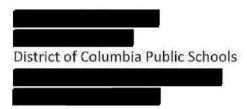
VIA U.S. Mail & Electronic Mail



RE: State Complaint No. 018-006 Letter of Decision

LETTER OF DECISION

On 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 (complainant or parent) against the District of Columbia Public Schools (DCPS) alleging violations in the special education program of (Student ID # 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 implement the student's IEP, make an appropriate placement, and reevaluate the student.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS did not comply with its obligation related to IEP implementation and did comply with its obligation related to placement and 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:

- Transfer IEP requirements at 34 CFR §300.323(e)
 - a. Failure to adopt an IEP from a previous public agency or develop, adopt and implement a new IEP for a child with a disability who transfers to a new

public agency in the same State, in consultation with the parents.

- 2. Placement requirements at 34 CFR §300.116(b)(2)
 - a. Failure to base the child's placement on the child's IEP.
- 3. Reevaluation requirements at 34 CFR §300.303(a)(2)
 - a. Failure to ensure that a reevaluation of each child with a disability is conducted if the child's parent requests a reevaluation.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

- Complainant
- 2. 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):



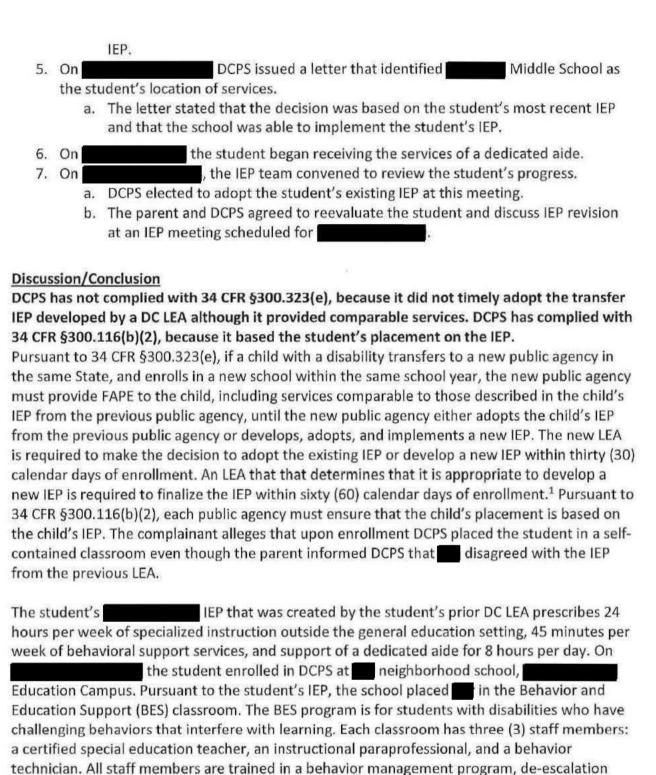
GENERAL FINDINGS OF FACT

- 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 for attention deficit disorder.
- The student's local educational agency (LEA) is DCPS.

ISSUES ONE AND TWO: TRANSFER IEP REQUIREMENTS AND PLACEMENT

Findings of Fact

- The least l
- The justification and plan for dedicated aide states that the student needs a dedicated aide to maintain safety and maintain focus on academic assignments and assessments.
- 3. On Education Campus.
- 4. On DCPS issued a letter that identified Education Campus as the student's location of services.
 - a. The letter stated that the decision was based on the student's most recent IEP, availability of space in the appropriate program, and the proximity of the school to the student's home, and that the school was able to implement the student's



Although DCPS believed that placement in that classroom was based on the student's IEP, the

techniques, and instructional strategies.

¹ OSSE IEP Transfer Policy (Dec. 17, 2014) at pg. 4. (Available at: https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/IEP%20Implementation%20for%20T ransfer%20Students%20Policy%20%2812-17-14%29.pdf.)

classroom had only students so DCPS transferred the student to another school with a BES classroom that had mixed genders. Accordingly, on DCPS issued a letter that identified Education Campus as the student's location of services. The letter stated that the decision was based on the student's most recent IEP, availability of space in the appropriate program, and the proximity of the school to the student's home, and that the school was able to implement the student's IEP.
In the Middle School in order for the student to be near brother who attends High School. Because this school also has a BES classroom, pursuant to the parent's request, on DCPS issued a letter that identified Middle School as the student's location of services. The letter stated that the decision was based on the student's most recent IEP and that the school was able to implement the student's IEP. On the student began receiving the services of a dedicated aide.
As a student transferring from another DC LEA with an IEP, DCPS was obligated to provide FAPE to the student, in this case including providing all specialized instruction outside the general education setting (or comparable services), even if the parent disagreed with the IEP. When DCPS reviews the IEP and decides whether to adopt it or develop a new one, the parent will be able to provide input as part of the IEP Team. Although DCPS did not provide a dedicated aide as required by the student's transfer IEP until representation in a classroom with targeted behavior support. Although the U.S. Department of Education declined to define "comparable" in the 2006 regulations, it stated that "when used with respect to a child who transfers to a new public agency from a previous public agency in the same State (or from another State), 'comparable' services means services that are 'similar' or 'equivalent' to those that were described in the child's IEP from the previous public agency." Placing the student in a classroom with targeted behavior support is similar to assigning the student a dedicated aide. The justification and plan for dedicated aide states that the student needs a dedicated aide to maintain safety and maintain focus on academic assignments and assessments. The staff members' training in behavior management, deescalation techniques, and instructional strategies allow them to assist the student in maintaining safety and focus. Comparable services does not require LEAs to provide educational services and supports in the exact same way. OSSE finds that DCPS provided comparable services to the student's transfer IEP and based the student's placement on that IEP.
Adoption of Prior IEP or Development of New IEP On meeting notes reflect and DCPS staff reported that DCPS elected to adopt the student's existing IEP at this meeting. The parent and DCPS staff both reported, and meeting notes reflect, that the parties additionally agreed to reevaluate the student and discuss IEP revision at an IEP meeting scheduled for DCPS was required to make the decision to

² 71 Fed. Reg. 46,681 (2006). (See also OSSE IEP Transfer Policy (Dec. 17, 2014) at pg. 3.)

adopt the existing IEP or develop a new IEP within thirty (3 enrollment. The student was enrolled in DCPS on	30) calendar days of the student's and DCPS elected to
implement the student's existing IEP on	, an additional twenty-seven (27)
days after the thirty (30) calendar day due date on	. OSSE finds that DCPS did
not comply with the requirement to adopt the student's e within thirty (30) calendar days of the student enrollment the decision to adopt or revise the student's IEP, this delay of specialized instruction or related services.	. Although DCPS failed to timely make
Therefore, DCPS has not complied with 34 CFR $\S\S300.323$ 300.116(b)(2).	(e) but has complied with

ISSUE THREE: REEVALUATION

Findings of Fact

- 1. The parent reported that asked the school to reevaluate the student and develop a new IEP when asked the student.
- 2. In its response, DCPS asserted that it did not receive a request for reevaluation, but rather the parent expressed dissatisfaction with the student's previous school and their IEP development process.
- 3. In its response DCPS agreed to reevaluate the student due to the parent raising the issue in the complaint.

Discussion/Conclusion

DCPS has complied with 34 CFR §300.303(a)(2), because OSSE found no record of a request for reevaluation during the investigation timeline.

Pursuant to 34 CFR §300.303(a)(2), a public agency must ensure that a reevaluation of each child with a disability is conducted if the child's parent or teacher requests a reevaluation. The complainant alleges that saked DCPS to reevaluate the student at the time of enrollment but DCPS failed to do so.

he parent reported that asked the school to reevaluate the student and develop a new IEP
then enrolled the student. In its response, DCPS asserted that it did not receive a request
or reevaluation, but rather the parent expressed dissatisfaction with the student's previous
chool and their IEP development process. OSSE found no record of a request for reevaluation.
its response DCPS agreed to reevaluate the student due to the parent raising the issue in the
omplaint. OSSE notes that the student's special education record reflects that the IEP team
and reviewed existing student data, and is scheduled to meet again
. The parent and DCPS staff reported that the parent received a request for
onsent to evaluate the student and will review evaluation results and consider revising the
tudent's IEP at the IEP team meeting. Although OSSE found no record of the
arent's request for evaluation, OSSE reminds DCPS of its obligation to complete the

reevaluation process or issue a prior written notice to the parent stating their decision and reasons for declining to evaluate the student.³

Regarding the parent's request to develop a new IEP, please refer to the discussion of Issue One above.

Therefore, DCPS has complied with 34 CFR §300.303(a)(2).

CONCLUSIONS

- DCPS has not complied with 34 CFR §300.323(e), because it failed to make the decision to adopt the existing IEP or develop a new IEP within thirty (30) calendar days of enrollment.
- 2. DCPS has complied with 34 CFR §300.116(b)(2), because it based the student's placement on the IEP.
- DCPS has complied with 34 CFR §300.303(a)(2), because OSSE found no record of a request for reevaluation during the investigation timeline.

CORRECTIVE ACTIONS

- 1. In order to correct noncompliance with 34 CFR §300.323(e), DCPS must:
 - Campus, Education Campus, and Middle School on the requirements for transfer students; specifically with regard to timelines for the LEA's decision to adopt or revise transfer student IEPs consistent with the OSSE Individualized Education Program (IEP) Implementation Transfer Student Policy. Documentation of completion of this requirement is due to OSSE within 90 days of the date of this decision.

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,

Elisabeth M. Morse

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

Shall h. Moran

^{3 34} CFR §§300.303(a)(2) and 300.503(a)(2).

