OFFICE OF THE STATE
SUPERINTENDENT OF EDUCATION

July 2, 2024

VIA Electronic Mail

[redacted]
District of Columbia Public Schools
[redacted]

RE: State Complaint No. 023-018 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] (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 address the student's placement needs.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS has complied with its obligations related to placement and IEP revision. 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. **Change in placement requirements at 34 CFR §300.116 and 5-A DCMR §3025**
    a. Failure to address a change in placement request.
2. **IEP revision requirements at 34 CFR §300.324(b)(1)(ii)**
    a. Failure to review and revise the child's IEP, specifically with regard to concerns related to a change in placement.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainants
2. Complainants' advocate
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 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 DCPS.

ISSUES ONE & TWO: PLACEMENT AND IEP REVISION

DCPS has complied with 34 CFR §300.116 and 5-E DCMR §3025, because it updated the student's placement on [redacted] and responded to the complainants' [redacted] change in placement request.

DCPS has complied with 34 CFR §300.324(b)(1)(ii), because it updated the student's IEP and placement on [redacted] and held additional meetings to discuss the student's services and placement when requested by the complainants.

Pursuant to 34 CFR §300.116, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and is determined at least annually, is based on the child's IEP, and is as close as possible to the child's home. If an LEA anticipates that it may be unable to provide a child with a disability with an appropriate special education placement in accordance with IDEA and other applicable laws or regulations,

the LEA shall notify the SEA in writing. (5-A DCMR §3025.1) Prior to submitting a written request to the SEA for placement outside of the LEA, the IEP Team shall consider the appropriateness of the child's IEP and the appropriateness of the LEA's delivery of services to the child in placements within the LEA. (5-A DCMR §3025.2) The LEA shall submit a written request to the SEA with required supporting documentation and child-level data, in accordance with State-established procedures. (5-A DCMR §3025.3) Pursuant to 34 CFR §300.324(b)(1)(ii), 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, or the child's anticipated needs. The complainant alleges that DCPS has failed to act on the parent's change in placement request or to schedule meetings to address the student's educational needs.

Findings of Fact and Discussion

The student transferred to DCPS for the [redacted] school year from another state. DCPS provided comparable services of 10 hours per week of specialized instruction in the general education setting and one hour per week of speech-language pathology. The [redacted] comparable services letter noted that the student was performing at least two grade levels behind and needed research-based interventions to establish reading and math skills.

The student was reevaluated in [redacted]. The IEP team met and updated the student's disability classification. On [redacted] the IEP team met to update the IEP and placement to 6 hours per week of specialized instruction in the general education setting, 3 hours per week of specialized instruction outside the general education setting for math, 1 hour per month of speech-language pathology, and 1 hour per month of behavioral support services. The student was put in a resource class for math because the student was performing below grade level and performed better in a small group setting. The behavior support services were intended to help the student develop skills to focus on tasks.

The IEP team met again on [redacted] to discuss the complainants' concerns with the student's academic performance. At this meeting the complainants requested a change in placement to a nonpublic school. In response, DCPS proposed to collect data for six weeks and then reconvene the IEP team. The meeting was initially scheduled for [redacted] and had to be rescheduled for [redacted] due to the special education coordinator's unexpected schedule change followed by spring break. The [redacted] meeting did not happen because DCPS determined that the complainants did not hold the educational rights for the student. The guardianship documentation submitted at the beginning of the school year had expired and OSSE's change in placement process cannot move forward without an educational decision maker in place. To remedy this, DCPS submitted a request to OSSE to appoint the complainants as the educational surrogate parents so the IEP team could move forward. OSSE made this appointment on [redacted] and the IEP team can now continue with the plan to discuss the data collection and change in placement request.

OSSE's investigation found that DCPS was responsive to the student's educational needs and the complainants' requests to discuss their concerns and hold an IEP Team meeting. DCPS made adjustments to the services provided to the student throughout the school year and added support to address the student's academic deficits. DCPS took steps to resolve the educational decision maker issue so that it could move forward with holding the meeting to review student data and discuss a change in placement.

Therefore, DCPS has complied with 34 CFR §§300.116, 300.324(b)(1)(ii), and 5-A DCMR §3025.

CONCLUSIONS

1. DCPS has complied with 34 CFR §300.116 and 5-A DCMR §3025, because it updated the student's placement on [redacted] and responded to the complainants' [redacted] change in placement request.
2. DCPS has complied with 34 CFR §300.324(b)(1)(ii), because it updated the student's IEP and placement on [redacted] and held additional meetings to discuss the student's services and placement when requested by the complainants.

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