



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

**EDUCATION**

November 4, 2015

[REDACTED]  
District of Columbia Public Schools  
[REDACTED]

RE: State Complaint No. 014-020

### **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 the District of Columbia Public Schools (DCPS) alleging violations in the special education program of [REDACTED] (Student ID # [REDACTED] hereinafter “student” or “child.” The parties agreed to mediation and to extend the timeline for the complaint pending mediation. On [REDACTED], OSSE was informed by the complainant that [REDACTED] no longer agreed to mediation in this matter and OSSE resumed its investigation.

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 include in the child’s individualized education program (IEP) a statement of measurable annual goals, failure to revise the IEP to address information about the child provided by the parents, and failure to obtain parental consent prior to disclosing personally identifiable information.

The State Complaint Office for OSSE has completed its investigation of the State Complaint. OSSE found that DCPS is in compliance with its obligation to include measurable annual goals in the student’s IEP and revise the IEP to address information provided by the parent, but out of compliance with its obligation to obtain parental consent prior to disclosing personally identifiable information. 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 conducted in the course of the investigation, raised the following issues under the jurisdiction of the State Complaint Office:

1. **IEP goal requirements at 34 CFR §300.320(a)(2)**
  - a. Failure to include in the child's IEP 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.
2. **IEP revision requirements at 34 CFR §300.324(b)(1)(ii)(C)**
  - a. Failure to revise the IEP to address information about the child provided by the parents.
3. **Parental consent requirements at 34 CFR §300.622**
  - a. Failure to obtain parental consent prior to disclosing personally identifiable information to parties, other than officials or participating agencies.

### **INVESTIGATIVE PROCEDURE**

The investigation included interviews with the following individuals:

1. Complainant
2. DCPS [REDACTED]
3. 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):

[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 autism spectrum disorder.
3. The student's local educational agency (LEA) is DCPS.

## **ISSUES ONE/TWO: IEP GOALS AND REVISION**

### **Findings of Fact**

1. An educational assessment report was completed on [REDACTED].
2. An occupational therapy assessment report was completed on [REDACTED].
3. A speech and language assessment report was completed on [REDACTED].
4. A meeting to review the student's eligibility and IEP was held on [REDACTED].
  - a. All three assessments were reviewed at this meeting.
  - b. The parent attended the meeting.
  - c. The [REDACTED] meeting notes state that the objectives will be included in the progress report.
5. The [REDACTED] IEP contains goals in the academic areas of Mathematics, Reading, and Written Expression, and related service areas of Adaptive/Daily Living Skills, Communication/Speech and Language, and Motor Skills/Physical Development.
  - a. The Mathematics area of concern contains three goals to demonstrate one year's growth as measured by the objectives. Each goal has two or three associated objectives.
  - b. The Reading area of concern contains three goals to demonstrate one year's growth as measured by the objectives. Each goal has three associated objectives.
  - c. The Written Expression area of concern contains one goal to demonstrate one year's growth as measured by five associated objectives.

### **Discussion/Conclusion**

**Based on the analysis below, DCPS is in compliance with 34 CFR §300.320(a)(2) as measurable annual goals were included in the student's IEP. DCPS is also in compliance with 34 CFR §300.324(b)(1)(ii)(C) as the IEP was revised using information about the child provided by the parent .**

Pursuant to 34 CFR §300.320(a)(2), the IEP must include a statement of measurable annual goals, including academic and functional 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. Pursuant to 34 CFR §300.324(b)(1)(ii)(C), the IEP team must revise the IEP, as appropriate, to address information about the child provided by the parent. The complainant alleges that the student's IEP does not contain a specific, complete, stand-alone goal suggested by the parent and that the school did not incorporate any of [REDACTED] suggestions into the IEP.

The IEP team met on [REDACTED], to review the student's eligibility and IEP. Prior to the meeting educational, speech and language, and occupational therapy assessments were completed. These assessments were reviewed and discussed with the parent at the meeting, and the results were incorporated into the development of the IEP goals. The academic areas of concern for Mathematics, Reading, and Written Expression contain one to three goals to demonstrate one year's growth as measured by two to five associated objectives.

The complainant reported dissatisfaction with the way the academic goals are formatted, because the goals must be read in conjunction with the objectives to fully identify what skills the student is working toward. OSSE does not find that the way the goals are formatted prevents them from meeting the requirements outlined above. The goals and objectives combine to provide a detailed plan for the IEP and to identify specific academic skills for the student to develop over the course of the identified one year period. The IEP goals and objectives clearly identify what skills the student will be working on and how those goals will be measured. OSSE finds that the goals are based on current student data and address how the student will be involved in and make progress in the general education curriculum.

Although the parent is a member of the IEP team and has a right to provide input, the IEP is a product of team consensus and no member of the IEP team has the right to make unilateral decisions.<sup>1</sup> Further, the IEP team took steps to address the complainant's concern about the way the goals were formatted and how it would impact IEP progress reports, which are based on the goals, not the objectives. First, the [REDACTED] IEP team decided that the objectives would be included in the student's progress reports. This modification allows for all details related to the goals to be displayed in the progress reports. Secondly, the IEP team ensured that the first IEP progress report issued after the [REDACTED] meeting reported in detail, via the comments section, on the student's progress toward the individually identified objectives for each IEP goal. OSSE finds that DCPS took steps to address the parent's concerns related to the student's IEP goals and allowed the parent the opportunity to provide input while revising the IEP.

Therefore, DCPS is in compliance with 34 CFR §§300.320(a)(2) and 300.324(b)(1)(ii)(C).

### **ISSUE THREE: PARENTAL CONSENT**

#### **Findings of Fact**

1. The complainant received a list of [REDACTED] Middle School students taking the alternative assessment in spring [REDACTED] from the school.
2. The complainant is not an employee of a participating agency and did not need the list to fulfill a requirement of the IDEA regulations.
3. No parental consent was obtained to release the names of students taking the alternative assessment to parties outside of school staff.

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<sup>1</sup> See OSSE Individualized Education Program (IEP) Process Policy (August 30, 2011) at p. 2:  
<http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FINAL%20IEP%20Process%20Policy%20and%20Memo.pdf>

### **Discussion/Conclusion**

**Based on the analysis below, DCPS is not in compliance with 34 CFR §300.622, due to its disclosure of personally identifiable information of other students to the complainant.**

Pursuant to 34 CFR §300.622, parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies for purposes of meeting a requirement of the IDEA regulations.

The complainant provided OSSE a list of [REDACTED] Middle School students taking the alternative assessment in spring [REDACTED]. The list contained students' first and last names. When asked about this document, the complainant could not recall receiving the list but said it must have been included along with one of the draft IEPs sent to her by the school. DCPS staff were unable to identify how the parent received the list and OSSE's review indicates that the parent received the list in error. However, the parent's possession of the list indicates that it was given to [REDACTED] by a staff member at the school. There is no record of parental consent or authorization under 34 CFR Part 99 to release the names of students taking the alternative assessment to parties outside of school staff. Such release without parental consent, even if accidental, constitutes noncompliance with IDEA's confidentiality provisions.

Therefore, DCPS is out of compliance with §300.622.

### **CONCLUSIONS**

1. DCPS is in compliance with 34 CFR §300.320(a)(2) due to including measurable annual goals in the student's IEP.
2. DCPS is in compliance with 34 CFR §300.324(b)(1)(ii)(C) due to revising the IEP to address information provided by the parent.
3. DCPS is out of compliance with §300.622 due to its disclosure of personally identifiable information of other special education students to the complainant.

### **CORRECTIVE ACTION**

1. In order to correct the noncompliance with §300.622, DCPS must:
  - a. Notify the parents of all students included on the alternative assessment list that a disclosure of personally identifiable information occurred. Documentation of the completion of this corrective action is due to OSSE within 30 days of the date of this letter.
  - b. Train school staff on the requirement to protect student information and obtain parental consent prior to releasing personally identifiable information. Documentation of the completion of this corrective action 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](mailto:victoria.glick@dc.gov) or 202-724-7860.

Sincerely,

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

cc: [REDACTED], complainant