



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

[REDACTED]

VIA U.S. Mail & Electronic Mail

[REDACTED]

RE: State Complaint No. 018-016 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] [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 timely complete an initial evaluation.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS has complied with its obligations related to initial evaluations. This Letter of Decision is the report of the final results of OSSE’s investigation.

COMPLAINT ISSUE

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. Initial evaluation requirements at 34 CFR §§300.301 and 300.323(c)(1)**
 - a. Failure to ensure the initial evaluation is completed in compliance with the IDEA and to convene a meeting to develop an IEP within 30 days of a determination that the child needs special education and related services.

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 has not yet been determined to be a child with a disability as defined by 34 CFR §300.8.
2. The student's local educational agency (LEA) is DCPS.

ISSUE: INITIAL EVALUATION

Findings of Fact

1. The parent met with school staff members on [REDACTED] to discuss the student's behavior and grades. The parent did not request an evaluation or an IEP at that meeting.
2. The school has no record of any request for evaluation this school year.

Discussion/Conclusion

DCPS has complied with 34 CFR §§300.301 and 300.323(c)(1), because there is no record of a request for evaluation during the [REDACTED] school year.

Pursuant to 34 CFR §300.301, 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. As of July 1, 2018, the District of Columbia requires LEAs to make reasonable efforts to obtain parent consent for evaluation within 30 days of the date of referral and to complete the initial evaluation within 60 days from the date the parent provides consent. (D.C. Official Code §38-2561.02(a)(2)(A)). The LEA must ensure that a meeting to develop an IEP for the child is conducted within 30 days of the determination that the child needs special education and related services. (34 CFR §300.323(c)(1)) The complainant alleges that she has requested an IEP for [REDACTED] and the school has not taken action to evaluate the student.

Although the complainant alleges that she has asked for an IEP for [REDACTED] she could provide no details on when she asked and to whom she made the request. The school has no record of any such request this school year.¹ The parent met with school staff members on [REDACTED]

¹ The school acknowledged a request for evaluation on [REDACTED] that led to an RTI plan. OSSE did not make any compliance determinations related to this request because it falls outside of the one-year investigation timeline. (34 CFR §300.153(c))

█ to discuss the student's behavior, grades, and attendance, but no request for evaluation or an IEP was made at that meeting. DCPS treated this State complaint as a request for evaluation and have attempted to obtain the parent's consent to evaluate, but have not yet been able to obtain the parent's signature.

In cases where a parent makes an oral request for initial evaluation, OSSE reminds DCPS of its obligation to assist the parent in completing a written referral.²

OSSE's review of the record revealed that the student received extensive supports through the response to intervention (RTI) framework while attending DCPS. OSSE reminds DCPS of the LEA's responsibility to identify, locate, and evaluate students who are in need of special education and related services; including those who are suspected of having a disability even though they are advancing from grade to grade, as required by 34 CFR §§300.111(a) and (c). OSSE additionally reminds DCPS of guidance issued by the U.S. Department of Education, Office of Special Education Programs, clarifying that, "the use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation . . . to a child suspected of having a disability."³

CONCLUSION

1. DCPS has complied with 34 CFR §§300.301 and 300.323(c)(1), because there is no record of a request for evaluation during the █ school year.

If you have any questions regarding this decision, please contact me at Victoria.Glick@dc.gov or 202-724-7860.

Sincerely,



Victoria Glick
State Complaints Manager, Division of Systems and Supports, K-12

cc: █, Complainant

² OSSE Part B Initial Evaluation/Reevaluation Policy p. 12 (March 22, 2010).

³ U.S. Department of Education Memorandum: A Response to Intervention (RTI) Process Cannot be Used to Delay-Deny an Evaluation for Eligibility under the IDEA (January 21, 2011) at p. 2-3. (Available at: <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf>).