



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. 019-001 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 revise the student’s individualized education program (IEP), provide all required IEP services, educate the student in the least restrictive environment, provide access to education records, follow independent educational evaluation (IEE) procedures, and complete a reevaluation upon request.

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 obligations to review and revise the IEP, follow independent educational evaluation procedures, provide IEP services, and educate the student in the least restrictive environment, but did not comply with its obligations to provide the parent access to the student’s education records and complete 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. **IEP revision requirements at 34 CFR §300.324(b)**
  - a. Failure to review and revise the IEP, as appropriate, to address information about the child provided to, or by, the parent, or the child’s anticipated needs.
2. **Independent educational evaluation (IEE) procedures at 34 CFR §300.502**
  - a. Failure to follow the independent educational evaluation procedures.
3. **Requirement to provide IEP services at 34 CFR §300.323(c)**
  - a. Failure to ensure that as soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child’s IEP.
4. **Least restrictive environment requirements at 34 CFR §300.114**
  - a. Failure to educate the child in the least restrictive environment.
5. **Education records requirements at 34 CFR §300.501(a)**
  - a. Failure to afford the parents of a child with a disability an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child.
6. **Reevaluation requirements at 34 CFR §300.303(a)(2)**
  - a. Failure to ensure that a reevaluation of the child is conducted if the child’s parent requests a reevaluation.

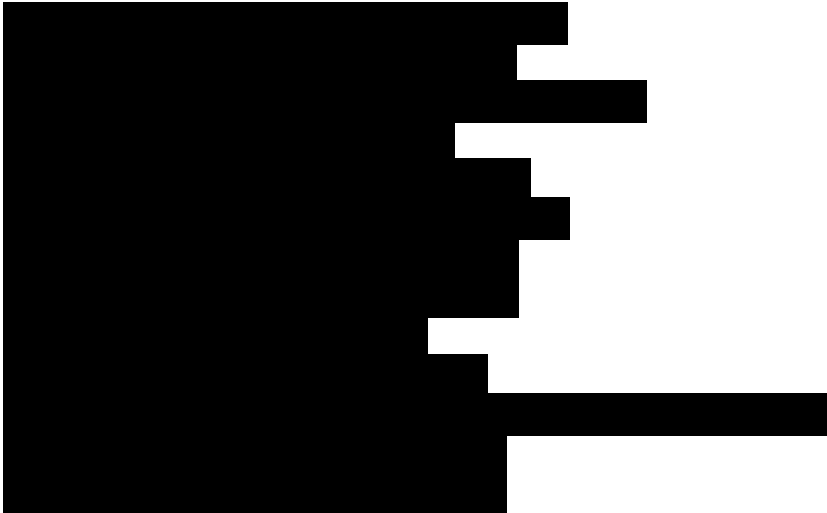
**INVESTIGATIVE PROCEDURE**

The investigation included interviews with the following individuals:

1. Complainant
2. 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):

1. [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 specific learning disability.
3. The student's local educational agency (LEA) is DCPS.

**ISSUE ONE: IEP REVISION**

**Findings of Fact**

1. On [REDACTED] the parent emailed the school to raise concerns about bullying.
2. Pursuant to the parent's request, the school held an IEP Team meeting on [REDACTED].
3. On [REDACTED] DCPS issued prior written notice about the IEP Team meeting held with the parent.
  - a. The notice stated that the IEP Team reviewed evaluations and revised the IEP accordingly.
  - b. The notice stated that the school would respond to the parent via email to address [REDACTED] concerns about bullying.
4. On [REDACTED] the school emailed the parent with the results of its investigation into the bullying claims made by the parent. The school found that staff members appropriately responded to negative student behavior and did not allow an environment of bullying.
5. On [REDACTED] DCPS amended the student's IEP to add behavioral support services, classroom aides and services, and accommodations in accordance with the IEP Team decisions made on [REDACTED].
6. On [REDACTED] DCPS held a meeting to review the student's IEP.
  - a. The Team reviewed the student's present levels of performance and updated the student's IEP goals.
7. On [REDACTED] DCPS held a meeting to develop a safety plan for the student to address the parent's concerns about the student's interactions with particular students and staff members.
8. On [REDACTED] the parent provided the school with a note from the student's

doctor diagnosing [REDACTED] with a concussion and recommending light school work, rest periods, and no tests or major assignments for several weeks while the student healed from the brain injury.

- a. The school reported that it lowered the student's academic load, but did not make any changes to the IEP as it was a temporary accommodation.
9. On [REDACTED] the school held a meeting pursuant to the parent's request.
    - a. The parent requested that the student's safety plan be incorporated into the student's IEP.
  10. On [REDACTED], DCPS issued a PWN that declined to include the safety plan in the IEP. DCPS reported that the IEP team determined that it is not appropriate to include the safety plan in the IEP because the issues addressed by the safety plan are not related to the student's receipt of special education services.

### **Discussion/Conclusion**

**DCPS has complied with 34 CFR §300.324(b), because it responded to all of the information provided and concerns raised by the parent.**

Pursuant to 34 CFR §300.324(b), each public agency must revise the IEP, as appropriate, to address information about the child provided to, or by, the parents, and the child's anticipated needs. The complainant alleges that [REDACTED] requested an IEP amendment to address the student's educational harm from assault and trauma and interventions to address bullying, but no action was taken.

At the beginning of the [REDACTED] school year, pursuant to the parent's request, the school held an IEP Team meeting on [REDACTED]. Following the meeting, DCPS issued prior written notice about what was discussed at the meeting. The notice stated that the IEP Team reviewed evaluations and revised the IEP accordingly. The notice stated that the school would respond to the parent via email to address [REDACTED] concerns about bullying. The parent had previously emailed the school to raise concerns about bullying on [REDACTED]. On [REDACTED] the school emailed the parent with the results of its investigation into the bullying claims made by the parent. The school found that staff members appropriately responded to negative student behavior and did not allow an environment of bullying. On [REDACTED] DCPS amended the student's IEP to add behavioral support services, classroom aides and services, and accommodations in accordance with the IEP Team decisions made on [REDACTED].

On [REDACTED] DCPS held another meeting to review the student's IEP. The IEP Team reviewed the student's present levels of performance and updated the student's IEP goals. On [REDACTED] DCPS held a meeting to develop a safety plan for the student to address the parent's concerns about the student's interactions with particular students and staff members. The IEP Team met again on [REDACTED] pursuant to the parent's request. The parent requested that the student's safety plan be incorporated into the student's IEP; however, on [REDACTED] DCPS issued a PWN declining the parent's request. DCPS reported that the IEP team determined it was not appropriate to include the safety plan in the IEP because the issues addressed by the safety plan are not related to the student's receipt of special education

services.

On [REDACTED] the parent provided the school with a note from the student's doctor diagnosing [REDACTED] with a concussion and recommending light school work, rest periods, and no tests or major assignments for several weeks while the student healed from the brain injury. The school reported that it lowered the student's academic load, but did not make any changes to the IEP as it was a temporary accommodation.

OSSE's review of the record finds that DCPS responded to all of the information provided and concerns raised by the parent. The IEP Team met several times throughout the school year and made changes to the student's IEP based on updated information on student to peer and staff interactions and parent information. The school investigated the parent's allegations of bullying and could not substantiate the claims and thus did not modify the IEP to address the issue because there was not an identifiable impact on the student's access to the classroom. The school addressed the parent's concerns about safety outside of the IEP process because it believed they were not related to the student's receipt of special education services and thus inappropriate for inclusion in the IEP. OSSE found no evidence that DCPS ignored the parent's concerns or requests to hold an IEP Team meeting during the [REDACTED] school year.

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

## **ISSUE TWO: IEE**

### **Findings of Fact**

1. On [REDACTED] DCPS authorized an IEE for the student.
2. The IEP Team reviewed the completed IEE on [REDACTED].
3. The parent requested no IEEs during the [REDACTED] school year.

### **Discussion/Conclusion**

**DCPS has complied with 34 CFR §300.502, because the parent made no IEE requests during the investigation timeline.**

Pursuant to 34 CFR §300.502, the parents of a child with a disability have the right to obtain an independent educational evaluation of the child. The complainant alleges that DCPS failed to comply with [REDACTED] IEE request.

On [REDACTED] DCPS authorized an IEE for the student. The IEP Team reviewed the completed IEE on [REDACTED]. The parent alleges that DCPS did not follow required timelines when authorizing the IEE; however, the request, completion, and review of this IEE fall outside of the one-year investigation timeline for this complaint which includes [REDACTED]. Therefore, OSSE will not review whether DCPS followed any applicable timelines. The complainant requested no additional IEEs during the investigation timeline.

Therefore, DCPS has complied with 34 CFR §300.502.

## **ISSUE THREE: IEP SERVICES**

## Findings of Fact

1. The [REDACTED] amended IEP and [REDACTED] IEP prescribe 4 hours per week of specialized instruction outside the general education setting for mathematics, 4 hours per week of specialized instruction outside the general education setting for reading, 2 hours per week of specialized instruction inside the general education setting for reading, 2 hours per week of specialized instruction inside the general education setting for written expression, and 120 minutes per month of behavioral support services.
  - a. The IEPs contain the following classroom aids and services: small group support, use of visual aids, preferential seating, modified classwork and tests, graphic organizers, praise and encouragement, chunking of assignments, alternate low- and high-interest activities, repetition of instructions, prompting to remain focused, preferential seating, and structured breaks.
2. DCPS reported that the student's specialized instruction is provided by a special education teacher in a resource room for mathematics and reading and by a special education teacher in a co-taught classroom for English Language Arts. The student's behavioral support services are provided by a social worker.
3. On [REDACTED] the parent emailed the school to ask what accommodations were being provided to the student in [REDACTED] English Language Arts class.
4. On [REDACTED] DCPS responded to the parent and described the accommodations made for the student in [REDACTED] English Language Arts class.
5. At the [REDACTED] IEP Team meeting the parent raised concerns about whether the student was receiving the accommodations required by [REDACTED] IEP.
  - a. The student's teachers explained how they provide the student's accommodations and showed the parent examples of modified work.
  - b. The student's English Language Arts teacher agreed to send home both the modified and non-modified assignments with the student so the parent could see the difference.
6. On [REDACTED] DCPS held a meeting at the parent's request.
  - a. The parent requested compensatory education due to the student not receiving [REDACTED] IEP accommodations.
  - b. DCPS refused to provide compensatory education, asserting that there was no basis for the request because the student had been provided all of the supports and services required by [REDACTED] IEP since the start of the school year.
7. On [REDACTED] DCPS notified the parent that the student had accumulated 7 days of unexcused absences.
8. On [REDACTED] the school developed a behavior intervention plan for the student.
  - a. School staff reported that the plan was created to document what the school was doing to encourage the student to attend class. School staff stated the intention of documenting these efforts was to prepare the student for [REDACTED] transition to a new set of teachers, and so the new teachers would know what to do to help the student.
  - b. School staff reported that the student's schedule was changed on this date in response to a request from the parent.

9. At the [REDACTED] IEP Team meeting the school noted that the student needed to attend class more consistently to be able to access [REDACTED] IEP services.

### **Discussion/Conclusion**

**DCPS has complied with 34 CFR §300.323(c)(2), because it made available all services and supports required by the student's IEP.**

Pursuant to 34 CFR §300.323(c)(2), as soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP. The complainant alleges that the student did not receive the educational accommodations needed to access [REDACTED] education and did not receive IEP services and classroom instruction when [REDACTED] was pulled out of class.

The [REDACTED] amended IEP and [REDACTED] IEP prescribe 4 hours per week of specialized instruction outside the general education setting for mathematics, 4 hours per week of specialized instruction outside the general education setting for reading, 2 hours per week of specialized instruction inside the general education setting for reading, 2 hours per week of specialized instruction inside the general education setting for written expression, and 120 minutes per month of behavioral support services. The IEPs contain the following classroom aids and services: small group support, use of visual aids, preferential seating, modified classwork and tests, graphic organizers, praise and encouragement, chunking of assignments, alternate low- and high-interest activities, repetition of instructions, prompting to remain focused, preferential seating, and structured breaks.

DCPS reported that the student's specialized instruction is provided by a special education teacher in a resource room for mathematics and reading and by a special education teacher in a co-taught classroom for English Language Arts. The student's behavioral support services are provided by a social worker.

The parent expressed concern that the student was not receiving required IEP accommodations a few times during the [REDACTED] school year. On [REDACTED] the parent emailed the school to ask what accommodations were being provided to the student in [REDACTED] English Language Arts class. On [REDACTED] DCPS responded to the parent and described the accommodations made for the student in [REDACTED] English Language Arts class. At the [REDACTED] IEP Team meeting the parent raised concerns about whether the student was receiving the accommodations required by [REDACTED] IEP. The student's teachers explained how they provide the student's accommodations and showed the parent examples of modified work. The student's English Language Arts teacher agreed to send home both the modified and non-modified assignments with the student so the parent could see the difference.

On [REDACTED] DCPS held a meeting at the parent's request. The parent requested compensatory education due to the student not receiving [REDACTED] IEP accommodations. DCPS refused to provide compensatory education, asserting that there was no basis for the request because the student had been provided all of the supports and services required by [REDACTED] IEP since the start of the [REDACTED] school year.

DCPS reported that the student was not pulled out of class nor prevented from attending class, but rather, sometimes the student did not access the services made available to [REDACTED] because [REDACTED] had an ongoing issue with class attendance. This is supported by the record. On [REDACTED] DCPS notified the parent that the student had accumulated 7 days of unexcused absences. On [REDACTED] the school developed a behavior intervention plan for the student. The school reported that the plan was created to document what the school was doing to encourage the student to attend class. School staff reported that these efforts were also documented to assist the student as [REDACTED] transitioned to a new set of teachers, and so the new teachers would know what to do to help the student. The student's schedule change, made on the same date, was in response to a request from the parent. At the [REDACTED] IEP Team meeting the school noted that the student needed to attend class more consistently to be able to access [REDACTED] IEP services.

OSSE finds that DCPS provided the accommodations and supports required by the student's IEP, made available all IEP services, and took steps to address and encourage the student's attendance so that [REDACTED] could take advantage of the services made available to [REDACTED]

Therefore, DCPS has complied with 34 CFR §300.323(c)(2).

#### **ISSUE FOUR: LRE**

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

1. As part of the school's safety requirements, when students leave the building they cannot reenter unless they put their bags back through the security system.
2. One day after school the student left campus and then returned to attend drama club practice.
3. The student refused to put [REDACTED] bag through security and was not allowed to reenter the building.

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

**DCPS has complied with 34 CFR §300.114, because it did not remove the student from the classroom nor prevent the student from participating in extracurricular activities.**

Pursuant to 34 CFR §300.114, each public agency must ensure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. The complainant alleges that the student was regularly pulled out of class, denied access to the classroom, and not allowed to attend an afterschool drama club activity.

##### **Class Time**

As discussed under Issue Three above, DCPS made services available to the student in accordance with [REDACTED] IEP. The student was not pulled out of class nor prevented from attending



class. DCPS took steps to address and encourage the student's attendance in class to ensure [REDACTED] accessed [REDACTED] IEP services. OSSE found no evidence that DCPS removed the student from the classroom or otherwise changed [REDACTED] placement from what is stated in [REDACTED] IEP.

### Extracurricular Activities

As part of the school's safety requirements, when students leave the building they cannot reenter unless they put their bags back through the security system. One day after school the student left campus and then returned to attend drama club practice. The student refused to put [REDACTED] bag through security and was not allowed to reenter the building. OSSE finds that the reason the student did not attend drama practice that day was unrelated to [REDACTED] disability or IEP and that there was not a practice of school staff refusal to allow the student to access extracurricular activities due to [REDACTED] disability or IEP. The student missed a single day of drama club practice due to [REDACTED] refusal to comply with the safety requirements that apply to all students re-entering the school building.

Therefore, DCPS has complied with 34 CFR §300.114.

## **ISSUE FIVE: EDUCATION RECORDS**

### **Findings of Fact**

1. The [REDACTED] amended IEP includes an asthma plan within other classroom aids and services.
2. On [REDACTED] the parent emailed a request for the student to be administered medication according to [REDACTED] asthma plan and stated that the student's asthmatic status would impact [REDACTED] ability to learn.
3. On [REDACTED] the parent emailed a request for the student's records of nursing visits.
4. On [REDACTED] the school acknowledged the parent's request and responded that it would let [REDACTED] know when the records were available.

### **Discussion/Conclusion**

**DCPS has not complied with 34 CFR §300.501(a), because it has not provided the nursing records requested by the parent.**

Pursuant to 34 CFR §300.501(a), the parents of a child with a disability must be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. The complainant alleges that [REDACTED] provided a written request for the student's nursing records, but they have not been provided.

The student's [REDACTED] amended IEP includes an asthma plan within other classroom aids and services. On [REDACTED], the parent emailed a request for the student to be administered medication according to [REDACTED] asthma plan and stated that the student's asthmatic status would impact [REDACTED] ability to learn. On [REDACTED] the parent emailed a request for the student's records of nursing visits. On [REDACTED] the school acknowledged the parent's request and responded that it would let [REDACTED] know when the records were available. In

the interview, school staff reported that special education staff members do not have access to students' medical records and that the parent was told the process of how to get those records by asking the nurse directly. This message to the parent was not captured in the communication reviewed as part of OSSE's investigation. In addition, OSSE's review of the record finds that the student visited the nurse for administration of the asthma plan incorporated into the student's [REDACTED] IEP, and there is no evidence of any unrelated visits to the nurse. Therefore, OSSE finds that DCPS did not provide the nursing records requested by the parent or ensure that the parent knew how to access those records.

Therefore, DCPS has not complied with 34 CFR §300.501(a).

## **ISSUE SIX: REEVALUATION**

### **Findings of Fact**

1. At the [REDACTED] IEP Team meeting the parent requested an educational assessment because [REDACTED] believed that the trauma the student experienced during the school year impacted the student's performance.
  - a. The school responded that the student needed to attend class more consistently in order to benefit from [REDACTED] IEP services and that an educational assessment was not necessary.
2. In response to a renewed request by the parent, on [REDACTED] DCPS issued written notice that it would not complete an educational assessment of the student because it believed it was not necessary at that time.
  - a. The written notice stated that the student was assessed on [REDACTED] and [REDACTED] and that another assessment would lead to over-assessment of the student.
  - b. The written notice stated that the student's excessive absences and tardies during the school year prevented [REDACTED] from accessing the educational curriculum, but the parent refused the school proposal of using an attendance tracker to support the student.
  - c. The written notice stated that a doctor's note diagnosing a mild traumatic brain injury recommended light schoolwork and no tests or major assessments at that time.
3. On [REDACTED] DCPS issued written notice acknowledging the parent's [REDACTED] request to evaluate and stating that it would reevaluate the student during the [REDACTED] school year as the student's triennial reevaluation was due by [REDACTED].

### **Discussion/Conclusion**

**DCPS has not complied with 34 CFR §§300.303(a)(2) and 300.503(a)(2), because it failed to provide written notice of its refusal to complete a reevaluation within a reasonable time of the parent's request.**

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 the school ignored the parent's request for educational assessments to address the student's lack of educational progress.

At the [REDACTED] IEP Team meeting the parent requested an educational assessment because [REDACTED] believed that the trauma the student experienced during the school year impacted the student's educational performance. The school responded that the student needed to attend class more consistently in order to benefit from [REDACTED] IEP services and that an educational assessment was not necessary.

In response to a renewed request by the parent, on [REDACTED] DCPS issued written notice that it would not complete an educational assessment of the student because it believed it was not necessary at that time. The written notice stated that the student was assessed on [REDACTED] and [REDACTED] and that another assessment would lead to over-assessing the student. The written notice also stated that the student's excessive absences and tardies during the school year prevented [REDACTED] from accessing the educational curriculum, but the parent refused the school proposal of using an attendance tracker to support the student. Finally, the written notice stated that a doctor's note diagnosing a mild traumatic brain injury recommended light schoolwork and no tests or major assessments at that time.

However, on [REDACTED] DCPS issued written notice acknowledging the parent's [REDACTED] request to evaluate and stating that it would reevaluate the student during the [REDACTED] school year as the student's triennial reevaluation was due by [REDACTED]. DCPS plans to meet with the parent at the start of the [REDACTED] school year to review data and determine whether additional testing is needed.

Although DCPS issued written notice to the parent of its refusal to complete a reevaluation in accordance with 34 CFR §300.503(a)(2), the notice was issued three (3) months after the parent's request. This notice must be provided within a "reasonable time."<sup>1</sup> OSSE's review of the record finds that there was no evidence of any legitimate reason for the LEA's delay in issuing this prior written notice of their refusal to reevaluate the student. OSSE finds that DCPS did not meet the threshold of a "reasonable time." While DCPS has now agreed to complete a reevaluation of the student, the delay in responding to the parent's request constitutes procedural noncompliance.

Therefore, DCPS has not complied with 34 CFR §§300.303(a)(2) and 300.503(a)(2).

## **CONCLUSIONS**

1. DCPS has complied with 34 CFR §300.324(b), because it responded to all of the information provided and concerns raised by the parent.
2. DCPS has complied with 34 CFR §300.502, because the parent made no IEE requests during the investigation timeline.
3. DCPS has complied with 34 CFR §300.323(c)(2), because it made available all services and supports required by the student's IEP.
4. DCPS has complied with 34 CFR §300.114, because it did not remove the student from

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<sup>1</sup> 34 CFR §300.503(a)(2)

- the classroom nor prevent the student from participating in extracurricular activities.
5. DCPS has not complied with 34 CFR §300.501(a), because it has not provided the nursing records requested by the parent.
  6. DCPS has not complied with 34 CFR §§300.303(a)(2) and 300.503(a)(2), because it failed to provide written notice of its refusal to complete a reevaluation within a reasonable time of the parent's request.

**CORRECTIVE ACTION**

1. In order to correct the noncompliance with 34 CFR §300.501(a), DCPS must do the following:
  - a. Make available to the parent the student's nursing records. Documentation of the completion of this action is due to OSSE within 15 days of the date of this letter.
2. In order to correct the noncompliance with 34 CFR §§300.303(a)(2) and 300.503(a)(2), DCPS must do the following:
  - a. Complete the student's reevaluation within 60 days of the date of this letter and provide OSSE with documentation of the completion of this action.
  - b. Train relevant staff members on their obligation to provide timely written notice to parents in accordance with 34 CFR §300.503(a)(2).

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 me at [Victoria.Glick@dc.gov](mailto: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]