



March 9, 2012


District of Columbia Public Schools



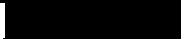
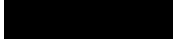
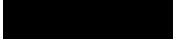


Public Charter School


RE: State Complaint No. 011-018

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 Dale Johnson, hereinafter “complainant,” on  alleging violations in the special education program of  (Student ID #  hereinafter “student,” while attending  Public Charter School (PCS).  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. and regulations promulgated at 34 CFR Part 300, specifically, failure to conform to the regulatory requirements to ensure the student was identified, located, and evaluated as a student with a disability residing in the state; and failure to appropriately determine the student’s eligibility.

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 conform to the requirements of 34 CFR §300.111 to ensure that the student was identified, located, and evaluated as a student with a disability residing in the state?
2. Whether DCPS failed to appropriately determine the student’s eligibility, as required by 34 CFR §300.306(c)(1)?

INVESTIGATIVE PROCEDURE

This investigation included interviews with the following individuals:

1. Complainant
2. [REDACTED] HS [REDACTED]
3. [REDACTED] HS [REDACTED]
4. [REDACTED] PCS [REDACTED]
5. DCPS [REDACTED] assigned to [REDACTED] PCS

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 was referred for initial evaluation for special education services on [REDACTED] and determined ineligible on [REDACTED].
2. The student attended [REDACTED] HS during the [REDACTED] school year.
3. The student attended [REDACTED] PCS during the [REDACTED] school year.

ISSUE ONE: CHILD FIND SYSTEM

Findings of Fact

1. [REDACTED] HS teachers review students' progress and assessments and make referrals based on a lack of academic progress or the exhibition of problem behaviors, and the school responds to parent referrals at any time.
2. The [REDACTED] HS [REDACTED] reported that if a student transfers in from another State or LEA, the school makes a request for the student's record and reviews available assessments to determine if referral should be immediately considered.
3. No record of any referral for the student at [REDACTED] HS could be produced by the parent or located in SEDS.
4. [REDACTED] HS does not retain a paper copy of a student's file following a student transfer.
5. The parent initially indicated that, although [REDACTED] mentioned [REDACTED] HS in the text of [REDACTED] complaint, the student did not require a referral at [REDACTED] HS and [REDACTED] did not request one while the student was enrolled there.
6. The parent subsequently reported that the student did require a referral at [REDACTED] HS and that [REDACTED] made such a referral.
7. The parent did not provide OSSE with records on which to base a conclusion that the student required referral during [REDACTED] time at [REDACTED] HS.
8. [REDACTED] PCS administers the Northwestern Education Assessment (Assessment), which evaluates students' math and reading skills, to all returning and new students at the beginning of the fall and spring semesters.
9. Results from the Assessment are reviewed to determine if a student requires evaluation for special education services.
10. The [REDACTED] PCS [REDACTED] reported that the agency responds to parent referrals for special education evaluation at any time, regardless of Assessment scores.
11. The student transferred to [REDACTED] PCS at the beginning of the [REDACTED] school year.
12. At the beginning of the [REDACTED] school year, the student was 15 years old and was repeating the ninth grade.
13. The student was screened using the Assessment at the beginning of the [REDACTED] school year and [REDACTED] results indicated that [REDACTED] performed at a ninth grade level.
14. Because the student's scores were not significantly below [REDACTED] age-appropriate grade level, [REDACTED] was placed in academic courses suitable for ninth grade students.
15. The parent referred the student for evaluation on [REDACTED].

16. [REDACTED] PCS held a MDT meeting on [REDACTED] and discussed the parent's concerns, reviewed existing data, and identified areas of concern for evaluation.
17. Following the [REDACTED] meeting, [REDACTED] PCS provided the student with counseling and additional time to complete assignments.
18. [REDACTED] PCS conducted a psychological and educational evaluation, collected student intervention data, and held an eligibility meeting on [REDACTED].
19. The [REDACTED] MDT Meeting participants discussed existing student data, information provided by the parent, evaluation reports, and intervention-based student data, and concluded that the student was ineligible for special education services.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §300.111.

Pursuant to 34 CFR §300.111, all children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, must be identified, located, and evaluated.

The [REDACTED] HS special education coordinator described procedures to identify, locate, and evaluate all students who are in need of special education and related services. Specifically, teachers review students' progress and assessments and make referrals based on a lack of academic progress or the exhibition of problem behaviors. If a student transfers in from another State or LEA, the school makes a request for the student's record and reviews available assessments to determine if referral should be immediately considered. The school also reported that it responds to parent referrals at any time. The parent reported that [REDACTED] may have referred the student for evaluation at [REDACTED] HS; however, no record of that referral could be produced by the parent or located in SEDS. [REDACTED] HS does not retain a paper copy of a student's file following a student transfer. Further, when interviewed, the parent's responses were inconsistent. The parent initially indicated that, although [REDACTED] mentioned [REDACTED] HS in the text of [REDACTED] complaint, the student did not require a referral at [REDACTED] HS and [REDACTED] did not request one while the student was enrolled there. The parent subsequently reported that the student did require a referral at [REDACTED] HS and that [REDACTED] made such a referral. The parent did not provide and OSSE was unable to locate records on which to base a conclusion that the student required referral during [REDACTED] time at [REDACTED] HS.

The [REDACTED] PCS special education coordinator described procedures to identify, locate, and evaluate all students who are in need of special education and related services through bi-annual academic testing and response to parental referral for evaluation. [REDACTED] PCS administers the Northwestern Education Assessment (Assessment), which evaluates students' math and reading skills, to all returning and new students at the beginning of the fall and spring semesters. Assessment results are reviewed to determine if a student requires evaluation for special education services. [REDACTED] PCS also reported that it responds to parent referrals for special education evaluation at any time, regardless of Assessment scores.

The student transferred to [REDACTED] PCS at the beginning of the [REDACTED] school year. At the time, the student was 15 years old and was repeating the ninth grade. The student was screened using the Assessment at the beginning of the [REDACTED] school year. The results

indicated that the student performed at a ninth grade level. Because the student's scores were not significantly below [redacted] age-appropriate grade level, [redacted] was placed in academic courses suitable for ninth grade students. The parent referred the student for evaluation on [redacted]. [redacted] PCS held a MDT meeting on [redacted] and discussed the parent's concerns, reviewed existing data, and identified areas of concern for evaluation. Following the [redacted] meeting, [redacted] PCS provided the student with counseling and additional time to complete assignments. [redacted] PCS conducted a psychological and educational evaluation, collected student intervention data, and held an eligibility meeting on [redacted]. The [redacted] MDT Meeting participants discussed existing student data, information provided by the parent, evaluation reports, and intervention-based student data, and concluded that the student was ineligible for special education services. OSSE finds that the team's determination that the student was ineligible for special education and related services was the result of a child find process that was compliant with the requirements of 34 CFR §300.111. The student's performance on the Assessment did not reflect a need for additional evaluations. Upon the parent's referral, [redacted] PCS convened a meeting, identified student supports, gathered information from the parent, and conducted evaluations based on the parent's concerns. [redacted] PCS continued to gather student data pending the eligibility determination. OSSE found no evidence that [redacted] PCS and DCPS's screening process or process for responding to a parental eligibility referral were noncompliant with the requirements of 34 CFR §300.111.

Therefore, DCPS is in compliance with 34 CFR §300.111.

ISSUE TWO: DETERMINATION OF ELIGIBILITY

Findings of Fact

1. The [redacted] Educational Evaluation and [redacted] Psychological Evaluation reports used at the [redacted] eligibility meeting incorporated information from seven formal assessments, the student's progress report, attendance record, MDT meeting notes, teacher surveys, classroom observations, and interviews with the student, parent and general education teacher.
2. The [redacted] MDT Meeting participants discussed existing student data, information provided by the parent, evaluation reports, and intervention-based student data, and concluded that the student was ineligible for special education services.
3. The [redacted] Disability Worksheets indicated that the student did not meet the criteria for the specific learning disability or emotional disturbance disability categories. This conclusion is supported by the student's evaluations.
4. The [redacted] Psychological Evaluation noted that the student's overall achievement level was commensurate with [redacted] cognitive ability and that, although [redacted] demonstrates underdeveloped math calculation skills, the student's overall academic profile does not show strengths and weaknesses to suggest a learning disability.
5. The [redacted] Educational Evaluation report stated that the student does not exhibit emotional behaviors that have an impact in the academic setting.
6. The team noted that the supports offered to the student, including informal counseling and the provision of additional time to complete assignments, resulted in improved grades and class attendance.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §300.306(c)(1).

The IDEA at 34 CFR §300.306(c)(1)(i) requires that in interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, each public agency must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and ensure that information obtained from all of these sources is documented and carefully considered.

The [REDACTED] Educational Evaluation and [REDACTED] Psychological Evaluation reports used at the [REDACTED] eligibility meeting incorporated information from seven formal assessments, the student's progress report, attendance record, MDT meeting notes, teacher surveys, classroom observations, and interviews with the student, parent and general education teacher. Both evaluations were reviewed at the [REDACTED] meeting. The complainant claims information provided by the School Psychologist at the meeting was the primary basis for determining that the student was not eligible for special education and related services, and that this constitutes the use of a single measure or criterion to determine the student's eligibility. OSSE's March 22, 2010 Part B Initial Evaluation/Reevaluation Policy defines an evaluation as "a process consisting of a set of procedures and/or assessments used in accordance with the IDEA and the District of Columbia Municipal Regulations (DCMR) to determine whether a child has a disability, and if so, the nature and extent of the special education and related services that the child needs." A single evaluation may encompass multiple formal and informal assessments and OSSE finds that the student's [REDACTED] Educational evaluation and [REDACTED] Psychological Evaluation reports encompass multiple assessments and consist of information from a variety of other sources. Therefore, DCPS is in compliance with 34 CFR §300.306(c)(1).

Further, the [REDACTED] determination that the student was ineligible for special education services was supported by the completed evaluations and other data available at the time. The [REDACTED] Disability Worksheets indicated that the student did not meet the criteria for the specific learning disability or emotional disturbance disability categories. This conclusion is supported by the student's evaluations. The [REDACTED] Psychological Evaluation noted that the student's overall achievement level was commensurate with [REDACTED] cognitive ability and that, although [REDACTED] demonstrates underdeveloped math calculation skills, the student's overall academic profile does not show strengths and weaknesses to suggest a learning disability. The [REDACTED] Educational Evaluation report stated that the student does not exhibit emotional behaviors that have an impact in the academic setting. The team noted that the supports offered to the student, including informal counseling and the provision of additional time to complete assignments, resulted in improved grades and class attendance. OSSE does not conclude that the [REDACTED] eligibility determination was improper where it is supported by completed evaluations, other information available in the student's record at the time of the determination, and the student's academic progress resulting from the use of interventions and supports.

If you have any questions regarding this report, please contact Mary Boatright, Director of Monitoring & Compliance, at mary.boatright@dc.gov or 202-741-0264.

Sincerely,

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

cc: [REDACTED], Complainant

[REDACTED], DCPS [REDACTED]