



April 12, 2024

VIA Electronic Mail

[REDACTED]

District of Columbia Public Schools

[REDACTED]

RE: State Complaint No. 023-012 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 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 provide any special education services, provide the appropriate placement, and update the IEP or conduct a reevaluation.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS failed to comply with its obligation to provide special education services and update the individualized education program (IEP) but did comply with its obligations related to placement and 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. **Requirement to review IEP annually at 34 CFR §300.324(b)(1)(i)**
 - a. Failure to review the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved.

2. **Requirement to provide IEP services at 34 CFR §300.323(c)(2)**
 - a. Failure to make special education and related services available to the child in accordance with the child’s IEP.
3. **Placement requirements at 34 CFR §300.116(b)(2)**
 - a. Failure to ensure that the child’s placement is based on the child’s IEP.
4. **Reevaluation requirements at 34 CFR §§300.303-305**
 - a. Failure to follow required reevaluation procedures.

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 Programs data system:



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 developmental delay.
3. The student’s local educational agency (LEA) is DCPS.

The student enrolled in and began attending [REDACTED] Elementary School (ES) at the beginning of the [REDACTED] school year. Due to a clerical error related to a change in the student’s last name, the student was not recognized as a student with a disability. Despite the parent providing necessary documentation to the school and asking the front desk staff members about IEP services, the school was not aware that the student had an IEP until [REDACTED].

ISSUE ONE: IEP REVIEW

DCPS has not complied with 34 CFR §300.324(b)(1)(i), because it did not timely review and update the student’s IEP.

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Pursuant to 34 CFR §300.324(b)(1)(i), each public agency must ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. The complainant alleges that the student's IEP is expired and DCPS has not updated it.

Findings of Fact and Discussion

The student's initial IEP was developed on [REDACTED]. The annual IEP review was due [REDACTED], which did not happen. Once [REDACTED] ES became aware of the student's IEP, they convened an IEP team meeting to review and update the IEP on [REDACTED].

Therefore, DCPS has not complied with 34 CFR §300.324(b)(1)(i).

ISSUE TWO: IEP SERVICES

DCPS has not complied with 34 CFR §300.323(c)(2), because it did not provide the special education services required by the IEP for the first five months of the [REDACTED] school year. 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 DCPS has not provided any IEP services for the [REDACTED] school year.

Findings of Fact and Discussion

The student's [REDACTED] IEP prescribed 3.5 hours per week of specialized instruction in the general education setting, 30 minutes per month of speech-language pathology in the general education setting, 180 minutes per month of speech-language pathology outside the general education setting, and 120 minutes per month of physical therapy outside the general education setting. The IEP was updated on [REDACTED] with the same level of services and the addition of transportation services. [REDACTED] ES did not provide any IEP services from the beginning of the [REDACTED] school year until [REDACTED]. The chart below shows the amount of services the student missed and DCPS's plan to provide make-up services (in addition to the student's regular IEP services) through the end of the school year:

Service	Hours Missed	Make-Up Plan
Specialized Instruction	80 hours	4 hours per week of pull-out services
Speech-Language (inside gen ed)	15 hours	1 hour per week
Speech-Language (outside gen ed)	2.5 hours	30 minutes bi-weekly
Physical Therapy	10 hours	30 minutes per week

DCPS has begun making up the student's missed services, which will be taken into consideration for the corrective action required to address DCPS's failure to provide IEP services for the first five months of the [REDACTED] school year.

Therefore, DCPS has not complied with 34 CFR §300.323(c)(2).

ISSUE THREE: PLACEMENT

DCPS has complied with 34 CFR §300.116(b)(2), because it placed the student in a general education setting, which is what is required by the student's IEP.

Pursuant to 34 CFR §300.116(b)(2), each public agency must ensure that the child's placement is based on the child's IEP. The complainant alleges that DCPS has not put the student in the correct placement per the student's IEP.

Findings of Fact and Discussion

For the [REDACTED] school year, DCPS placed the student in a general education classroom. Except for pull-out related services, the student's IEP placement is in the general education setting. Although [REDACTED] ES did not have the student's IEP in mind when placing the student in a general education classroom, that placement is nonetheless in alignment with what is required by the IEP. The failure to provide IEP services was addressed under two above.

Therefore, DCPS has complied with 34 CFR §300.116(b)(2).

ISSUE FOUR: REEVALUATION

DCPS has complied with 34 CFR §§300.303-305, because the student's triennial reevaluation was not due during the [REDACTED] school year.

Pursuant to 34 CFR §300.303(b)(2), a public agency must ensure that a reevaluation of each child with a disability occurs at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary. The complainant alleges that DCPS has not reevaluated the student.

Findings of Fact and Discussion

The student was initially evaluated by DCPS Early Stages on [REDACTED]. The student's triennial evaluation is not due during the [REDACTED] school year; it is due on [REDACTED]. At the [REDACTED] IEP team meeting, the parent requested a reevaluation and DCPS is moving forward to reevaluate the student.

Therefore, DCPS has complied with §§300.303-305.

CONCLUSIONS

1. DCPS has not complied with 34 CFR §300.324(b)(1)(i), because it did not timely review and update the student's IEP.
2. DCPS has not complied with 34 CFR §300.323(c)(2), because it did not provide the special education services required by the IEP for the first five months of the [REDACTED] school year.
3. DCPS has complied with 34 CFR §300.116(b)(2), because it placed the student in a

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general education setting, which is what is required by the student's IEP.

4. DCPS has complied with 34 CFR §§300.303-305, because the student's triennial reevaluation was not due during the [REDACTED] school year.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §§300.324(b)(1)(i) and 300.323(c)(2), DCPS must do the following:
 - a. Track the provision of all make-up services and provide documentation to the parent and OSSE to ensure all make-up services are complete.
 - b. Develop a plan to provide all remaining make-up services not completed by the end of the [REDACTED] school year over the summer, or during a timeline convenient to the parent and student.
 - c. Convene the IEP team to determine whether the student needs additional supports and services beyond the hours already designated by DCPS as make-up services and provide the results to OSSE for review.
 - d. Update procedures and provide training to ensure that information and documentation provided by parents to front desk staff members goes to the correct place.
 - e. Documentation of the completion of the corrective action is due to OSSE within 90 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], Complainant
[REDACTED], DCPS
[REDACTED], DCPS