



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

August 30, 2017

VIA U.S. Mail & Electronic Mail

[REDACTED]
[REDACTED]
District of Columbia Public Schools
[REDACTED]
[REDACTED]

RE: State Complaint No. 017-002 Letter of Decision

LETTER OF DECISION

PROCEDURAL BACKGROUND

On [REDACTED], the State Complaint Office (SCO) of the Office of the State Superintendent of Education (OSSE), Division of Elementary, Secondary, and 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" or "child") (Student ID # [REDACTED]).

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 timely complete an initial evaluation.

OSSE has completed its investigation of the State complaint. As a result of the investigation OSSE determined that DCPS failed to timely complete the student's initial evaluation and failed to document the parent's oral referral for initial evaluation. This Letter of Decision memorializes OSSE's investigation and final results.

COMPLAINT ISSUES

The allegation raised in the complaint, further clarified by a review of documents and interviews revealed in the course of the investigation, raised the following issue under the jurisdiction of the OSSE SCO:

1. **Evaluation requirements at 34 CFR §300.301(c) and D.C. Official Code §38-2561.02(a)**
 - a. Failure to timely complete the student's initial evaluation. (34 CFR §300.301(c) and D.C. Official Code §38-2561(a)(1)).

- b. Failure to document any oral referral within three (3) business days of receipt. (D.C. Official Code §38-2561.02(a)(3)).

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. Parent
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):

- [illegible]

GENERAL FINDINGS OF FACT

1. The student is not a child with a disability as defined by 34 CFR §300.8.
2. The student is suspected of being a child with a disability as determined under 34 CFR §300.306.
3. The student's local educational agency (LEA) is DCPS.

ISSUE: INITIAL EVALUATION

Findings of Fact

1. The student began attending [REDACTED] HS at the beginning of the [REDACTED] school year.
2. The parent and school staff reported that from the beginning of the [REDACTED] school year the student had poor attendance due to anxiety around attending school.
3. On [REDACTED] DCPS held a meeting to address the student' attendance.
 - a. The team created a student support plan.
 - b. The school began a truancy referral.
 - c. DCPS staff and the parent reported that the parent requested a special education evaluation at this meeting.
4. DCPS did not document the [REDACTED] evaluation request and did not initiate

- an evaluation.
5. Although the social worker and the student's teachers attempted supports to encourage the student to attend class, the student's attendance concerns persisted.
 6. On [REDACTED] DCPS completed an FBA for the student and developed a BIP to address the student's continued attendance concerns.
 7. The student transferred to [REDACTED] HS on [REDACTED].

Discussion/Conclusion

DCPS has not complied with 34 CFR §300.301(c) and D.C. Official Code §38-2561.02(a), because it failed to complete an initial evaluation following the parent's request and failed to document the parent's oral referral for initial evaluation.

Pursuant to 34 CFR §300.301(c), initial special education evaluations must be conducted within 60 days of receiving parental consent for the evaluation or within the timeframe established by the state. 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)(1)). OSSE has clarified that the 120 day timeline applies to the initial evaluation of all students with disabilities by LEAs in the District of Columbia and that initial evaluation includes the determination of eligibility.¹ LEAs must document any oral referral within 3 business days of receipt. (D.C. Official Code §38-2561.02(a)(3)).

The student began attending [REDACTED] HS at the beginning of the [REDACTED] school year. The parent and school staff reported that from the beginning of the school year the student had poor attendance due to anxiety related to attending school. On [REDACTED], DCPS held a meeting to address the student's attendance. At this meeting, the team created a student support plan and began a truancy referral. The parent reported, and the school social worker confirmed, that at this meeting the parent requested a special education evaluation. The [REDACTED] evaluation request was not recorded and no evaluation was initiated.

Although the social worker and the student's teachers attempted supports to encourage the student to attend class, the student's attendance issues persisted. On [REDACTED] DCPS completed an FBA for the student and developed a BIP to address the student's continued attendance concerns. The student continued to have poor attendance rising to the level of truancy procedures until [REDACTED] transferred to a new school on [REDACTED].

DCPS staff reported that the student's poor attendance prevented the school from assessing whether the student was in need of special education services. However, following the parent's request to evaluate, the school was obligated to document the oral referral within three (3) business days and begin the evaluation process. There is no evidence that the school documented the parent's referral or attempted to complete an evaluation. With the [REDACTED] request, the parent's [REDACTED] referral should have been documented and the student's initial evaluation should have been completed within 120 days, by [REDACTED]. As of the date of this letter of decision, DCPS has not started an evaluation

¹ OSSE Part B Initial Evaluation/Reevaluation Policy, p. 14 (March 22, 2010).

for the student.

Therefore, DCPS has not complied with 34 CFR §300.301(c) and D.C. Official Code §38-2561.02(a).

CONCLUSION

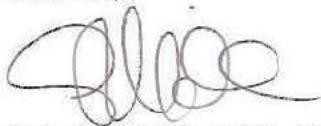
1. DCPS has not complied with 34 CFR §300.301(c) and D.C. Official Code §38-2561.02(a), because it failed to complete an initial evaluation following the parent's request and failed to document the parent's oral referral for initial evaluation.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §300.301(c) and D.C. Official Code §38-2561.02(a), DCPS must do the following:
 - a. Document the parent's [REDACTED] referral for special education evaluation in SEDS. Documentation of the completion of this item is due to OSSE within 5 days of the date of this letter.
 - b. Complete the student's initial evaluation as soon as possible and in no case later than 60 days from the date of this complaint. Documentation of the completion of this item is due to OSSE within 65 days of the date of this letter.
 - c. Upon completion of the initial evaluation and eligibility determination, make a determination in regard to whether the student is owed compensatory education for the delayed evaluation. Documentation of the completion of this item is due to OSSE within 90 days of the date of this letter.

All corrective actions must be completed by the date specified above, but in no case later than one year from 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,



Amy Maisterra, Ed.D., MSW

Assistant Superintendent for Elementary, Secondary, and Specialized Education

cc: [REDACTED], Complainant

[REDACTED], Father

[REDACTED], DCPS

[REDACTED], DCPS

Hanseul Kang, State Superintendent of Education, OSSE (under separate cover)