



March 3, 2015

[REDACTED]
District of Columbia Public Schools
[REDACTED]

RE: State Complaint No. 014-015

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] (complainant) against District of Columbia Public Schools (DCPS) alleging violations in the special education program of [REDACTED] (Student ID # [REDACTED] 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, failure to use a variety of assessment tools and strategies to ensure the evaluation is sufficiently comprehensive, failure to ensure the review of existing evaluation data, failure to revise the IEP to address any lack of expected progress, failure to ensure that special education and related services are made available to the child in accordance with the child’s IEP, failure to follow discipline procedures, and failure to include in the child’s IEP a statement of the child’s present levels of academic achievement and functional performance and a statement of measurable annual goals designed to meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum.

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 revealed in the course of the investigation, raised the following issues under the jurisdiction of the State Complaint Office:

1. 34 CFR §§300.304 and 300.305



- a. Failure to use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, ensure the child is assessed in all areas related to the suspected disability, and ensure the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, as required by 34 CFR §300.304(b)(1), (c)(4), and (c)(6).
 - b. Failure to ensure the review of existing evaluation data and on the basis of that review; identify what additional data, if any, are needed to determine the educational needs of the child; as required by 34 CFR §300.305(a).
2. 34 CFR §300.324(b)(ii)
 - a. Failure to revise the IEP, as appropriate, to address any lack of expected progress toward the annual goals, the results of any reevaluation, information about the child provided by the parent, or the child's anticipated needs.
3. 34 CFR §300.323(c)(2)
 - a. Failure to ensure that special education and related services are made available to the child in accordance with the child's IEP, specifically with regard to specialized instruction and the provision of periodic reports on the child's progress toward annual goals.
4. 34 CFR §300.530
 - a. Failure to follow discipline procedures, including holding a manifestation determination within 10 school days of the decision to change the placement of the child and providing educational services to the child during removal.
5. 34 CFR §300.320(a)(1) – (2)
 - a. Failure to include in the child's IEP a statement of the child's present levels of academic achievement and functional performance and a statement of measurable annual goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. Complainant's educational advocate
3. DCPS [REDACTED]

- 4. DCPS [redacted]
- 5. DCPS [redacted]
- 6. DCPS [redacted]
- 7. DCPS [redacted]
- 8. DCPS [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):





GENERAL FINDINGS OF FACT

1. The student is a child with a disability as defined by 34 CFR §300.8.
2. Prior to [REDACTED], the student's disability category was multiple disabilities.
3. On [REDACTED], the student's disability category was changed to intellectual disability.
4. The student's LEA is DCPS.

ISSUE ONE: REEVALUATION

Findings of Fact

1. The student's [REDACTED] IEP prescribed 20 hours per week of specialized instruction outside the general education setting and 90 minutes per month of behavioral support services.
2. The complainant filed a due process complaint against DCPS on [REDACTED] alleging failure to evaluate the student every three years, failure to evaluate the student prior to changing the student's eligibility for services, and failure to have an IEP in effect at the beginning of the school year.
3. On [REDACTED] the complainant and DCPS executed a settlement agreement that authorized the parent to obtain an independent comprehensive psychological evaluation and an independent occupational therapy evaluation, and required DCPS to convene an IEP team meeting to review the evaluations, review the IEP, if necessary, and discuss location of services, if necessary.
4. The independent occupational therapy evaluation report was completed on [REDACTED].
5. The independent comprehensive psychological evaluation was completed on [REDACTED].
6. The [REDACTED] psychological evaluation recommended that an adaptive functioning assessment be completed to rule out or confirm a diagnosis of intellectual

disability for the student.

7. DCPS completed an independent assessment review for the comprehensive psychological evaluation on [REDACTED].
8. DCPS completed an independent assessment review for the occupational therapy evaluation on [REDACTED].
9. The IEP team met to review the psychological and occupational therapy evaluations on [REDACTED].
10. At the [REDACTED] reevaluation meeting the student was determined to be eligible for special education services under the disability category of multiple disabilities.
11. At the [REDACTED] meeting the IEP team agreed that a speech-language evaluation, functional behavioral assessment, and an additional adaptive assessment would be completed and the complainant signed consent to evaluate.
12. An FBA was completed on [REDACTED].
13. A behavior intervention plan was developed on [REDACTED].
14. An adaptive behavior assessment was completed on [REDACTED].
15. A speech-language evaluation was completed on [REDACTED].
16. The IEP team met on [REDACTED] to review evaluations and update the student's eligibility determination and IEP.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §§300.304 and 300.305.

Pursuant to 34 CFR §300.304(b)(1), the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's IEP. In addition, the public agency must ensure that the child is assessed in all areas related to the suspected disability. (34 CFR §300.304(c)(4)) Furthermore, the public agency must ensure that the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs. (34 CFR §300.304(c)(6)) Pursuant to 34 CFR §300.305(a), as part of any reevaluation, the IEP team must review existing evaluation data on the child in order to identify what additional data, if any, is needed to determine whether the child continues to have such a disability and the educational needs of the child. The complainant alleges that DCPS failed to reevaluate the student in every area of suspected disability and failed to review existing data as part of the reevaluation.

Comprehensive Reevaluation

The complainant filed a due process complaint on [REDACTED]. The complaint was resolved via a settlement agreement on [REDACTED]. The settlement agreement authorized the complainant to obtain an independent comprehensive psychological evaluation and an independent occupational therapy evaluation, and required DCPS to convene an IEP team meeting to review the evaluations, review the IEP, if necessary, and discuss location of services,

if necessary. The independent evaluations were completed and DCPS received the evaluations by [REDACTED]. DCPS completed written reviews of the psychological evaluation and occupational therapy evaluation by [REDACTED]. DCPS completed the adaptive functioning assessment recommended by the independent psychological evaluation in order to rule out or confirm a diagnosis of intellectual disability for the student.

The IEP team met to review the evaluations on [REDACTED]. The DCPS occupational therapist reviewed the independent occupational therapy evaluation and the IEP team decided that the student would benefit from occupational therapy services. As a result, the IEP was revised to include 120 minutes per month of occupational therapy services. The DCPS psychologist then reviewed the independent evaluation, the written review of those results, and the recommended adaptive assessment to determine whether the student met the criteria for an intellectual disability. The IEP team discussed the recommendation that the student's disability category be changed to intellectual disability, but the complainant and advocate disagreed and requested that more testing be completed. The IEP team agreed that DCPS would complete a speech-language evaluation and an FBA as recommended by the independent psychological evaluation, and the parent signed consent to evaluate. The IEP team also agreed that another adaptive assessment would be completed and decided that the student's disability category would remain multiple disabilities until the team could review the additional assessment results.

The FBA was completed on [REDACTED], the additional adaptive assessment was completed on [REDACTED], and the speech-language evaluation was completed on [REDACTED]. The IEP team convened again to review the evaluations on [REDACTED]. Based on the additional adaptive assessment, the IEP team decided to change the student's disability category to intellectual disability. The team also agreed to add speech-language services to the student's IEP. The student's record shows that DCPS completed four evaluations, addressing multiple areas of concern raised by the parent and the independent evaluations, and updated the student's eligibility and services according to the information obtained. The complainant does not assert that there were any evaluations that [REDACTED] requested or were needed that DCPS failed to complete. OSSE finds that DCPS comprehensively reevaluated the student in all areas of suspected disability using a variety of assessments in order to determine all of the student's educational and related services needs.

Review of Existing Data

A reevaluation may be conducted if the public agency determines that one is warranted or if a reevaluation is requested by the child's parent or teacher. (34 CFR §300.303) In this case, the student's reevaluation was conducted pursuant to a settlement agreement in which the complainant and DCPS mutually agreed to necessary evaluations. The IEP team met to review the agreed upon evaluations on [REDACTED]. The meeting notes indicate that at this meeting, the IEP team also reviewed the student's test scores and academic performance along

with the recommendations from the evaluations. Based on the review of evaluations and student data, the IEP team agreed to complete three additional evaluations—a speech-language evaluation, an additional adaptive assessment, and an FBA. The additional evaluations were reviewed at a meeting on [REDACTED] and the student’s disability category and IEP were updated. OSSE finds that DCPS did not fail to review existing student data where DCPS and the complainant agreed as to which evaluations would be completed via a settlement agreement, and the record reflects IEP team review of informal and formal student assessments.

Although the IEP team did not review student data at the [REDACTED] meeting in order to determine what additional evaluations were needed, the record reflects that this process was completed via the [REDACTED] settlement agreement. Despite this mutual agreement as to what additional data was necessary for the student to be comprehensively evaluated, DCPS should have comprehensively recorded the reevaluation process in SEDS. The analysis of existing data form that was completed on [REDACTED] did not document the data review revealed during OSSE’s investigation. Instead, it lists minimal student information that was reviewed; for the “mathematics,” “reading,” and “written expression” sections the form indicates that the team reviewed observations, which included formal and informal observations, work samples, and test scores. The form also states that there were no vision or hearing screening on file, and the “attendance record” and “medical history” sections were not filled out. Many of the sections state that the analysis or summary is yet to be determined. DCPS should have indicated that the evaluations were completed pursuant to a settlement agreement between the parties, and recorded the discussion of those evaluations at the [REDACTED] meeting in the analysis of existing data form. Although OSSE’s investigation finds that the student’s reevaluation included a review of existing student data, OSSE reminds DCPS of its responsibility to provide substantive documentation of the reevaluation process in SEDS.

Therefore, DCPS is in compliance with 34 CFR §§300.304 and 300.305.

ISSUE TWO: REVISE IEP

Findings of Fact

1. The student’s [REDACTED] IEP prescribed 20 hours per week of specialized instruction outside the general education setting and 90 minutes per month of behavioral support services.
2. The student was suspended for 3 days on [REDACTED]; for 2 days on [REDACTED]; for 3 days on [REDACTED]; for 3 days on [REDACTED]; and for 5 days on [REDACTED].
3. The student’s IEP was amended on [REDACTED] to include 120 minutes per month of occupational therapy services and increase behavioral support services to 120 minutes per month.

4. An FBA was completed on [REDACTED].
5. A BIP was developed on [REDACTED].
6. The student's [REDACTED] IEP prescribes 25.5 hours per week of specialized instruction outside the general education setting, 240 minutes per month of speech-language pathology services outside the general education setting, 120 minutes per month of occupational therapy outside the general education setting, and 120 minutes per month of behavioral support services.
7. The student was placed in the full-time Intellectual Disability (ID) program following the [REDACTED] IEP team meeting.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §300.324(b)(ii).

Pursuant to 34 CFR §300.324(b)(ii), each public agency must revise the student's IEP, as appropriate, to address any lack of expected progress, the results of any reevaluation, information about the child provided by the child's parents, and the child's anticipated needs. The complainant alleges that DCPS failed to review, modify, or make additions to the IEP to address the student's lack of progress academically and behaviorally.

A meeting was held on [REDACTED] to review a comprehensive psychological evaluation and an occupational therapy evaluation. Based on these evaluations, the IEP team added 120 minutes per month of occupational therapy services to the student's IEP and agreed to complete additional evaluations. These evaluations were reviewed on [REDACTED] and the IEP team decided to change the student's disability category to intellectual disability, increase specialized instruction to 25.5 hours per week outside the general education setting, add 240 minutes per month of speech-language pathology, and continue to prescribe 120 minutes per month of occupational therapy and 120 minutes per month of behavioral support services.¹ The student was placed in the full-time ID program at the school to better serve [REDACTED] increased service needs. The record shows that DCPS revised the student's IEP services and placement pursuant to the results of the student's reevaluation.

The student's teachers reported and the student's discipline record confirms that the student had behavioral concerns from the beginning of the [REDACTED] school year, including suspensions in September and October [REDACTED]. The student's IEP that was in effect at the beginning of the [REDACTED] school year prescribed 90 minutes per month of behavioral support services and in addition to the revisions identified above, the [REDACTED] IEP team agreed to increase behavioral support services to 120 minutes per month. At that meeting, the IEP team also agreed to conduct an FBA. The FBA and a BIP were completed on [REDACTED]. However, the student continued to have behavioral concerns and was suspended three more

¹ Although these services were agreed upon at the [REDACTED] meeting, the IEP was not finalized until [REDACTED].

times between November and December [REDACTED] OSSE's investigation revealed that the student's persistent behavior concerns and the results of the FBA contributed to the student's change in placement to the full-time ID program on [REDACTED]. School staff reported that the student's behavior has improved since being placed in the ID program. Although the impact was not immediate, DCPS did continually take steps to address the student's behavioral and academic needs through IEP revision.

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

ISSUE THREE: MAKE SERVICES AVAILABLE

Findings of Fact

1. The student's [REDACTED] IEP prescribed 20 hours per week of specialized instruction outside the general education setting.
2. The student was in special education classes with a special education teacher for all core academic classes prior to being placed in the ID program.
3. The student was in general education classes for [REDACTED] elective classes prior to being placed in the ID program.
4. The student received specialized instruction through small group or one-to-one instruction, use of a computer, guided note-taking and practice, tiered lessons, and assessments given orally.
5. DCPS issued the student report cards for the [REDACTED] and [REDACTED] school years.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §§300.323(c)(2) and 300.320(a)(3)(ii).

Pursuant to 34 CFR §300.323(c)(2), as soon as possible following the development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP. The IDEA requires LEAs to provide periodic reports, such as quarterly reports, on child's progress toward meeting the annual goals. (34 CFR §300.320(a)(3)(ii)) The complainant alleges that DCPS failed to provide specialized instruction to the student and did not complete, nor provide the complainant with IEP progress reports.

Specialized Instruction

The student's IEP that was in effect at the beginning of the [REDACTED] school year prescribed 20 hours per week of specialized instruction outside the general education setting. Prior to being placed in the ID program, the student had special education certified teachers for all of [REDACTED] core academic classes. Those core academic classes were comprised entirely of special education students. The student attended general education classes with [REDACTED] non-disabled peers for elective courses. The student's teachers reported that instruction was specialized through small group or one-to-one instruction, use of a computer, guided note-taking and practice, tiered lessons, and assessments given orally. The student's teachers also reported that the student had attendance and behavior issues that resulted in periodic short removals from the

classroom. When the student exhibited disruptive behavior, [REDACTED] took breaks to gather [REDACTED] and returned to the task when ready or was sent to the counselor in accordance with [REDACTED] behavior planning. Although the student's behavior and attendance issues impacted the student's receipt of specialized instruction, it was made available to [REDACTED] from special education teachers outside the general education setting. OSSE finds that DCPS made specialized instruction available to the student in conjunction with behavior supports, as required by [REDACTED] IEP.

IEP Progress Reports

An IEP must include a description of when periodic reports on the progress the child is making toward meeting the annual goals; such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards; will be provided. (34 CFR 300.320(a)(3)(ii)) DCPS must implement all IEP requirements under 34 CFR §300.320 following development of the IEP, including the requirement to provide periodic reports on student progress toward annual goals. (34 CFR §300.323(c)(2)) The complainant alleges that DCPS did not provide [REDACTED] with IEP progress reports; however OSSE's investigation revealed that DCPS provided report cards during the [REDACTED] and [REDACTED] school years that contained information on the student's academic progress. As a result, OSSE finds that the LEA provided periodic reports on the student's progress through report cards.

Therefore, DCPS is in compliance with 34 CFR §§300.323(c)(2) and 300.320(a)(3)(ii).

ISSUE FOUR: DISCIPLINARY PROCEDURES

Findings of Fact

1. The student was suspended for 3 days for an incident on [REDACTED] involving obscene, seriously offensive, or abusive language or gestures.
2. The student was suspended for 2 days for an incident on [REDACTED] involving forgery.
3. The student was suspended for 3 days for an incident on [REDACTED] involving fighting where there was no injury and no weapon.
4. The student was suspended for 3 days for an incident on [REDACTED] involving causing disruption on school properties or at any DCPS-sponsored or supervised activity.
5. The student was suspended for 5 days for an incident on [REDACTED] involving causing disruption on school properties or at any DCPS-sponsored or supervised activity.
6. At the [REDACTED] meeting, the IEP team determined that the student's behavior was a manifestation of [REDACTED] disability.

Discussion/Conclusion

DCPS is not in compliance with 34 CFR §300.530.

Pursuant to 34 CFR §300.530(d), a child with a disability who is removed from the child's current placement for more than ten school days must continue to receive educational services

so as to enable the child to continue participate in the general education curriculum and to progress toward meeting the child's IEP goals. Within ten school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the IEP team must review all relevant information in the student's file to determine if the conduct in question was caused by or had a direct and substantial relationship to the child's disability, or if the conduct in question was the result of the LEA's failure to implement the IEP. (34 CFR §300.530(e)) If the IEP team determines that the conduct was a manifestation of the child's disability, the IEP must conduct a functional behavioral assessment and implement a behavioral intervention plan, or if a behavioral intervention plan has already been developed, review the behavioral intervention plan and modify it as necessary to address the behavior. (34 CFR §300.530(f)(1)) The complainant alleges that DCPS failed to provide educational services, hold a manifestation determination, and conduct a functional behavioral assessment and implement a behavior intervention plan after the student's suspensions exceeded ten school days.

Educational Services

A change of placement occurs if a child has been subjected to a series of removals that constitute a pattern because the series of removals total more than ten school days in a school year, the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals, and because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. (34 CFR §300.536(a)) Between September [REDACTED] and December [REDACTED] the student was suspended five times for a total of 16 school days. The suspensions were due to incidents including use of offensive language, forgery, fighting with other students, and causing disruptions. OSSE finds that five suspensions due to unruly behavior that totaled more than ten school days within a single school year constitute a change in placement and activate IDEA disciplinary protections, including DCPS' responsibility to provide educational services during removal. Although letters to the parent providing notice of these disciplinary actions stated that the school would provide an education plan, OSSE's investigation revealed that the student did not receive any educational services during suspension. The [REDACTED] meeting notes indicate that DCPS would create a compensatory education proposal for the days the student was suspended, but no documentation of a final plan has been provided. DCPS' failure to provide education services during the student's suspension exceeding ten school days constitutes a violation of the requirement to provide educational services at 34 CFR §300.530. As a result, the student is owed compensatory education for the time suspended beyond ten school days.

Manifestation Determination

The [REDACTED] behavior incident and resulting suspension brought the student's total suspension days to more than ten in a school year, resulting in a change in placement that

should have triggered DCPS to hold a manifestation determination by [REDACTED].² The student was suspended again on [REDACTED] for an additional five school days. At the [REDACTED] IEP team meeting, the IEP team determined that the student's behavior was a manifestation of the student's disability. The record indicates that this meeting was not scheduled as a manifestation determination meeting, but rather that the determination was made when the complainant's advocate raised the issue. At the time of the [REDACTED] meeting, the student's suspension was already served and the student had been returned to [REDACTED] placement. DCPS should have scheduled a meeting to determine whether the student's behavior was a manifestation of the student's disability within ten school days of the [REDACTED] suspension that resulted in a change in placement. DCPS' failure to convene a manifestation determination meeting by [REDACTED] constitutes noncompliance with IDEA requirements at 34 CFR §300.530(e).

Functional Behavioral Assessment

A functional behavioral assessment and behavior intervention plan were completed on [REDACTED]. The student received three suspensions in November and December [REDACTED] after the BIP was developed. There is no evidence that the IEP team reviewed or revised the student's BIP after the [REDACTED] suspension that resulted in a change in placement due to disciplinary action. Although DCPS had a plan in place to address the student's behavior, it should have been reviewed after the student's continued suspensions and change in placement, to determine whether any changes were needed to adequately address the student's behavior. DCPS' failure to review the student's existing BIP and modify it as necessary to address the behavior resulting in repeated suspensions constitutes a failure to comply with IDEA requirements at 34 CFR §300.530(f)(1).

The complainant raised concerns that the student's suspensions exceeding ten school days during December [REDACTED] were not documented in the student's disciplinary records. OSSE's investigation revealed that the LEA tracked suspensions exceeding ten school days, including the [REDACTED] and [REDACTED] suspensions. Where there is no evidence that the LEA failed to track suspensions exceeding the ten day period, OSSE declines to make a finding on this matter.

Therefore, DCPS is not in compliance with 34 CFR §300.530.

ISSUE FIVE: IEP PRESENT LEVELS OF PERFORMANCE AND ANNUAL GOALS

Findings of Fact

1. On the [REDACTED] IEP, under the areas of concern for mathematics, reading, and

² The decision to suspend the student was made on [REDACTED]. There was no school on November 27 – 28, [REDACTED] due to the Thanksgiving holiday and no school on December 5, [REDACTED] due to a professional development day. Excluding these days from the calculation, [REDACTED] is ten school days after the decision to suspend the student on [REDACTED].

written expression, the present levels of academic achievement and functional performance refer to the [REDACTED] independent comprehensive psychological evaluation and include the student's DCCAS scores from spring [REDACTED]

2. On the [REDACTED] IEP, under the area of concern for communication/speech and language, the present level of academic achievement and functional performance uses information from the [REDACTED] speech-language evaluation.
3. On the [REDACTED] IEP, under the area of concern for motor skills/physical development, the present level of academic achievement and functional performance uses information from the [REDACTED] independent occupational therapy evaluation.
4. On the [REDACTED] IEP, under the area of concern for emotional, social, and behavioral development, the present level of academic achievement and functional performance includes updated scores from the Ohio mental health scale report.
5. From the [REDACTED] IEP to the [REDACTED] IEP, the student's annual goals for mathematics, reading, written expression remained the same.
6. From the [REDACTED] IEP to the [REDACTED] IEP, under the emotional, social, and behavioral development section, one goal remained the same and two new goals were added.

Discussion/Conclusion

DCPS is in compliance with 34 CFR §300.320(a)(1) – (2).

Pursuant to 34 CFR §300.320(a)(1) – (2), the IEP must include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum, and a statement of measurable annual goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum. The complainant alleges that the student's IEP goals do not show a direct relationship to the student's present levels of performance and baseline data and that the IEP goals do not describe what the student can reasonably be expected to accomplish within twelve months.

Present Levels of Performance

The student's present levels of performance are recorded on the IEP under each area of concern. On the [REDACTED] IEP under each academic area—mathematics, reading, written expression—results from the independent psychological evaluation are included as well as the student's spring [REDACTED] DCCAS scores. The present levels of performance for the student's related services—behavioral support, speech-language, and occupational therapy—come from the evaluations that were completed during the [REDACTED] school year. The student's current IEP contains the most up to date information available on the student's present levels of academic achievement and functional performance.

Measurable Annual Goals

Following the addition of occupational therapy services to the student's IEP on [REDACTED], occupational therapy goals were added to the student's IEP. Correspondingly, speech-language pathology goals were added to the student's IEP when those services were added on [REDACTED]. Goals for both of these new related services were based on recently completed evaluations. From the [REDACTED] IEP to the [REDACTED] IEP, under the emotional, social, and behavioral development section, one goal remained the same, one goal was removed, and two new goals were added. The goals are drawn from the updated scores on the Ohio mental health scale report. From the [REDACTED] IEP to the [REDACTED] IEP, the student's annual goals for mathematics, reading, and written expression remained the same. A child's failure to master IEP goals within one year does not automatically invalidate those goals. The record indicates that the student was not making academic progress, which led to the student being placed in the full-time ID program at the school. Given the student's lack of academic progress, it is not inappropriate that the student's academic goals remained the same. The record indicates that the student's current IEP contains annual goals that are based on recent reevaluation and achievement data.

Therefore, DCPS is in compliance with 34 CFR §300.320(a)(1) – (2).

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §300.530, DCPS must:
 - a. Convene an IEP team meeting to determine the amount of compensatory education to be provided for the student for days of suspension beyond 10 school days. The IEP team must also review the student's BIP to determine if revisions are necessary. Documentation of this meeting and the student's compensatory education determination are due to OSSE within 60 days of the date of this letter.
 - b. Train [REDACTED] MS staff on when they are required to hold a manifestation determination and the responsibility to provide educational services during a removal of more than 10 school days. Documentation of the training is due to OSSE within 90 days of the date of this letter.

If you have any questions regarding this decision, please contact Victoria Glick, Manager, State Complaints, at victoria.glick@dc.gov or 202-724-7860.

Sincerely,

Elisabeth M. Morse

Interim Assistant Superintendent for Elementary, Secondary, and Specialized Education

cc: [REDACTED], complainant
[REDACTED], advocate