REDACTED] special education coordinator to a DCPS program director in the DCPS Office of Special Education.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §300.503(a)(2) and 5 DCMR §E-3024.1.

The IDEA at 34 CFR §300.503(a)(2) and the District of Columbia Municipal Regulations at 5 DCMR §E-3024.1 require that written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes *or refuses* to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the

child. On [REDACTED], the parent requested a meeting to discuss the student's placement for the [REDACTED] school year. The IEP Team met on [REDACTED]. The IEP Team heard from the parent and the student's psychiatrist about the student's progress while receiving services through the VIS program and the services that the student would require to support [REDACTED] exit from the VIS program. A placement decision was not made at the [REDACTED] meeting.

DCPS avers in its response that in fact, no IEP meeting for the student took place after the [REDACTED] meeting at which it determined placement for the student and therefore, no requirement to issue a prior written notice of any decision could attach. The fact that the IEP Team neither revised the student's IEP nor determined an educational placement does not mean that the [REDACTED] meeting was something other than an IEP Team meeting. No meeting notes were taken for the [REDACTED] meeting; instead, the proceedings of the [REDACTED] meeting were summarized in an email between the IEP Team members and various DCPS Central Office staff members. OSSE finds the decision to record the proceedings of the [REDACTED] in an email rather than on a more typical meeting note form to be insignificant. Finally, in its response DCPS cites the IDEA at 34 CFR §300.343 in support of its position that the [REDACTED] meeting was not an IEP meeting. However, 34 CFR Part 300 contains no regulation which corresponds to this citation.

Notwithstanding DCPS's incorrect assertion that the [REDACTED] meeting was not an IEP meeting, OSSE finds that the decision of the IEP Team at the [REDACTED] meeting does not constitute a refusal to change the student's placement. At the end of the [REDACTED] meeting, no decision was made. OSSE acknowledges the parent's frustration with the fact that no placement or location decision was made at this meeting; however, there is no evidence that DCPS made a final decision not to change the student's placement or location. Instead, the team decided that the student required a placement and location with certain available supports and determined that the location proposed by the DCPS placement specialist would be inappropriate.

Therefore, DCPS is in compliance with 34 CFR §300.503(a)(2) and 5 DCMR §E-3024.1.

ISSUE SIX: PARENTAL PARTICIPATION

Findings of Fact

1. On [REDACTED], the parent requested a meeting to discuss the student's placement for the [REDACTED] school year.
2. A meeting was held on [REDACTED].
3. At the [REDACTED] meeting, the parent provided information about the student's success in the VIS program, the student's improved but still inconsistent emotional stability and [REDACTED] opinion that the student should begin to transition out of the VIS program in the [REDACTED] school year.
4. At the [REDACTED] meeting, the student's psychiatrist provided the team with her opinion that the student required a therapeutic environment with a full-time mental health professional on staff, a quiet room or other similar area, a reduced academic load and a modified schedule. The student's psychiatrist also expressed the opinion that the student could begin to transition out of the VIS program.

5. At the [REDACTED] meeting, the IEP Team agreed that the student required an environment where [REDACTED] could receive specialized instruction and mental health services.
6. At the [REDACTED] meeting, the DCPS placement specialist offered [REDACTED] High School as a possible location for the delivery of the student's services.
7. The IEP Team agreed that [REDACTED] High School would be an inappropriate location for the student because the student required mental health services that were not available at that school.
8. At the end of the [REDACTED] meeting, the IEP Team did not finalize the identification of the educational setting or location of services for the student in the [REDACTED] school year.
9. At the [REDACTED] meeting the parent learned of a [REDACTED] email between a DCPS program director and the [REDACTED] special education coordinator that related to the student's placement.
10. The parent alleged that the [REDACTED] email contained a determination that it was premature to reconsider the student's exit from the VIS program and placement at another school and was therefore a part of the student's educational record.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §300.501(b).

Pursuant to 34 CFR §300.501(b), the parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. The parent alleged that DCPS made a decision about the student's educational placement without her input. Although the IEP Team discussed the student's needs with respect to placement, the IEP Team did not make a placement decision at the [REDACTED] meeting. The parent alternatively alleged that the [REDACTED] email between the DCPS program director and the [REDACTED] special education coordinator constituted a placement decision that was made without [REDACTED] input. However, as noted above, this email is not a placement decision under the IDEA. OSSE finds that the parent's information was considered by the IEP Team at the [REDACTED] meeting. The [REDACTED] meeting ended with all IEP Team members in agreement that the student required a placement where [REDACTED] could receive specialized instruction and mental health services.

Therefore, DCPS is in compliance with 34 CFR §300.501(b).

CORRECTIVE ACTION

DCPS is required to take the following actions:

1. In order to correct the noncompliance with 34 CFR §300.324(b)(1)(ii):
 - a. If the parent has not yet participated in a meeting to determine the student's placement and location for the [REDACTED] school year, by [REDACTED], DCPS must convene a meeting to determine the student's placement and location of services. The placement and location must be based on the student's individual needs and include such supports as are necessary to ensure that the student's mental health needs are met. If the IEP Team deems the psychiatrist's

recommendations appropriate, it may select a placement that conforms to those recommendations. The selected location must offer those services and supports which have been deemed necessary by the IEP Team. DCPS must provide the parent with written notice of the placement decision within one business day after the meeting. DCPS must provide OSSE with documentation of this meeting and prior notice no later than five business days after the meeting.

- b. By [REDACTED], or concurrent with the meeting described in corrective action 1a, DCPS must convene a meeting to revise the student's IEP and develop a behavioral intervention plan (BIP) which, at a minimum, describes the responses that will be taken when the student's anxiety interferes with [REDACTED] ability to cope in the school environment. DCPS must provide a copy of the revised IEP, the BIP and meeting notes, or make these documents available in SEDS by [REDACTED].
- c. By [REDACTED], DCPS must organize and convene the first meeting of a panel made up of DCPS administrators, VIS program managers and providers, special education coordinators and parents of children who receive special education services through the VIS program and who, by virtue of their disability, would be eligible for placement in homebound instruction. The panel must discuss the development of a program of homebound instruction that would meet the needs of these students. By [REDACTED], DCPS must provide OSSE with evidence that it has made the organization of this panel known to the community of parents of children with disabilities, that it has widely advertised the first meeting of this panel among the parents of DCPS students and that it has made provision for future meetings and an ongoing discussion with the aim of developing a program of homebound instruction that qualifies as a placement under the IDEA.

Sincerely,

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

cc: [REDACTED], Complainant
[REDACTED], DCPS [REDACTED]