



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

[REDACTED]

VIA Electronic Mail

[REDACTED]

[REDACTED]

District of Columbia Public Schools

[REDACTED]

[REDACTED]

RE: State Complaint No. 019-019 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 provide IEP services, including specialized instruction provided by a qualified special education teacher, occupational therapy, and postsecondary transition services; include all required IEP Team members; properly notify parent of the IEP Team meeting; consider information provided by the parent; and obtain parental consent.

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 obligations related to provision of IEP services, inclusion of required IEP Team members, and consideration of information provided by the parent, but did comply with its obligations related to parental consent. 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. **Requirement to provide IEP services at 34 CFR §300.323(c)(2)**
 - a. Failure to make available special education in accordance with the child's IEP, specifically with regard to specialized instruction, occupational therapy, and secondary transition services.
2. **IEP Team requirements at 34 CFR §300.321**
 - a. Failure to include all individualized education program (IEP) Team members at an IEP meeting, specifically with regard to the child's parent. (34 CFR §300.321(a))
 - b. Failure to invite the child and a representative of any participating agency that is likely to be responsible for providing or paying for transition services to the child's IEP Team meeting. (34 CFR §300.321(b))
3. **IEP revision requirements at 34 CFR §300.324**
 - a. Failure to review and revise the IEP, as appropriate to address information about the child provided to, or by, the parent; the results of any reevaluation; or the child's anticipated needs; specifically, with regard to specialized instruction, occupational therapy, assistive technology, transition planning, program modifications or supports for school personnel that will be provided, and parent counseling and training.
4. **Consent requirements at 34 CFR §300.300(c)**
 - a. Failure to obtain informed parental consent prior to the reevaluation of the child.

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 autism spectrum disorder.
3. The student's local educational agency (LEA) is DCPS.

ISSUE ONE: IEP SERVICES

Findings of Fact

1. The [REDACTED] IEP prescribed 4 hours per week of specialized instruction in the general education setting for mathematics, 4 hours per week of specialized instruction in the general education setting for written expression, 90 minutes per month of occupational therapy services inside the general education setting, and 90 minutes per month of occupational therapy services outside the general education setting.
2. The [REDACTED] IEP contained the following measurable annual transition goals and corresponding transition services:
 - a. "By [REDACTED], after discussing a 4 year plan during a one on one meeting with a school counselor and reviewing a list of required courses to graduate with a diploma and enroll in a post-secondary institution, when given a graphic organizer with required courses already filled in and a model of a completed form, [Student] will complete in writing or dictation a four year plan graphic organizer by adding elective courses for each year of high school for 1 out of 1 opportunity to make a four year academic plan."
 - i. Meet quarterly with the case manager or school counselor to receive transition supports and services for 60 minutes per year.
 - b. "By [REDACTED], given direct instruction, [Student] will create an occupational fact sheet which will include the needed education levels, physical demands, earnings, and future outlook for each career choice [REDACTED] identified: therapist, artist/illustrator/ animator, and art therapist with 100% accuracy."
 - i. Support from a teacher and access to a computer for 60 minutes per year.
 - c. "By [REDACTED], [Student] will create a budget based on the annual salary of one occupation of interest then allocate money to different categories (ie.

groceries, entertainment, rent, etc.) in the form of a graphic organizer with 100% accuracy in 1 out of 1 sessions.”

- i. Support from a teacher and access to a computer for 60 minutes per year.
3. The [REDACTED] IEP progress report stated that the student was progressing in all three of [REDACTED] transition goals.
 - a. The IEP progress report contained the following comments for each goal:
 - i. “[Student] met with the school counselor to discuss and review [REDACTED] possible upcoming school schedule.”
 - ii. “[Student] completed the O-net to help determine which occupation would fit [REDACTED] interests. Then used the data sheet to determine education level, physical demands and earnings for [REDACTED] chosen occupation.”
 - iii. “Based on the occupational fact sheet, [Student] discussed the salary and budget for cost of living according to [REDACTED] chosen occupation.”
4. The [REDACTED] IEP progress report stated that the student was making progress in two of [REDACTED] transition goals and the third goal had not been introduced.
 - a. The IEP progress report contained the following comments for each goal:
 - i. “[Student] is progressing in this goal area.”
 - ii. “[Student] is progressing in this goal area.”
 - iii. “Representatives from RSA will work on this goal with the student once referral have been confirmed and approved.”
5. The [REDACTED] IEP prescribes 4 hours per week of specialized instruction in the general education setting for mathematics, 3 hours per month of specialized instruction outside the general education setting for written expression, and 90 minutes per month of occupational therapy services outside the general education setting.
6. The [REDACTED] IEP contains the following measurable annual transition goals and corresponding transition services:
 - a. “By the end of this IEP cycle, when given access to a computer connected to the internet, [Student] will research and identify at least 5 possible 4-Year Colleges that match [REDACTED] needs by listing: the name and location of the college, the major(s)/degree(s) that lead to [REDACTED] career of interest, the GPA range, SAT/ACT score range, and the cost of each college for (2 out of 2) college identification exercises.”
 - i. College counseling for 60 minutes per year.
 - b. “By the end of this IEP cycle, given a sample resume/template and after gathering pertinent personal information, [Student] will electronically create a 1 page resume including: personal demographic information, at least one detail in each of the following areas: education, special skills, work/volunteer experience, extracurricular activities, hobbies/interests, and references with 100% accuracy in spelling, punctuation, capitalization, and grammar for 1 out of 1 resume writing exercise.”
 - i. Resume writing instruction for 3 hours per year.
 - c. “By [REDACTED], [Student] will create a budget based on the annual salary of one occupation of interest then allocate money to different categories (ie.

groceries, entertainment, rent, etc.) in the form of a graphic organizer with 100% accuracy in 1 out of 1 sessions.”

i. Financial literacy instruction for 60 minutes per year.

7. The [REDACTED] IEP progress report stated that none of the student’s transition goals had been introduced.
 - a. The IEP progress report contained the same comment for each goal: “With direction from the school counselor, the student will work towards achieving this goal. The current [REDACTED] will present itself to work on these goals through online sessions with the school counselor.”
8. From [REDACTED] through [REDACTED], DCPS provided or made available all occupational therapy service hours required by the student’s IEP.
9. The special education teacher provided her co-planning and consultation schedule for January through [REDACTED], which showed one co-planning session per week with each teacher.
10. In the [REDACTED] teacher report, the student’s teachers reported the following accommodations and modifications provided to the student: scaffolded instruction, teacher prompting, small group instruction, opportunities to revise written work, extended time to complete assignments, preferential seating, redirection, and provision of notes.

Discussion/Conclusion

DCPS has not complied with 34 CFR §300.323(c)(2), because it failed to provide the postsecondary transition services required by the student’s [REDACTED] IEP from the start of the [REDACTED] school year until it expired on [REDACTED].

Pursuant to 34 CFR §300.323(c)(2), each public agency must 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. The complainant alleges that the student did not receive direct instruction from the special education teacher, has not received occupational therapy services as required by [REDACTED] IEP, and [REDACTED] transition goals were not mastered by [REDACTED].

Specialized Instruction

The [REDACTED] IEP prescribed 4 hours per week of specialized instruction in the general education setting for mathematics and 4 hours per week of specialized instruction in the general education setting for written expression. The [REDACTED] IEP prescribes 4 hours per week of specialized instruction in the general education setting for mathematics and 3 hours per month of specialized instruction outside the general education setting for written expression.

DCPS reported that it does not provide direct specialized instruction to the student in the general education setting, but rather provides the student’s specialized instruction through a consultation model where the special education teacher supports the highly qualified teacher in providing specialized instruction through lesson planning and assistance in differentiating instruction. The special education teacher co-plans and consults with the other teachers once

per week. This is consistent with DCPS's special education programs and resources guide for families, which states that specialized instruction provided inside the general education setting may be provided through a consultation model. In this model, general education teachers consult with special education teachers to develop lessons aligned to students' IEP goals and then the general education teachers deliver the instruction.¹ IDEA defines specially designed instruction as adapting the content, methodology, or delivery of the instruction to address the unique needs of the child and ensure access to the general curriculum. (34 CFR §300.39) This can be accomplished through ongoing collaboration and co-planning between the special education teacher and the general education teachers to provide differentiated instruction and classroom accommodations.

DCPS reported that they changed the student's specialized instruction hours for written expression to outside of the general education setting in the [REDACTED] IEP because team felt the student would be better served with one-on-one support. Following this change the special education teacher provided specialized instruction sessions to the student outside the classroom. In the [REDACTED] teacher report, the student's teachers reported the following accommodations and modifications provided to the student: scaffolded instruction, teacher prompting, small group instruction, opportunities to revise written work, extended time to complete assignments, preferential seating, redirection, and provision of notes. OSSE finds that DCPS provided specialized instruction as required by the student's [REDACTED] and [REDACTED] IEPs.

Occupational Therapy

The [REDACTED] IEP prescribed 90 minutes per month of occupational therapy services inside the general education setting and 90 minutes per month of occupational therapy services outside the general education setting. The [REDACTED] IEP prescribes 90 minutes per month of occupational therapy services outside the general education setting. OSSE reviewed the student's occupational therapy service trackers and found that DCPS provided all service hours required by the student's IEP from [REDACTED] through the [REDACTED]. The service trackers showed that not only did DCPS make available the services, but in instances where services were missed because the student was unavailable, refused to participate, or school was closed, the service provider made up the services on another day so that the student received the full amount of services required by the IEP each month. OSSE finds that DCPS provided all occupational therapy services provided by the student's IEP.

Postsecondary Transition Services

The [REDACTED] IEP contained three measurable annual transition goals to create a four-year academic plan, an occupational fact sheet, and a budget. Each goal had corresponding transition services that required support of a teacher or case manager for 60 minutes per year. The [REDACTED] IEP progress report stated that the student was progressing in all three of [REDACTED] transition goals and contained notes on the support the student received from a staff member

¹ DCPS Special Education Programs and Resources Guide for Families p. 12 (School Year [REDACTED]).

to complete specific activities related to the goals. This same IEP and postsecondary transition goals were still in effect at the start of the [REDACTED] school year when the student transitioned to a new school. The [REDACTED] IEP progress report stated that the student was making progress in two of [REDACTED] transition goals and the third goal had not been introduced, but contained no specific information on what the student had been working on or the support and services provided to [REDACTED]. DCPS provided no other documentation or information on what postsecondary transition services were provided, if any, in furtherance of the student's postsecondary transition goals contained in the [REDACTED] IEP during the [REDACTED] school year. OSSE finds that DCPS did not continue to provide the postsecondary transition services required by the student's IEP from the start of the [REDACTED] school year until it expired on [REDACTED].

DCPS revised the student's IEP on [REDACTED] and updated the measurable annual transition goals to research and identify potential colleges, create a resume, and create a budget. The corresponding transition services are college counseling for 60 minutes per year, resume writing instruction for 3 hours per year, and financial literacy instruction for 60 minutes per year. DCPS reported that in early [REDACTED] the student was assigned to a new school counselor who began providing postsecondary transition education. The counselor reported that [REDACTED] met with the student twice to discuss colleges and majors prior to the [REDACTED] [REDACTED] and that the student has been referred to and approved for RSA services, which will focus on independent living and employment goals. The [REDACTED] IEP progress report contained the following comment for each goal: "With direction from the school counselor, the student will work towards achieving this goal. The [REDACTED] [REDACTED] will present itself to work on these goals through online sessions with the school counselor." OSSE finds that DCPS has begun work on the student's postsecondary transition goals contained in the [REDACTED] IEP.

Therefore, DCPS has not complied with 34 CFR §300.323(c)(2) with regard to the student's postsecondary transition goals contained in the [REDACTED] IEP but is in compliance with regard to the student's postsecondary transition goals contained in the [REDACTED] IEP.

ISSUE TWO: IEP TEAM

Findings of Fact

1. On [REDACTED] DCPS sent the parent a letter of invitation to an IEP Team meeting on [REDACTED].
2. On [REDACTED] DCPS sent the student a letter of invitation to the IEP Team meeting.
3. On [REDACTED] the parent consented to invite a representative of RSA to the IEP Team meeting.
4. On [REDACTED] DCPS sent RSA a letter of invitation to the [REDACTED] IEP Team meeting.
5. The parent and student attended the [REDACTED] IEP Team meeting.
6. On [REDACTED] the school emailed the parent an invitation to reconvene the IEP Team on [REDACTED].

7. The parent, student, and RSA representative did not attend the [REDACTED] IEP Team meeting.

Discussion/Conclusion

DCPS has not complied with 34 CFR §300.321, because it failed to ensure the participation of the parent and invite the student and RSA representative to the [REDACTED] meeting where the IEP was reviewed and revised.

Pursuant to 34 CFR §300.321(a), the public agency must ensure that the IEP Team for each child with a disability includes the parents of the child and, whenever appropriate, the child with a disability. If a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services, the public agency must invite a child with a disability to attend the child's IEP Team meeting; if the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered. (34 CFR §300.321(b)) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. (34 CFR §300.321(b)(3)) The complainant alleges that the [REDACTED] IEP was developed without the parent, student, or RSA representative in attendance.

[REDACTED] Meeting

On [REDACTED] DCPS sent the parent a letter of invitation to an IEP Team meeting on [REDACTED]. On [REDACTED] DCPS sent the student a letter of invitation to the IEP Team meeting. On [REDACTED] the parent consented to invite a representative of RSA to the IEP Team meeting and DCPS sent RSA a letter of invitation. The parent and student attended this meeting. DCPS reported that an RSA representative called into the meeting, but the meeting focused on other issues and the discussion never got to him. The student's IEP was not finalized at this meeting and the team agreed to reconvene.

[REDACTED] Meeting

Following the [REDACTED] IEP Team meeting, the school emailed the parent an invitation to reconvene the IEP Team on [REDACTED]. The parent did not see the invitation until after the meeting and was unable to attend due to [REDACTED] work schedule. DCPS did not invite the RSA representative or student to the meeting. DCPS updated the IEP without the parent, student, or RSA representative in attendance at the meeting, all three of which had previously shown interest in and availability to attend an IEP Team meeting by attending the meeting held the previous day. OSSE finds that DCPS reviewed and revised the IEP without all of the required IEP Team members.

Therefore, DCPS has not complied with 34 CFR §300.321.

ISSUE THREE: IEP REVISION

Findings of Fact

1. On [REDACTED] DCPS authorized the parent to obtain an IEE for a comprehensive psychological evaluation.

2. The IEE was completed on [REDACTED].
3. The parent provided the IEE to the school on [REDACTED].
4. On [REDACTED] DCPS issued prior written notice that the parent submitted the IEE and requested that it be considered for special education support and related services.
5. The student's IEP was revised on [REDACTED].

Discussion/Conclusion

DCPS has not complied with 34 CFR §300.324, because it failed to consider the IEE provided by the parent when reviewing and revising the [REDACTED] IEP.

Pursuant to 34 CFR §300.324(b)(1), each public agency must ensure that the IEP Team revises the IEP, as appropriate, to address information about the child provided to, or by, the parents. The complainant alleges that the school failed to consider the IEE provided by the parent when revising the IEP.

On [REDACTED] DCPS authorized the parent to obtain an IEE for a comprehensive psychological evaluation. The IEE was completed on [REDACTED]. The parent provided the IEE to the school on [REDACTED]. On [REDACTED] DCPS issued prior written notice that the parent submitted the IEE and requested that it be considered for special education support and related services. DCPS reported that the IEE was not discussed at the meeting held on [REDACTED] and that no information from the IEE was incorporated into the [REDACTED] IEP. OSSE finds that DCPS failed to consider the IEE provided by the parent when reviewing and revising the [REDACTED] IEP.

Therefore, DCPS has not complied with 34 CFR §300.324.

ISSUE FOUR: CONSENT

Findings of Fact

1. On [REDACTED] DCPS conducted transition assessments for the student in the areas of education, employment, and independent living.

Discussion/Conclusion

DCPS has complied with 34 CFR §300.300(c), because it was not required to obtain parental consent prior to conducting the transition assessments.

Pursuant to 34 CFR §300.300(c), each public agency must obtain informed parental consent prior to conducting any reevaluation of a child with a disability. The complainant alleges that DCPS did not obtain the parent's consent prior to conducting transition assessments.

On [REDACTED] DCPS conducted transition assessments for the student in the areas of education, employment, and independent living. DCPS did not obtain parental consent prior to conducting these assessments.

The U.S. Department of Education's Office of Special Education and Rehabilitative Services stated that the IDEA does not require parental consent prior to conducting transition

assessments if they are not part of an initial evaluation or reevaluation.² DCPS completed the assessments to inform the student's postsecondary transition IEP goals, but they were not part of a triennial reevaluation to determine whether the child is or continues to be a child with a disability. OSSE finds that DCPS was not required to obtain parental consent prior to conducting the transition assessments.

Therefore, DCPS has complied with 34 CFR §300.300(c).

CONCLUSIONS

1. DCPS has not complied with 34 CFR §300.323(c)(2), because it failed to provide the postsecondary transition services required by the student's [REDACTED] IEP from the start of the [REDACTED] school year until it expired on [REDACTED].
2. DCPS has not complied with 34 CFR §300.321, because it failed to ensure the participation of the parent and invite the student and RSA representative to the [REDACTED] meeting where the IEP was reviewed and revised.
3. DCPS has not complied with 34 CFR §300.324, because it failed to consider the IEE provided by the parent when reviewing and revising the [REDACTED] IEP.
4. DCPS has complied with 34 CFR §300.300(c), because it was not required to obtain parental consent prior to conducting the transition assessments.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §300.323(c)(2), DCPS must do the following:
 - a. Make-up 2 hours of postsecondary transition services. Documentation of the completion of this item is due to OSSE within 90 days of the date of this letter.
2. In order to correct the noncompliance with 34 CFR §300.321, DCPS must do the following:
 - a. Convene the IEP Team to review and revise the [REDACTED] IEP. DCPS must take appropriate steps to ensure that the parent attends the meeting. DCPS must also invite the student and RSA representative to the meeting. Documentation of the completion of this item is due to OSSE within 60 days of the date of this letter.
 - b. Train relevant staff members on the requirements related to parent participation in IEP Team meetings. Documentation of the completion of this item is due to OSSE within 90 days of the date of this letter.
3. In order to correct the noncompliance with 34 CFR §300.324, DCPS must do the following:
 - a. Convene the IEP Team to review the IEE and revise the IEP, if needed. DCPS must ensure that there is an IEP Team member present who can interpret the instructional implications of evaluation results as required by 34 CFR §300.321(a)(5). Documentation of the completion of this item is due to OSSE

² U.S. Department of Education Office of Special Education and Rehabilitative Services Letter to Olex p. 1 (February 22, 2019).

within 60 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 me at Victoria.Glick@dc.gov or 202-724-7860.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Victoria Glick'.

Victoria Glick

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

cc: [REDACTED], Complainant

[REDACTED]