



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

[REDACTED]

VIA U.S. Mail & Electronic Mail

[REDACTED]

District of Columbia Public Schools

[REDACTED]

RE: State Complaint No. 018-022 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] (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 identify the student as a student with a disability in need of special education and amend the student’s education record at the parent’s request.

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 child find obligations and that the IDEA regulations do not apply to the education record in question. 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. **Child find requirements at 34 CFR §300.111**
 - a. Failure to identify, locate, and evaluate a student in need of special education and related services.

2. **Education records requirements at 34 CFR §300.618**
 - a. Failure to amend education records at parent’s request.

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):



GENERAL FINDINGS OF FACT

1. The student is not currently a child with a disability as defined by 34 CFR §300.8.
2. The student’s local educational agency (LEA) is DCPS.

ISSUE ONE: CHILD FIND

Findings of Fact

1. The student was previously identified as a child with a disability, but was exited from special education on [REDACTED].
2. On [REDACTED] the parent requested a special education evaluation via email.
 - a. The parent provided a letter from the student’s pediatrician diagnosing [REDACTED] with attention deficit disorder (ADD).

3. On [REDACTED] DCPS acknowledged the parent's referral.
4. On [REDACTED] DCPS held a meeting to review existing data.
 - a. The student's teachers reported that [REDACTED] is performing at grade level.
 - b. DCPS agreed to move forward with an evaluation at the parent's request.
 - c. The parent signed consent to evaluate.
5. On [REDACTED] DCPS completed a comprehensive psychological evaluation.
 - a. The evaluation assessed the student's cognitive, academic, behavioral, and social emotional functioning.
 - b. The evaluation found that the student's cognitive abilities were in the average range overall.
 - c. The team identified mathematics as the student's academic area of concern to be assessed and the evaluation found that when compared to [REDACTED] same aged peers, the student showed overall high average mathematical achievement.
 - d. The evaluation identified various areas of difficulty for the student in behavioral and social emotional functioning.
6. On [REDACTED] DCPS held an eligibility meeting.
 - a. The team reviewed a comprehensive psychological evaluation and outside diagnosis of ADHD and Autism letter provided by the parent.
 - b. The team determined that the student did not qualify as a student with a disability in any of the three disability categories reviewed (other health impairment, specific learning disability, and autism spectrum disorder).
 - c. The parent disagreed with the team's decision and requested an independent evaluation because [REDACTED] disagreed with the results of DCPS' comprehensive psychological assessment.
 - d. The team agreed that the student should continue to receive supports through [REDACTED] 504 plan.
7. On [REDACTED] DCPS authorized the parent to obtain independent occupational therapy and comprehensive psychological evaluations.
8. The [REDACTED] report card shows that in the third term the student met grade level expectations for all subjects except for Music in which [REDACTED] exceeded expectations.
 - a. The report cards shows that in the third term the student is able to comply with all listed work habits and personal and social skills independently or with limited prompting.
 - b. The report card shows that out of a three category classification system (basic, developing, or secure) by the third term the student was developing in most identified skill areas and was secure in a few skill areas.

Discussion/Conclusion

DCPS has complied with 34 CFR §300.111, because it had no reason to suspect that the student was a child with a disability in need of special education.

Pursuant to 34 CFR §300.111, the State must have in effect policies and procedures to ensure that all children with disabilities residing in the State and who are in need of special education and related services, are identified, located, and evaluated. OSSE requires each LEA to have a set of policies, procedures, and public awareness activities designed to locate, identify, and

evaluate children who may require special education and related services and provides resources for LEAs to create their own policies and procedures.¹ The complainant alleges that the student was exited from special education but continues to struggle with social and emotional concerns and is in need of support.

The student was previously identified as a child with a disability, but was exited from special education on [REDACTED]. On [REDACTED] the parent requested a special education evaluation via email and included a letter from the student's pediatrician diagnosing [REDACTED] with attention deficit disorder (ADD). On [REDACTED] DCPS acknowledged the parent's referral and on [REDACTED] DCPS held a meeting to review existing data. At this meeting the student's teachers reported that [REDACTED] is performing at grade level; however, DCPS agreed to move forward with an evaluation at the parent's request. The parent signed consent to evaluate.

On [REDACTED] DCPS completed a comprehensive psychological evaluation and on [REDACTED] [REDACTED] DCPS held an eligibility meeting. The team reviewed the comprehensive psychological evaluation and an outside diagnosis of ADHD and Autism letter provided by the parent. The comprehensive psychological evaluation assessed the student's cognitive, academic, behavioral, and social emotional functioning. The evaluation found that the student's cognitive abilities were in the average range overall. The team identified mathematics as the student's academic area of concern to be assessed and the evaluation found that when compared to [REDACTED] same aged peers, the student showed overall high average mathematical achievement. The evaluation identified various areas of difficulty for the student in behavioral and social emotional functioning. The team determined that the student did not qualify as a student with a disability in any of the three disability categories reviewed (other health impairment, specific learning disability, and autism spectrum disorder). The team agreed that the student should continue to receive supports through [REDACTED] 504 plan. The parent disagreed with the team's decision and requested an independent evaluation because [REDACTED] disagreed with the results of DCPS' comprehensive psychological assessment. On [REDACTED] DCPS authorized the parent to obtain independent occupational therapy and comprehensive psychological evaluations.

During the course of its investigation, OSSE sought other student records of achievement available to school staff during the period under investigation; [REDACTED] – [REDACTED]. The [REDACTED] report card shows that in the third term the student met grade level expectations for all subjects except for Music in which [REDACTED] exceeded expectations. The report cards shows that in the third term the student is able to comply with all listed work habits and personal and social skills independently or with limited prompting. The report card shows that out of a three category classification system (basic, developing, or secure) by the third term the student was developing in most identified skill areas and was secure in a few skill areas.

Based on its review of data, OSSE finds no evidence that DCPS had reason to suspect that the student was a child with a disability in need of special education. The student was meeting grade level standards and making progress in the general education curriculum. As soon as the

¹ See <https://osse.dc.gov/page/child-find-and-initial-evaluation-resources>

parent raised concerns and provided information from the student's pediatrician, DCPS took action to start the evaluation process. After completing an initial evaluation, the team ultimately found the student ineligible.

Therefore, DCPS has complied with 34 CFR §300.111.

ISSUE TWO: EDUCATION RECORDS

Findings of Fact

1. On [REDACTED] the parent requested a FERPA hearing regarding documentation of a disciplinary incident.
2. At the time of the parent's request the student did not have an IEP and has since been found ineligible as a student with a disability in need of special education.

Discussion/Conclusion

DCPS has not violated 34 CFR §300.618, because it does not apply to the student's education record in question.

Pursuant to 34 CFR §300.618, a parent who believes that information in the education records collected, maintained, or used under the IDEA is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing. The complainant alleges that DCPS has refused to correct inaccurate information in the student's education record regarding a disciplinary incident.

Independent of the State complaints process, on [REDACTED] the parent requested a FERPA hearing regarding documentation of a [REDACTED] disciplinary incident. At the time of the parent's request the student did not have an IEP and has since been found ineligible as a student with a disability in need of special education. Thus the student's education record in question is not collected, maintained, or used under the IDEA and therefore 34 CFR §300.618 is inapplicable.

Therefore, DCPS has not violated 34 CFR §300.618.

CONCLUSIONS

1. DCPS has complied with 34 CFR §300.111, because it had no reason to suspect that the student was a child with a disability in need of special education.
2. DCPS has not violated 34 CFR §300.618, because it does not apply to the student's education record in question.

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: [REDACTED], Complainant

[REDACTED]