



DISTRICT OF COLUMBIA  
OFFICE OF THE STATE SUPERINTENDENT OF

# EDUCATION

August 5, 2022

*VIA Electronic Mail*



District of Columbia Public Schools



RE: State Complaint No. 021-029 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 Siddeeqah Malik (complainant or parent) against the District of Columbia Public Schools (DCPS) alleging violations in the special education program of her [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 make an appropriate eligibility determination.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS failed to meet its obligations related to the student’s initial evaluation. 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. **Evaluation requirements at 34 CFR §§300.301 and 304 and 5-E DCMR §3006**
  - a. Failure to follow initial evaluation procedures.

### 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):

1. [REDACTED]

**GENERAL FINDINGS OF FACT**

1. The student was determined to not 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**

**DCPS has not complied with 34 CFR §§300.301 and 304 and 5-E DCMR §3006, because it failed to timely complete the student’s initial evaluation, did not have a full IEP team present when making the eligibility determination, and did not follow-up on additional areas of concern identified during the evaluation process.**

Pursuant to 34 CFR §300.301, a full and individual initial evaluation must be conducted within 60 days of receiving parental consent for the evaluation or within the timeframe established by the state. 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)). When conducting the evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's IEP. (34 CFR §300.304(b)) The public agency also must ensure that the evaluation, among other things,

is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. (34 CFR §300.304(c)(6)) The complainant alleges that the student's eligibility determination was incorrect due to discrepancies in testing and other student data.

### **Findings of Fact and Discussion**

On [REDACTED] the parent emailed a request for DCPS to evaluate the student. The parent raised concerns about the student's comprehension of math and literature, handwriting and writing organization, short-term memory, and potential issues with auditory processing and speech and language comprehension. On [REDACTED] DCPS acknowledged the parent's request and stated that after the school team reviewed and analyzed student data they would schedule a follow-up meeting with the parent. On [REDACTED] the parent followed up on next steps for the evaluation process. DCPS responded with proposed meeting dates.

On [REDACTED] DCPS held a meeting to analyze existing data to determine the need for evaluative assessments. The team discussed concerns that the student struggles with the fifth-grade math content and reviewed iReady math scores that show the student was performing on a second-grade level. The parent reported that the student was receiving tutoring support for math. The team discussed concerns about the student's performance in reading and writing. The student's iReady reading scores show the student was performing on a fourth-grade level. The team discussed the student's struggle with writing and possible dyslexia concerns. A staff member shared that the student's concerns were more with math and executive functioning skills. The team recommended further assessments and stated that the consent to evaluate form would be sent home. On [REDACTED] DCPS sent home with the student paperwork from the meeting, including the consent to evaluate form. On [REDACTED] the parent signed consent for DCPS to conduct an evaluation.

DCPS held the eligibility determination meeting on [REDACTED]. The meeting was attended by the parent, two parental advocates, the school psychologist, the school social worker, the assistant principal, the student's ELA teacher, the student's math teacher, and a special education teacher. The team discussed the student's struggles with math and noted that the student was participating in Tier 2 interventions and tutoring. The team reviewed test scores. The student's Woodcock Johnson Academic score for math was in the very low range, reading in the low average range, and written language in the average range. The student's Wechsler Intelligence Scale for Children evaluation scores (an IQ test for children ages 6-16) ranged from the low average range to the extremely low range. The team reviewed the student's updated iReady scores for math, which showed the student performing on a fourth-grade level on [REDACTED].

The school psychologist reviewed the findings from the [REDACTED] comprehensive psychological evaluation, which included various measures of the student's cognitive and academic abilities and behaviors related to attention to help determine whether the student met the criteria for specific learning disability or other health impairment. The evaluation concluded that the student did not meet the eligibility criteria for the disability category of

other health impairment because the student does not have any medical diagnosis or health conditions and the student did not meet the eligibility criteria for the disability category of specific learning disability because the student's academic levels match the student's cognitive abilities and the student made progress with the Tier 2 math interventions during the [REDACTED] school year. The evaluation recommended Tier 3 intervention supports for math, further assessment of the student's anxiety concerns, and various classroom supports, including counseling services.

At the end of the meeting, the school psychologist, assistant principal, special education teacher, and school social worker agreed that the student did not meet the eligibility criteria for other health impairment and specific learning disability. The parent and the two advocates disagreed. The student's two general education teachers were no longer present by the end of the meeting. The eligibility determination must be made by the IEP team and other qualified professionals.<sup>1</sup> Without the presence of a general education teacher, the eligibility decision was not made by a full IEP team.

On [REDACTED], DCPS issued prior written notice that the student did not meet the eligibility criteria for special education services under the disability categories of other health impairment and specific learning disability and recommended that the student participate in Tier 3 interventions for math, the parent follow-up with a medical provider to discuss the student's at-risk scores for anxiety, and request counseling services from the guidance counselor or mental health team.

The parent disagreed with the eligibility determination because the student has had difficulty with math since second grade despite help and support that has been provided. The parent reported that this meeting included very little information from the student's teachers and relied mostly on the comprehensive psychological evaluation and classroom observations. The parent reported that the team was made aware of the two eligibility categories under discussion at the eligibility meeting, not during previous discussions, and the decision for which eligibility categories to test for was made by the school psychologist. During [REDACTED] email communication following the eligibility determination, the student's two general education teachers stated that they raised concerns about the student's processing skills during the evaluation process and believed the student needed additional testing to determine how best to support the student, but agreed with the assessment results discussed at the [REDACTED] eligibility determination meeting. Although OSSE finds that DCPS relied on student data to make the eligibility determination and the majority of team members agreed that the student did not meet the eligibility criteria for other health impairment or specific learning disability, the student's two general education teachers had continuing concerns about the student and did not participate in the final eligibility determination at the end of the meeting, falling short of the requirement that the decision be made by the IEP team. OSSE additionally finds that DCPS did not follow-up on areas of concern identified during the evaluation process, including continuing struggles with math, the general education teachers' concerns about the student's

---

<sup>1</sup> 5-A DCMR §3006.2 (previously 5-E DCMR 3003.1)

processing skills, and concerns about the student's anxiety.

OSSE also finds that DCPS did not meet the required timelines for completing the initial evaluation. DCPS completed the student's initial evaluation 190 days after the parent made a referral. DCPS held the meeting to analyze existing data 73 days after the referral. The parent signed consent to evaluate 111 days after making a referral and the only attempt DCPS made to obtain the parent's signature was sending the consent home form with the student on [REDACTED]. This attempt occurred more than 30 days after the parent made the referral on [REDACTED]. OSSE finds that this single attempt does not qualify as reasonable efforts to obtain consent within 30 days of the referral. DCPS completed the evaluation 79 days after the parent signed consent, instead of the required 60 days. DCPS completed every step of the evaluation process late and OSSE finds that DCPS's delay in completing the evaluation prevented the school-based team and parent from following-up on needed recommendations before the end of the [REDACTED] school year. There was no time to try Tier 3 interventions for math and end of year iReady scores showed the student digressed and was performing on a third-grade level on [REDACTED]. There was no time to try counseling services or further assess the student's processing skills or anxiety concerns. The student will transition to middle school for the [REDACTED] school year with unresolved concerns about academic achievement and emotional needs.

Therefore, DCPS has not complied with 34 CFR §§300.301 and 304 and 5-E DCMR §3006.

### **CONCLUSION**

1. DCPS has not complied with 34 CFR §§300.301 and 304 and 5-E DCMR §3006, because it failed to timely complete the student's initial evaluation, did not have a full IEP team present when making the eligibility determination, and did not follow-up on additional areas of concern identified during the evaluation process.

### **CORRECTIVE ACTION**

1. In order to correct the noncompliance with 34 CFR §§300.301 and 304 and 5-E DCMR §3006, DCPS must do the following:
  - a. Fund an independent medical assessment to determine if the student meets the threshold for a clinical anxiety disorder. DCPS must provide documentation of the completion of this item within 45 days of the date of this letter of decision.
  - b. Facilitate arranging Tier 3 interventions for math at the student's new school for the [REDACTED] school year to collect additional data on the student's academic progress.

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 [Kirstin.Hansen@dc.gov](mailto:Kirstin.Hansen@dc.gov) or 202-445-4893.

Sincerely,

*Kirstin K Hansen*

Kirstin Hansen  
State Complaints Manager, Division of Systems and Supports, K-12

cc: [REDACTED], Complainant  
[REDACTED], DCPS  
[REDACTED], DCPS