



October 16, 2013

[REDACTED]  
District of Columbia Public Schools  
[REDACTED]

RE: State Complaint No. 013-003

## LETTER OF DECISION

### **PROCEDURAL BACKGROUND**

On [REDACTED], the State Complaint Office of the Office of the State Superintendent of Education (OSSE), Division of Specialized Education received a State Complaint from [REDACTED], hereinafter “complainant,” against District of Columbia Public Schools (DCPS) alleging violations in the special education program of [REDACTED] [REDACTED] [REDACTED] (Student ID # 3314670938), hereinafter “student” or “child.”

The complainant alleged that DCPS 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; (1) failure to identify, locate, and evaluate a student in need of special education and related services; and (2) failure to respond to a parent’s request for an initial evaluation. The complaint contained other issues, but because the child was not yet determined eligible for special education, OSSE looked only at the child find and evaluation request issues.

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 identify, locate, and evaluate a student in need of special education and related services as required by 34 CFR §300.111?
2. Whether DCPS failed to respond to a parent’s request for an initial evaluation as required by 34 CFR §300.301(b)?

**INVESTIGATIVE PROCEDURE**

The investigation included interviews with the following individuals:

1. Parent (complainant)
2. [REDACTED], 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):

[REDACTED]

**GENERAL FINDINGS OF FACT**

1. The student was referred for initial evaluation for special education services on [REDACTED]

2. The student's eligibility for special education services has not yet been determined.

### **ISSUE ONE: IDENTIFY, LOCATE, AND EVALUATE**

#### **Findings of Fact**

1. The first Student Support Team (SST) meeting for the student was held [REDACTED].
2. An Intervention Behavior Plan was developed at the [REDACTED] meeting.
3. The child was diagnosed with ADHD by the family's private therapist prior to the start of the [REDACTED] school year.
4. An SST meeting was held on [REDACTED].
5. An intervention behavior plan for the student was developed on [REDACTED].
6. An SST meeting was held on [REDACTED].
7. An SST meeting was held on [REDACTED].
8. An SST meeting was held on [REDACTED].
9. The parent filed a State complaint with OSSE on [REDACTED].
10. On [REDACTED] the parent signed consent for initial evaluation.

#### **Discussion/Conclusion**

##### **DCPS is not in compliance with 34 CFR §300.111.**

Pursuant to 34 CFR §300.111, all children with disabilities residing in the State who are in need of special education and related services, must be identified, located, and evaluated. The complainant alleged that the school has refused to cooperate with requests for help for the child's behavior.

The child is currently a [REDACTED] grade student at [REDACTED] Elementary School. Both the parent and the school reported behavior concerns for this student starting in [REDACTED]. The child was referred for Student Support Team services. The first SST meeting for this child was held on [REDACTED] where an Intervention Behavior Plan was created. The behavior concerns continued through the remainder of the school year so the parent had the child evaluated by the family's private therapist prior to the start of the [REDACTED] school year and the therapist diagnosed the child with ADHD and Adjustment Disorder w/Mixed Disturbance of Emotions and Conduct. The parent shared information from the child's therapist with the school. The school continued to address the behavior concerns through student support team services. The school met with the parent as part of a student support team numerous times, including four meetings during the [REDACTED] school year, and implemented plans and strategies to help the student's behavior, but the student continued to display behavioral difficulties. While a school may attempt pre-referral interventions prior to referring a student for evaluation under the IDEA, if a child is not improving or deteriorates even with interventions, the school must evaluate to determine if special education services are necessary.

On [REDACTED] an updated intervention behavior plan was created for the student. At a

meeting with the parent on [REDACTED], the school staff acknowledged that the student was still having behavioral challenges and not completing the work assigned to [REDACTED]. On [REDACTED] [REDACTED], the student bit another student. Notes from a [REDACTED] meeting indicate that the following behaviors were observed on a daily or near daily basis: shouting out, out of seat during lessons, physical aggression toward other students, and increasing isolation from other students.

While the school continued to convene student support team meetings and discussed what the parent and school could do to help improve the child's behavior, the school did not refer the student for an evaluation to see if [REDACTED] required special education services. DCPS was aware of the concerns for this student since at least January of [REDACTED] when the school first agreed to institute a behavioral intervention plan. DCPS was also aware that the interventions attempted were not sufficiently addressing the student's needs.

Therefore, DCPS is not in compliance with 34 CFR §300.311 with respect to its child find obligations.

## **ISSUE TWO: RESPOND TO EVALUATION REQUEST**

### **Findings of Fact**

1. The parent requested to initiate evaluations via email on [REDACTED].
2. The school did not respond to the parent's request.
3. The parent's request for an initial evaluation triggered the start of the 120 day timeline.
4. On [REDACTED], OSSE notified DCPS of the filing of this complaint.
5. The parent signed consent to evaluate on [REDACTED].
6. The 120 day timeline ended on [REDACTED].

### **Discussion/Conclusion**

#### **DCPS is not in compliance with 34 CFR § 300.301(b)**

The IDEA regulations at 34 CFR §300.301(b) state that either a parent or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability. Once parental consent is received, the initial special education evaluation must be conducted within 60 days of receiving parental consent for the evaluation or within the timeframe established by the state. (34 CFR §300.301(c)(1)(i-ii)). The District of Columbia has established a 120 day timeline from the date of referral for completing assessments or evaluations of students. (D.C. Official Code § 38-2561.02 (a)). The complainant alleged that DCPS did not respond to the complainant's request to evaluate the child.

In an email addressed to the school principal on [REDACTED], the parent asked to initiate evaluations. In its response DCPS acknowledged that this email was a request for an initial evaluation. The principal did not respond to that email and the school did not respond to the

parent's request for an initial evaluation until DCPS was notified by OSSE of the filing of this complaint on [REDACTED]. On [REDACTED] the parent signed consent for the initial evaluation. The 120 day timeline begins upon referral, making the due date for completion of the student's initial evaluation [REDACTED]. DCPS' failure to respond to the parent's request for evaluations resulted in a delay of over three months to obtain parental consent, which kept DCPS from completing the student's initial evaluation in accordance with the 120 day timeline. While the evaluation process is currently underway, DCPS did not complete the student's initial evaluation prior to [REDACTED].

Therefore, DCPS is not in compliance with 34 CFR §300.301(b) in regard to completion of the initial evaluation for the student.

**CORRECTIVE ACTION**

DCPS is required to take the following actions:

1. To correct noncompliance associated with 34 CFR §§300.311 and 300.301(b), DCPS must:
  - a. Complete the child's initial evaluation as expeditiously as possible, but in no case later than [REDACTED]. Upon completion of the student's eligibility determination DCPS must submit documentation to OSSE.
  - b. By [REDACTED] DCPS must change the date of referral in SEDS from [REDACTED] to [REDACTED] to accurately reflect when the student was referred for an evaluation and the 120 day timeline started running.

All corrective actions must be completed by the due date specified and in no case later than one year from the date of this Letter of Decision. If you have any questions regarding this decision, please contact Jennifer Masoodi, Director, Monitoring and Compliance, at [jennifer.masoodi@dc.gov](mailto:jennifer.masoodi@dc.gov) or 202-741-0479.

Sincerely,

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

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