



March 26, 2024

VIA Electronic Mail

[REDACTED]

RE: State Complaint No. 023-010 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] (parent/complainant) against the [REDACTED] alleging violations in the special education program of her child, [REDACTED], hereinafter "student" or "child."

The complainant alleged that [REDACTED] 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 translated copies of special education records prior to IEP team meetings and after repeated requests.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that [REDACTED] did not fulfill its obligation to ensure the parent understands the proceedings of the IEP team meeting and provide translated special education records to the parent. 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 team meeting requirements at 34 CFR §300.322(e)**
 - a. Failure to ensure that the parent understands the proceedings of the IEP team meeting, specifically with regard to arranging for an interpreter for

parents whose native language is other than English.

2. Educational records requirements at 34 CFR §§300.501(a) and 300.613
 - a. Failure to provide a parent an opportunity to inspect and review records.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. [REDACTED]

The investigation also included review of the following documents which were either submitted by the complainant, submitted by [REDACTED], or accessible via the Special Programs data system:

[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 multiple disabilities.
3. The student's local educational agency (LEA) is [REDACTED].

ISSUE ONE: IEP TEAM MEETING PARTICIPATION

[REDACTED] has not complied with 34 CFR §300.322(e), 5-A DCMR §3009.7(b), and 5-A DCMR §3006.11(b) because it failed to provide translated copies of the reevaluation reports to the parent prior to the June 7 and 15, 2023 reevaluation meetings.

Pursuant to 34 CFR §300.322(e), the public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including [REDACTED] arranging for an interpreter for parents whose native language is other than English. DC law

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additionally requires that the LEA take whatever action is necessary to ensure that the parent understands the proceedings *and materials provided* [emphasis added] at the IEP team meeting, including providing written material in the parent's native language, unless it is clearly not feasible to do so. (5-A DCMR §3009.7(b)) LEAs must provide a copy of the evaluation report, and any underlying assessments, at no cost to the parent, no later than five (5) business days before the eligibility meeting, unless the parent agrees to a meeting date within five (5) business days. (5-A DCMR §3006.11(b)) The complainant alleges that █████ failed to provide translated copies of the student's draft IEP and reevaluation reports prior to the review meetings in June.

Findings of Fact and Discussion

The complainant has limited English proficiency; the complainant's primary language is Spanish. On █████ the complainant's attorney requested that █████ send translated copies of the student's reevaluation reports and schedule a meeting to review them and update the student's eligibility determination and IEP.

In its response to the complaint, █████ claims that it has arranged for interpretation services at each IEP team meeting with the parent, including at the █████ █████, █████ reevaluation meetings via the Language Line services. At these meetings, the IEP team reviewed the speech and language, occupational therapy, and psychological reevaluation reports; determined that the student continues to be eligible for special education services; and updated the IEP. Email communication shows that school staff members requested that the reevaluation reports be translated into Spanish prior to the reevaluation meetings; however, none of the translations were completed prior to the meetings. Although a translator was available at the meetings, the failure to provide translated copies of the reevaluation reports to the parent prior to the meeting prevented the parent from fully understanding and participating. Reevaluation reports are long and dense and take time to understand. By not getting to review the reevaluation reports ahead of time, the parent was not able to ask questions or provide suggestions based on the information contained in the reports.

Therefore, █████ has not complied with 34 CFR §300.322(e), 5-A DCMR §3009.7(b), and 5-A DCMR §3006.11(b).

ISSUE TWO: SPECIAL EDUCATION RECORDS

█████ has not complied with 34 CFR §§300.501(a) and 300.613, because it failed to timely translate the student's special education records.

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 public agency █████ must permit parents to inspect and review any education records █████ █████ relating to their children that are collected, maintained, or used by the agency pursuant to IDEA. (34 CFR §300.613(a)) The

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agency must comply with a request without unnecessary delay and in no case more than 45 days after the request has been made. (34 CFR §300.613(a)) The right to inspect and review education records under this section includes the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records (34 CFR §300.613(b)(1)). The complainant alleges that [REDACTED] has repeatedly failed to translate the student's special education records into Spanish.

Findings of Fact and Discussion

[REDACTED] has a centralized translation process: school staff send a translation request and the document to a dedicated email address, which obtains the translation and sends it back to the requestor. OSSE's investigation found that school staff members have requested translations for many of the documents identified in the complaint, but there are long delays in receiving the translated versions. OSSE reviewed the translation status and timeline of the documents identified in the complaint as described below.

[REDACTED] IEP

The complainant alleges that [REDACTED] has not provided a translated copy of the [REDACTED] [REDACTED] IEP. OSSE found no evidence that [REDACTED] has translated this document or provided it to the parent.

[REDACTED] [REDACTED] Speech and Language Reevaluation Report [REDACTED]

The complainant alleges that [REDACTED] has not provided a translated copy of the [REDACTED] [REDACTED] speech and language reevaluation report (revised [REDACTED]). OSSE found no evidence that [REDACTED] has translated this document or provided it to the parent.

[REDACTED] Occupational Therapy Reevaluation Report

On [REDACTED] [REDACTED] the [REDACTED] occupational therapist requested that the occupational therapy reevaluation report be translated into Spanish. The translation was completed on [REDACTED] [REDACTED] but only part of the evaluation was completed. The translation office explained that for evaluations they only translate the summary and recommendation sections. On [REDACTED] [REDACTED] [REDACTED] provided the partially translated [REDACTED] [REDACTED], [REDACTED] occupational therapy reevaluation report to the parent, which was 182 days after the document was created.

[REDACTED] 2023 Psychological Reevaluation Report

The complainant alleges that [REDACTED] has not provided a translated copy of the [REDACTED] [REDACTED] psychological reevaluation report. On [REDACTED] [REDACTED] the school representative requested that the psychological evaluation report be translated into Spanish. OSSE found no evidence that [REDACTED] has translated this document or provided it to the parent.

[REDACTED] [REDACTED] IEP

[REDACTED] provided a translated copy of the finalized IEP on [REDACTED] [REDACTED] [REDACTED] which was 62 days after the IEP was created.

IEP Progress Reports

The complainant alleges that [REDACTED] has not provided translated copies of the student's IEP progress reports for the [REDACTED] school year and first quarter of the [REDACTED] school year. On [REDACTED] [REDACTED] the school representative requested that the [REDACTED] school year IEP progress reports be translated into Spanish. OSSE found no evidence that [REDACTED] has translated these documents or provided them to the parent.

[REDACTED] Updated IEP

The complainant alleges that [REDACTED] and the parent met on [REDACTED] [REDACTED] to discuss a possible amendment to the IEP and then when the updated IEP was sent, the translation was not 100 percent accurate. OSSE's review of the student's educational record found that the IEP was not amended after the meeting and the student's current IEP is dated [REDACTED] [REDACTED] [REDACTED]. On Nov. [REDACTED] [REDACTED] again provided a translated copy of the [REDACTED] [REDACTED] IEP, along with some other documents.

OSSE finds that [REDACTED] has failed to provide translated copies of many of the student's special education records, and when translated copies have been provided, it has taken months.

Therefore, [REDACTED] has not complied with 34 CFR §§300.501(a) and 300.613.

CONCLUSIONS

1. [REDACTED] has not complied with 34 CFR §300.322(e), 5-A DCMR §3009.7(b), and 5-A DCMR §3006.11(b) because it failed to provide translated copies of the reevaluation reports to the parent prior to the [REDACTED] [REDACTED] reevaluation meetings.
2. [REDACTED] has not complied with 34 CFR §§300.501(a) and 300.613, because it failed to timely translate the student's special education records.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §§300.322(e), 300.501(a), and 300.613, and 5-A DCMR §§3009.7(b) and 3006.11(b), [REDACTED] must do the following:
 - a. Provide Spanish translated copies of the documents identified under Issue Two above to the parent that have not yet been translated. Documentation of the completion of this corrective action is due to OSSE within 30 days of the date of this letter of decision.
 - b. Create a corrective action plan (CAP) to address the delays in providing translated documents requested by school staff members. The CAP must include how [REDACTED] will ensure that translated copies of evaluation reports are available to parents five days before the scheduled evaluation meeting. [REDACTED] must submit the CAP to OSSE for review and approval within 60 days of the date of this letter of decision.

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 or 202-741-0274.

Sincerely,

Kirstin Hansen

Kirstin Hansen
State Complaints Manager
Office of Special Education

cc:

[REDACTED]

[REDACTED]

[REDACTED]

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