



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

**EDUCATION**

December 28, 2017

*VIA U.S. Mail & Electronic Mail*

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

RE: State Complaint No. 017-013 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 Systems and Supports, K-12 received a State complaint from [REDACTED] (complainant or parent) against the District of Columbia Public Schools (DCPS) alleging violations in the special education program of [REDACTED] [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 follow the placement procedures, provide notice with regard to evaluation procedures, conduct a reevaluation, provide progress reports, and revise the IEP.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS complied with its obligation to provide notice with regard to evaluation procedures, provide progress reports, and revise the IEP, but failed to comply with its obligation to follow the placement procedures, implement the student's IEP required placement, and provide prior written notice of its refusal to conduct a reevaluation. 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 OSSE SCO:

1. **Placement requirements at 34 CFR §300.116**
  - a. Failure to include the parent in the placement decision, as required by 34

CFR §300.116(a)(1).

- b. Failure to make a placement decision in conformity with least restrictive environment provisions, as required by 34 CFR §300.116(a)(2).
  - c. Failure to ensure that the child's placement is as close as possible to the child's home, as required by 34 CFR §300.116(b)(3).
- 2. Notice requirements at 34 CFR §300.304(a)**
- a. Failure to provide notice to the parents of a child with a disability that describes any evaluation procedures the agency proposes to conduct.
- 3. Notice requirements at 34 CFR §300.503(a)(2)**
- a. Failure to provide written notice to the parents of a child with a disability a reasonable time before the public agency refuses to initiate the reevaluation of the child.
- 4. Requirement to provide progress reports at 34 CFR §300.320(a)(3)(ii)**
- a. Failure to provide progress reports.
- 5. Requirement to revise the IEP at 34 CFR §300.324(b)(1)(ii)**
- a. Failure to revise IEP to address child's anticipated needs, with regard to bullying and the need for additional academic supports.

## 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 other health impairment (OHI).
3. The student's local educational agency (LEA) is DCPS.

### **ISSUE ONE: PLACEMENT**

#### **Findings of Fact**

1. The IEP in effect at the start of this period of investigation was dated [REDACTED] and prescribed 5 hours per week of specialized instruction inside the general education setting, 5 hours per week of specialized instruction outside the general education setting, 240 minutes per month of behavioral support services, and 120 minutes per month of occupational therapy.
2. DCPS completed a classroom observation on [REDACTED] for the purpose of making an advisory recommendation as to whether the student was being served in the least restrictive environment based on [REDACTED] individual needs. DCPS refers to this type of observation as an "LRE classroom observation."
  - a. The student's teacher referred [REDACTED] for an observation because the student was not experiencing success in the general education setting and was regressing in academic and behavioral areas.
  - b. The observation was completed by a DCPS LRE Support Team Member.
  - c. The observation report recommended that the student would benefit from a more restrictive school setting where [REDACTED] academic and behavioral needs could be addressed.
3. The [REDACTED] IEP and [REDACTED] amended IEP prescribed 7.5 hours per week of specialized instruction inside the general education setting, 10 hours per week of specialized instruction outside the general education setting, 240 minutes per month of behavioral support services, and 120 minutes per month of occupational therapy.
  - a. The [REDACTED] IEP was developed in accordance with the student's annual IEP review.
  - b. On [REDACTED], the IEP was amended without a meeting, with parent's consent, to align annual goal completion dates with the special education service dates on the IEP.
4. The [REDACTED] IEP progress report showed the student's progress on [REDACTED] IEP goals for the following areas of concern:

- a. Mathematics: regressing in one goal and two goals not introduced.
  - b. Reading: no progress for two goals and one goal not introduced.
  - c. Written expression: one goal not introduced.
  - d. Emotional, social, and behavioral development: progressing in one goal, one goal just introduced, and one goal not introduced.
  - e. Motor skills/physical development: progressing in one goal.
5. The [REDACTED] IEP progress report showed the student's progress on [REDACTED] IEP goals for the following areas of concern:
  - a. Mathematics: no progress for three goals.
  - b. Reading: no progress for three goals.
  - c. Written expression: no progress for one goal.
  - d. Emotional, social, and behavioral development: progressing in two goals and one goal not introduced.
  - e. Motor skills/physical development: progressing in one goal.
6. The IEP team met on [REDACTED] to review whether the student had made any progress with the increased service hours on [REDACTED] IEP.
  - a. The parent attended this meeting.
  - b. School staff reported that the student regressed in some areas but made progress in other areas when [REDACTED] received one-on-one support.
  - c. DCPS staff reported that although the student was making progress, this progress was not significant in terms of IEP goal attainment and the student remained below grade-level.
  - d. DCPS staff reported that the classroom teacher modified the student's work according to [REDACTED] grade level performance and the student met with a special education teacher to work one-on-one on academic areas of concern. These interventions resulted in increased math performance.
  - e. The IEP team decided not to make any changes to the student's IEP, but would continue to monitor the student's progress and would meet again in 6 – 8 weeks.
7. The IEP team met on [REDACTED] to review the student's progress and determine whether any changes needed to be made to [REDACTED] IEP services.
  - a. The parent attended this meeting.
  - b. School staff reported that the student was performing far below grade level and [REDACTED] peers, and that there were some areas of regression.
  - c. Meeting notes state that the IEP team agreed to increase the student's specialized instruction hours to 20 hours per week outside the general education setting. The team agreed that a more restrictive placement was needed in order for the student to make progress.
  - d. The school noted in the meeting that the increased service hours would change the student's placement, which would likely result in a change to the student's location of services.
8. The [REDACTED] and [REDACTED] IEPs prescribed 20 hours per week of specialized instruction outside the general education setting, 240 minutes per month of behavioral support services, and 120 minutes per month of occupational therapy.
  - a. For the, "reason services cannot be provided in the general education setting,"



the IEP states that the student is currently performing well below [REDACTED] same grade and same age peers and needs specialized instruction outside of the classroom.

9. The [REDACTED] [REDACTED] IEP progress report showed the student's progress on [REDACTED] IEP goals for the following areas of concern:
  - a. Mathematics: no progress for two goals and progressing in one goal.
  - b. Reading: no progress for three goals.
  - c. Written expression: no progress for one goal.
  - d. Emotional, social, and behavioral development: progressing in three goals.
  - e. Motor skills/physical development: progressing in one goal.
10. On [REDACTED] [REDACTED] DCPS issued a new location of services assignment letter to the parent, identifying [REDACTED] Elementary School (ES) as the student's location of services with space available in the Specific Learning Support (SLS) program.<sup>1</sup>
  - a. DCPS reported that the LEA's least restrictive environment (LRE) team is responsible for identifying a location assignment that can implement the student's IEP and placement as determined by the IEP team.
  - b. At the time that the letter was issued, [REDACTED] ES was the closest location to the student's home with an available seat that could implement the student's IEP through DCPS' SLS program.
  - c. [REDACTED] EC does not have an SLS program.
  - d. [REDACTED] EC is .4 miles from the student's home and [REDACTED] ES is 9.5 miles from the student's home.
11. The IEP team met on [REDACTED] [REDACTED] to review the student's IEP and discuss the location of services assignment in the SLS classroom at [REDACTED] ES.
  - a. Meeting notes state that the student's teachers reviewed and updated the present levels of performance on the IEP. The teachers reported that the student requires a lot of support and constant supervision to remain on task. The teachers reported that these needs highlight why the IEP team has increased the student's service hours.
  - b. The [REDACTED] [REDACTED] IEP prescribed the same level of services as the [REDACTED] [REDACTED] IEP: IEPs prescribed 20 hours per week of specialized instruction outside the general education setting, 240 minutes per month of behavioral support services, and 120 minutes per month of occupational therapy.
  - c. Meeting notes state that the parent shared [REDACTED] concerns that the new location assignment is far away from the student's home and neighborhood school.
12. The [REDACTED] [REDACTED] IEP progress report showed the student's progress on [REDACTED] IEP goals for the following areas of concern:
  - a. Mathematics: no progress for two goals and regressing in one goal.
  - b. Reading: no progress for one goal and regressing in two goals.

---

<sup>1</sup> The DCPS Specific Learning Support (SLS) program, "serves students in 3<sup>rd</sup>-12<sup>th</sup> grade who are identified as having a specific learning disability or complex learning needs and have not responded to interventions in the general education classroom. (Additional information on the SLS Program is available on the DCPS website at: <https://dcps.dc.gov/page/academic-programs-and-inclusion>.)



- c. Written expression: no progress for one goal.
  - d. Emotional, social, and behavioral development: regressing in two goals and one goal not introduced.
  - e. Motor skills/physical development: progressing in one goal.
13. On [REDACTED], the student started the [REDACTED] school year at [REDACTED] EC.
14. On [REDACTED] DCPS issued an updated location assignment to [REDACTED] ES.
- a. A seat became available and this school and it was closer to the student's home.
  - b. [REDACTED] ES is 3.3 miles from the student's home.
  - c. The student is currently enrolled at this school.

### Discussion/Conclusion

**DCPS has not complied with 34 CFR §300.116 placement requirements and 34 CFR §300.323(a) IEP implementation requirements because it delayed implementation of the [REDACTED] IEP team decision to place the student in a more restrictive environment.** Pursuant to 34 CFR §300.116(a)(1), the placement decision must be made by a group of persons, including the parent, who are knowledgeable about the child, the meaning of the evaluation data, and the placement options. The placement decision must be made in conformity with the LRE provisions, including that the child's placement is based on the IEP and is as close as possible to the child's home. (34 CFR §300.116(a)(2) and (b)) The complainant alleges that the team increased the student's IEP hours without explaining the consequences of a change in location assignment to the parent, and subsequently placed the student in a new school that the parent did not agree with because it was too far from home and different from neighborhood school where the student's sibling attends.

At the beginning of the [REDACTED] school year DCPS completed an LRE classroom observation on [REDACTED]. The student's teacher referred [REDACTED] for an observation because the student was not having success in the general education setting and was regressing in academic and behavioral areas. The observation report found that the student would benefit from a more restrictive school setting where [REDACTED] academic and behavioral needs could be addressed. Accordingly, on [REDACTED], the IEP team increased the student's specialized instruction hours to 7.5 hours per week inside the general education setting and 10 hours per week outside the general education setting from 5 hours per week inside and 5 hours per week outside.

The IEP team met on [REDACTED] to review whether the student had made any progress with the increased service hours on [REDACTED] IEP. School staff reported that while the student progressed in some areas, [REDACTED] regressed in other areas and the progress [REDACTED] made was not significant in terms of IEP goal attainment and the student remained below grade-level. DCPS staff additionally reported that the classroom teacher modified the student's work according to [REDACTED] grade level performance and the student met with a special education teacher to work one-on-one on academic areas of concern. These interventions resulted in increased math performance.

The IEP team decided not to make any changes to the student's IEP, but agreed to continue to



monitor the student's progress and meet again in 6 – 8 weeks to review the student data. The IEP team met again on [REDACTED]. School staff reported that the student was performing far below grade level and [REDACTED] peers, and that there remained some areas of regression. The IEP team agreed to increase the student's specialized instruction hours to 20 hours per week outside the general education setting. The team agreed that a more restrictive placement was needed in order for the student to make academic progress. The school noted that the increased service hours would change the student's placement, which would likely result in a change to the student's location of services.

The IEP progress reports issued during the [REDACTED] school year support the school's assertion that the student was not making sufficient progress. The reports showed some progress for the goals related to the student's related services, but limited progress and primarily no progress or regression in the goals related to core academic areas.

On [REDACTED] DCPS issued a new location of services assignment letter to the parent, identifying [REDACTED] ES as the student's location of services for the [REDACTED] school year. The IEP team met on [REDACTED] to review the student's IEP and discuss the location of services assignment. The student's teachers reviewed and updated the present levels of performance on the IEP. The teachers reported that the student requires extensive of support and constant supervision to remain on task. The teachers also reported that these needs highlight why the IEP team increased the student's service hours to ensure greater supports were in place. The parent shared [REDACTED] concerns with the IEP team that the new location assignment is far away from the student's home and the student's current school where a sibling attends.

DCPS' least restrictive environment (LRE) team is responsible for identifying a location assignment that can implement the student's IEP and placement as determined by the IEP team. At the time that the letter was issued, [REDACTED] ES was the closest location to the student's home with available seats in the SLS program that could implement the student's IEP. Due to the parent's concerns about [REDACTED] ES' distance from home, on [REDACTED], DCPS agreed that the student could begin the [REDACTED] school year at [REDACTED] EC while DCPS attempted to identify a location of services closer to the student's home with an open seat in a SLS program. On [REDACTED], DCPS issued a new location assignment to [REDACTED] ES, a school closer to the student's home where a seat had become available in the SLS program. The student is currently enrolled at [REDACTED] ES.

OSSE finds that the parent was present for and a participant in all discussions and decisions related to the student's educational placement. The record shows that DCPS relied on student data to make decisions about the student's special education service hours. DCPS progressively increased the student's specialized instruction hours throughout the school year in order to attempt increased interventions and ensure the student remained in the least restrictive environment possible. The record reflects that when the student's specialized instruction hours were increased to 20 hours per week outside the general education setting at the [REDACTED] meeting, DCPS informed the parent that this change in the student's placement would likely result in a change to the student's location of services. Although the student IEP hours



and placement was changed in the IEP, the LRE team failed to identify a location assignment that could implement the student's IEP until [REDACTED], forty-eight (48) school days after the student's IEP team determined that the student required a more restrictive environment on [REDACTED]. For this reason, OSSE finds that DCPS's delay resulted in a failure to comply with placement requirements. OSSE finds that DCPS' delayed implementation of the student's placement as required by the [REDACTED] IEP constitutes a violation of the requirements when determining the student's placement.

#### Implementation of IEP required placement

Pursuant to 34 CFR §300.323(a), at the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP. OSSE additionally finds that, because the student remained enrolled at [REDACTED] EC for the remainder of the [REDACTED] school year and the start of the [REDACTED] school year, despite the IEP team identifying [REDACTED] need for a more restrictive placement, DCPS failed to fully implement the student's IEP for a total of 65 school days – 48 school days between [REDACTED] and [REDACTED], the remaining 8 school days in the [REDACTED] school year, and the initial 9 school days in the [REDACTED] school year.

Therefore, DCPS has not complied with 34 CFR §§300.116(a)(1) and 300.323(a).

#### ISSUE TWO: NOTICE

##### Findings of Fact

1. The parent signed consent for triennial reevaluation on [REDACTED]. The consent form did not specify the assessments to be conducted as part of the evaluation process but states that a PWN is enclosed.
2. On [REDACTED], DCPS generated in SEDS a PWN regarding the student's reevaluation.
  - a. The PWN stated: "The Team has met and decided to move forward with the evaluation process. The proposed actions are to do an educational assessment and an Occupational Therapy assessment."
  - b. The PWN additionally stated: "The team collected work samples, iready data, lexia data, and received input from mom and dad. Both mom and dad are on board to move forward with the proposed actions."<sup>2</sup>
3. The in-school occupational therapist completed an occupational therapy assessment on [REDACTED].
4. The in-school psychologist completed a psychological triennial reevaluation on [REDACTED].
5. The IEP team conducted the student's triennial reevaluation on [REDACTED] and determined that the student continued to be eligible as a student with a disability with a disability category of OHI.

---

<sup>2</sup> "Iready," and, "lexia," data systems are used by school staff to track academic classroom data for all students. Iready tracks math assessments given at regular intervals that identifies a curriculum placement level, and "lexia" tracks the results of reading assessments given at routine intervals.



6. All assessments were completed by DCPS staff; no contracted professionals or outside organization tested or assessed the student.

#### **Discussion/Conclusion**

**DCPS has complied with 34 CFR §300.304(a), because it provided notice to the parent of all evaluation procedures.**

Pursuant to 34 CFR §300.304(a), the public agency must provide notice to the parents of a child with a disability that describes any evaluation procedures the agency proposes to conduct. The complainant alleges that [REDACTED] was not notified that the student would be tested by any outside organizations.

As part of the student's triennial reevaluation, the parent signed consent for a triennial reevaluation on [REDACTED]. The consent form did not specify the assessments to be conducted as part of the evaluation process but states that a PWN is enclosed. On [REDACTED] [REDACTED] DCPS issued a PWN that listed the student data that was reviewed, stated that DCPS would complete an educational assessment and an Occupational Therapy assessment, and reported that the parents were in agreement with all decisions. The in-school occupational therapist completed an occupational therapy assessment on [REDACTED] and the in-school psychologist completed a psychological triennial reevaluation on [REDACTED]. The IEP team reviewed these assessments and other student data on [REDACTED] [REDACTED] and determined that the student continued to be eligible as a student with a disability with a disability category of other health impairment. OSSE finds that DCPS informed the parent of all evaluation procedures and that there is no documentation to support the parent's claim that the student was tested by an outside organization.

Therefore, DCPS has complied with 34 CFR §300.304(a).

#### **ISSUE THREE: NOTICE**

##### **Findings of Fact**

1. The parent did not request reevaluation or additional evaluations during the [REDACTED] school year.
2. DCPS reported that at a meeting about the student's placement on [REDACTED], the first day of the [REDACTED] school year, the parent asked about the student being reevaluated to determine if the student's placement in a more restrictive environment was necessary.
  - a. DCPS explained to the parent that the student had been reevaluated the prior school year and reviewed all academic data with the parent that supported the more restrictive placement.
  - b. DCPS reported that the parent agreed with the explanation provided by DCPS and enrolled the student at the new location assignment at [REDACTED] ES.

#### **Discussion/Conclusion**

**DCPS has not complied with 34 CFR §300.503(a)(2), because it failed to issue a PWN after refusing to reevaluate the student.**



Pursuant to 34 CFR §300.503(a)(2), the public agency must provide written notice to the parents of a child with a disability a reasonable time before the public agency refuses to initiate the reevaluation of the child. The complainant alleges that [REDACTED] never received written explanation about why student could not be reevaluated and that [REDACTED] requested this in order to determine if the increased hours were necessary for the student.

DCPS completed a triennial reevaluation of the student on [REDACTED]; the parent made no other request for reevaluation or additional evaluations during the [REDACTED] school year. DCPS reported that at a meeting about the student's placement on [REDACTED], the first day of the [REDACTED] school year, the parent asked about the student being reevaluated to determine if the student's placement in a more restrictive environment was necessary. DCPS explained that the student had been reevaluated the prior school year and reviewed all academic data with the parent that supported the decision to place the student in a more restrictive environment. DCPS reported that the parent agreed with the explanation provided by DCPS, and enrolled the student at the new location assignment at [REDACTED] ES.

Pursuant to 34 CFR §300.303(b)(1), a reevaluation may not occur more than once a year, unless the parent and the public agency agree otherwise. In this instance, the LEA did not agree to a reevaluation within one year and so DCPS was not required to conduct one. However, DCPS was required to issue a PWN stating that the agency refused to complete a reevaluation as requested by the parent. OSSE's review of the record revealed that DCPS did not issue a PWN subsequent to the parent's request at the [REDACTED] meeting.

Therefore, DCPS has not complied with 34 CFR §300.503(a)(2).

#### **ISSUE FOUR: PROGRESS REPORTS**

##### **Findings of Fact**

1. IEP progress reports were generated in SEDS on [REDACTED] and [REDACTED].
2. School staff reported that it is routine practice to mail IEP progress reports home with report cards.
3. According to meeting notes, student progress was also reviewed at the [REDACTED] [REDACTED] IEP meetings.

##### **Discussion/Conclusion**

**DCPS has complied with 34 CFR §300.320(a)(3)(ii), because it provided IEP progress reports to the parent.**

Pursuant to 34 CFR §300.320(a)(3)(ii), the 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. The complainant alleges that [REDACTED] never received progress reports.

DCPS reported that IEP progress reports are mailed home with report cards. OSSE found that IEP progress reports were generated in SEDS on [REDACTED]



██████████. School staff reported that these IEP progress reports were mailed home with the student's report cards. There is no evidence available to confirm that the IEP progress reports were mailed home because schools are not required to send report cards via certified mail. OSSE accepts the assertion of school staff that, since it is the school's routine practice to mail IEP progress reports and report cards home at the same time, the IEP progress reports for this student were provided to the parent in that routine manner. OSSE also notes that these reports were available upon request from the student's special education SEDS record at the time they were generated and that, according to meeting notes, student progress was also reviewed at the ██████████ IEP meetings.

Therefore, DCPS has complied with 34 CFR §300.320(a)(3)(ii).

#### **ISSUE FIVE: REVISE IEP**

##### **Findings of Fact**

1. The ██████████ IEP prescribed 240 minutes per month of behavioral support services outside the general education.
  - a. The area of concern for emotional, social and behavioral development state that the student needs continued behavioral support services to manage difficult peer/social situations and sets a goal to enhance the student's conflict resolution skills (Goal 2).
2. At the ██████████ IEP team meeting, the parent raised a concern about the student being bullied at school.
  - a. The student's teacher responded that the student would sometimes instigate inappropriate conduct with peers.
  - b. School staff also reported that between the student's push-in and pull-out services ██████████ was not in class by ██████████ enough for an incident to go unnoticed and that the student would communicate any problems with ██████████ peers to ██████████ teachers.
3. Following the ██████████ meeting the school social worker told the student to tell ██████████ if bullying occurred and the classroom teacher did not act address an incident.
  - a. The social worker held a conference with the parent of one of the classmates with whom the student was having the most difficulty getting along with in the school.
  - b. The classroom teacher rearranged seating to minimize the student's interaction with particular classmates with whom ██████████ was having conflict.
  - c. The social worker started a lunch bunch with the student because the student reported that many of the issues happened during lunch time.
4. The issue of bullying was not raised again at the ██████████ IEP team meetings.

##### **Discussion/Conclusion**

DCPS has complied with 34 CFR §300.324(b)(1)(ii), because it took steps to address the concerns the parent raised.



Pursuant to 34 CFR §300.324(b)(1)(ii), the IEP team must revise the IEP, as appropriate, to address information about the child provided by the parent and the child's anticipated needs. The complainant alleges that the student was being bullied and the school did not address the concerns raised by the parent.

At the [REDACTED] IEP team meeting, the parent raised a concern about the student being bullied at school. The student's teacher responded that the student would sometimes instigate inappropriate conduct with peers. School staff also reported that between the student's pull-out services (when [REDACTED] was not in [REDACTED] classroom) and push-in services (when a staff member would be working with [REDACTED] inside the classroom), [REDACTED] was not in [REDACTED] classroom by [REDACTED] enough for an incident to go unnoticed and that the student would communicate any problems with [REDACTED] peers to [REDACTED] teachers. Although school staff members did not believe that the issue was bullying, the school social worker took steps to address any conflicts the student was having with [REDACTED] peers through the student's existing behavior support related services and goals on the [REDACTED] IEP. Following the [REDACTED] meeting the school social worker told the student to notify [REDACTED] if bullying occurred and the teacher did not address the incident. The social worker also held a conference with the parent of one of the student's classmates with whom the student was having the most difficulty getting along, and started a "lunch bunch"<sup>3</sup> to address student-reported lunch time bullying. In addition, the classroom teacher rearranged seating to minimize the student's interaction with particular students with whom [REDACTED] was having conflict.

At the beginning of subsequent IEP team meeting, DCPS asked the parent if [REDACTED] had any concerns. The parent did not raise the issue of bullying again, or any other issue related to the student's access to the academic setting due to bullying, at any of the other IEP team meetings held during the [REDACTED] school year. OSSE finds that DCPS took steps to address the concerns raised by the parent through the student's existing IEP required behavioral support services.

Therefore, DCPS has complied with 34 CFR §300.324(b)(1)(ii).

## **CONCLUSIONS**

1. DCPS has not complied with 34 CFR §300.116 placement requirements and 34 CFR §300.323(a) IEP implementation requirements because it delayed implementation of the [REDACTED] IEP team decision to place the student in a more restrictive environment.
2. DCPS has complied with 34 CFR §300.304(a), because it provided notice to the parent of all evaluation procedures.
3. DCPS has not complied with 34 CFR §300.503(a)(2), because it failed to issue a PWN after refusing to reevaluate the student.
4. DCPS has complied with 34 CFR §300.320(a)(3)(ii), because it provided IEP progress

---

<sup>3</sup> A "lunch bunch" is a group counseling method used by the school's social worker to facilitate students' social skills development during daily or weekly lunch-time peer interaction.



reports to the parent.

5. DCPS has complied with 34 CFR §300.324(b)(1)(ii), because it took steps to address the concerns the parent raised regarding anticipated needs resulting from bullying.

#### **CORRECTIVE ACTION**

1. In order to correct noncompliance with 34 CFR §§300.116 and 300.323(a), DCPS must do the following:
  - a. Hold an IEP meeting to review student academic and IEP progress data from [REDACTED] through [REDACTED] to determine the amount of compensatory education necessary to address the failure to educate the student in the IEP required placement. If the parties cannot agree to an amount of compensatory education, DCPS must at a minimum, authorize seventy-two (72) hours of compensatory education. Documentation of completion must be provided to OSSE within 30 days of the date of this letter.
  - b. Train all relevant staff members at [REDACTED] EC and DCPS central office on the placement procedures for students referred by an IEP team for placement in a more restrictive environment requiring a location of services outside of the school building. Documentation of completion must be provided to OSSE within 30 days of the date of this letter.
2. In order to correct the noncompliance with 34 CFR §300.503(a)(2), DCPS must do the following:
  - a. Issue a PWN to the parent explaining why DCPS refused to reevaluate the student after [REDACTED] request on [REDACTED]. Documentation of the completion of this requirement is due to OSSE within 15 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](mailto:Victoria.Glick@dc.gov) or 202-724-7860.

Sincerely,



Amy Maisterra, Ed.D., MSW

Assistant Superintendent, Division of Systems and Supports, K-12

cc: [REDACTED], complainant

[REDACTED], DCPS

[REDACTED], DCPS

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