



Sept. 24, 2025

*VIA Electronic Mail*

[REDACTED]

District of Columbia Public Schools

[REDACTED]

RE: State Complaint No. 025-001 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 Strategic Funding for School Quality received a State complaint from [REDACTED] (parent or complainant) 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 afford the parent of a child with a disability an opportunity to inspect and review all educational records related to the identification, evaluation, and educational placement of the child, to provide the evaluation report no fewer than five business days before an individualized education program (IEP) meeting to discuss the child’s eligibility for special education and the child’s IEP no later than five business days after the IEP Team meeting, to consider and make an eligibility determination based on information from a variety of sources, and to issue proper prior written notice to the parent regarding the child’s eligibility determination.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that while DCPS has complied with timely responding to the complainant’s request to review the student’s eligibility determination report as well as appropriately considered multiple data points when making the child’s eligibility determination, DCPS has not complied with following evaluation documentation procedures as it untimely provided the parent the child’s evaluation summary report, eligibility determination report, and prior written notice. 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. **Access to educational records at 34 CFR §300.501(a)**
  - a. Failure to afford the parents of a child with a disability an opportunity to inspect and review all educational records related to the identification, evaluation, and educational placement of the child.
2. **Parent participation requirements at 5-A DCMR §§3009.4 and 3009.8**
  - a. Failure to provide the evaluation report no fewer than five business days before an IEP meeting to discuss the child's IEP or eligibility for special education and related services, and the child's IEP no later than five business days after the IEP team meeting.
3. **Eligibility determination requirements at 34 CFR §§300.306(c) and 300.304(b)(2)**
  - a. Failure to consider and make an eligibility determination based on information from a variety of sources.
4. **Prior written notice at 34 CFR §300.503**
  - a. Failure to issue proper prior written notice to the parent regarding the child's eligibility determination.

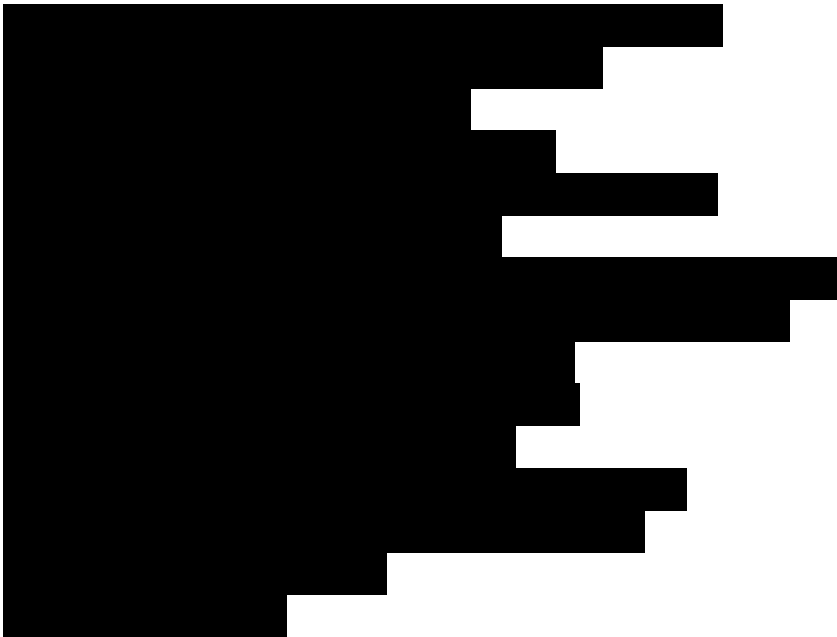
## **INVESTIGATIVE PROCEDURE**

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:

[REDACTED]



**FINDINGS OF FACT**

1. The student is [REDACTED] years old and has not been identified as a child with a disability as defined by 34 CFR §300.8.
2. The student’s local education agency during the [REDACTED] school year was DCPS.
3. On [REDACTED] the complainant referred their child to be evaluated to determine if the child requires special education and related services under IDEA. The complainant raised specific concerns regarding the child’s attention, social-emotional development, speech-language, and motor skills.
4. On [REDACTED], the IEP Team convened for an AED meeting to determine if there was a need to proceed with conducting an evaluation or if there was enough data already available to make a determination. The IEP Team suspected a disability in the areas of developmental delay and specific learning disability. The IEP Team determined a psychological assessment, occupational therapy assessment, and social history were necessary in order to make a determination. The IEP Team determined a new speech-language assessment was not needed as the student was previously assessed in this area in [REDACTED]. The AED meeting notes indicate the IEP Team raised concerns regarding the student’s attendance which are detailed below.
  - As of [REDACTED], the student had missed 39 days of school during the [REDACTED] school year. The meeting notes state, “[The DCPS [REDACTED]] mentioned that the school would like to support in increasing [the student’s] attendance. At missing 30% of school days, there leaves challenge to distinguish

between gaps due to missed instruction or gaps due to a developmental delay. [The child's parent] noted that there is no challenge with getting [the student] to school and that they did not need support with attendance. [The parent] expressed that [the child] needs a mental health day which [the parent] gives when [the child] requests one." Additionally, the student's math and reading teacher expressed that the student has struggled to acquire new skills due to the frequent absences.

5. On [REDACTED], the parent provided consent for the initial evaluation.
6. On [REDACTED], the DCPS [REDACTED] emailed the parent to confirm that the eligibility determination meeting would be scheduled for [REDACTED]. The parent was provided with four business days of notice that the meeting would take place. The parent was provided documentation to be reviewed at the eligibility meeting as follows:
  - On [REDACTED], the DCPS [REDACTED] emailed the parent with (1) a copy of the procedural safeguards, (2) the meeting LOI, (3) the student's psychological assessment report, (4) the student's social history report, and (5) a copy of the finalized AED document.
  - On [REDACTED], the parent was emailed documentation on the guidelines and criteria used to determine disability eligibility.
    - The parent was provided this documentation in response to the parent's request for clarity on how attendance was factored into the eligibility decision as well as the meaning behind a "lack of appropriate instruction." When providing the criteria to the parent, the DCPS [REDACTED] stated, "Although not the only factor, attendance and exposure to instruction is a factor the team considers when determining eligibility for school based services."
  - On [REDACTED], the parent was provided via email a copy of the student's occupational therapy report.
  - DCPS did not provide a copy of the evaluation summary report to the parent prior to the IEP meeting.
7. On [REDACTED], the IEP Team convened to review the results of the initial evaluation and to discuss the student's eligibility for special education services. The results of the assessments are as follows:
  - The [REDACTED] psychological report reflects that the tests administered were the Woodcock Johnson IV Test of Achievement (WJ-IV ACH), Wechsler Preschool and Primary Scales of Intelligence – Fourth Edition (WPPSI-IV), Adaptive

Behavioral Assessment System (ABAS-3), and the Behavior Assessment Scales for Children – Third Edition (BASC-3). On the WJ-IV ACH, the student scored within the low or very low range on multiple composites. The student did not complete enough scales of the WPPSI-IV to be scored. On the ABAS-3, the student scored in the average range for many of the scales. On the BASC-3, the student's parent rated the child as falling within the average range in all areas. The student's teacher rated the child in the clinical range in aggression, atypicality, and poor study skills. The psychologist noted the student showed the probability of ADHD.

- The [REDACTED] occupational therapy assessment indicates the student demonstrated challenges with postural control, self-regulation, and sensory processing skills which negatively impact the student's ability to function in the classroom setting.
- The [REDACTED] social history report indicates the student has difficulties engaging positively and appropriately with their peers. It is noted the student sometimes struggles with remaining on-task and engaging in age-appropriate behaviors.

The IEP Team reviewed, in addition to the above assessments, the student's attendance record and the AED. It should be noted the AED as well as the social history report contain parent and teacher interviews and classroom observations as well as a review of the student's grades and test scores.

8. At the [REDACTED] eligibility meeting, the student was found ineligible for special education services. The student's IEP Team determined the student was ineligible for special education services under the disability classification of developmental delay as the student did not exhibit a severe developmental delay at least two years and/or two standard deviations below the mean in one or more areas. The IEP Team also determined that the student was ineligible under the disability category of specific learning disability due to a lack of appropriate instruction in reading, writing, and math. The prior written notice dated [REDACTED] indicates the student's attendance, which was 45 absences as of that date, has led to a lack of appropriate instruction. As the student was not found eligible for special education services, no IEP was developed for this student.
9. On [REDACTED], the DCPS [REDACTED] emailed the finalized evaluation summary report and the draft eligibility determination report after the meeting. OSSE finds DCPS provided the parent with the child's evaluation summary report for the first time after the IEP meeting. On that same date, DCPS emailed the parent to request a statement of disagreement to include in the final eligibility report. The parent provided a statement the following day.

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10. On [REDACTED], the parent emailed the DCPS [REDACTED] requesting the final eligibility determination report as it had not yet been provided to the parent. Specifically, the parent emailed, "It's been 30 calendar days since our meeting. Could you please let me know when I can expect to receive the report?" This request was made in reply to the DCPS's [REDACTED] email stating that DCPS was in the process of finalizing the eligibility determination report. The following outlines the additional requests made by the parent for access to documentation and DCPS's response.
- On [REDACTED], DCPS provided the parent the final eligibility determination report via email. In the same email from the DCPS [REDACTED], it is noted that the other evaluation reports have already been provided in the email thread.
  - On [REDACTED], the parent responded that the report provided on [REDACTED] was not final as it did not contain the parent's statement of disagreement. On that same date, the parent again requested a copy of the final report.
  - On [REDACTED], the DCPS [REDACTED] contacted the parent to request a call be scheduled due to confusion on what specific document the parent was requesting. On that same date, the parent refused to schedule a call with DCPS and again requested a copy of the final report.
  - On [REDACTED], the parent sent another email requesting a copy of the report. On that same date, the DCPS [REDACTED] replied, "I have provided you with all the reports and supplemental attachments in the format which our system provides. It seems as though you are requesting one continuous document, unfortunately our IEP document system is not set up that way. I am happy to discuss any further request or clarify any misunderstanding of the documents. Feel free to call me on Teams (number below) or schedule a quick check-in using the link below."
  - On [REDACTED], DCPS provided the parent with a zip folder that contained every document from the student's Special Programs record. In the parent's reply to the DCPS Response to the State complaint, the parent indicated that the zip folder met their request. However, at no point had the parent specifically requested the entirety of the student's special education records.
11. On [REDACTED], the DCPS [REDACTED] determined that the prior written notice dated [REDACTED] which pertains to the student's eligibility determination was never provided to the parent. On this date, the parent was provided the PWN via the aforementioned zip folder. The prior written notice contains the following information:
- A description that DCPS considered eligibility under developmental delay or specific learning disability but refused to find the child eligible. DCPS refused this

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action as the student did not meet eligibility criteria based on a review of the psychological report, occupational therapy report, social history report, AED, and student attendance. Furthermore, the notice indicates no other options or other factors were considered and rejected.

12. In the parent's reply to the DCPS Response to the State complaint filing, they indicate that the [REDACTED] zip file contains the full report. The reports included in the zip file are the exact same reports provided to the parent in [REDACTED] and [REDACTED].
13. The student missed 50 days of school during the [REDACTED] school year.

### **ISSUE ONE: ACCESS TO EDUCATIONAL RECORDS**

**DCPS has complied with 34 CFR §300.501(a), because it timely responded to the parent's [REDACTED] requests for a copy of the student's final eligibility determination report.**

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 regarding the identification, evaluation, and educational placement of the child as well as the provision of free appropriate public education (FAPE) to the child. The complainant alleges that DCPS refused to comply with the parent's request for the student's final eligibility determination report.

#### **Discussion**

In their interview, the complainant asserts they made a request for a copy of the child's final eligibility determination report on or around [REDACTED]. OSSE finds no evidence of a specific request from the parent for this report on or around the aforementioned date. Through a review of communications between DCPS and the complainant, OSSE finds the first date that the parent formally requested the student's final eligibility determination report was on [REDACTED], as the parent had not yet received it following the [REDACTED] IEP meeting, which will be addressed in Issue Two. When a parent makes a request to access documents pertaining to their child's special education program, the public agency shall comply with the parent's request to review applicable documentation regarding their child's special education program without unnecessary delay and in no case more than 45 days after the request has been made.<sup>1</sup> DCPS provided the final eligibility report to the parent on [REDACTED]. The parent submitted subsequent requests for the same report on [REDACTED] and [REDACTED] as the parent did not believe the report provided on [REDACTED] was in fact the final eligibility report. DCPS provided a zip folder to the parent on [REDACTED] which contained every document from the student's Special Programs file. In the parent's [REDACTED] response, they expressed that the zip file met their request for accessing their child's documents and cited that the file size for the report provided in [REDACTED] is 481 KB and the [REDACTED] report, which the parent states is a

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<sup>1</sup> 34 CFR §300.613

finalized copy, is 3,527 KB. However, OSSE finds that not only did the parent never request all of the documents in the student's Special Program's profile, but the eligibility report in the zip file is identical to the report provided to the parent on [REDACTED]. The file size the parent has referred to as containing the final copy is for the entirety of the zip folder and not based on only the eligibility determination report. Regardless, however, DCPS timely provided the parent with access to the student's documentation for all three of the parent's requests.

Therefore, DCPS has complied with 34 CFR §300.501(a).

### **ISSUE TWO: PARENT PARTICIPATION**

**DCPS has not complied with 5-A DCMR §§3009.4 and 3010.8, because it did not timely follow procedures when providing the parent with the appropriate initial evaluation documentation prior to and following the [REDACTED] eligibility meeting.**

**OSSE declines to make a finding of noncompliance with 5-A DCMR §3009.8, because the student was found ineligible for special education services and, therefore, does not have an IEP.**

Pursuant to 5-A DCMR §3009.4, the LEA shall provide the parent an accessible copy of any evaluation, assessment, report, data chart, or other document that will be discussed at the meeting. Such copies shall be provided no fewer than five business days before a scheduled IEP Team meeting, if the purpose of which is to discuss the child's IEP or eligibility for special education services. However, if a meeting is scheduled fewer than five business days before it is to occur, such copies shall be provided no fewer than 24 hours before the meeting. Pursuant to 5-A DCMR §3009.8, the LEA shall provide the parent with a copy of the child's IEP no later than five business days following an IEP Team meeting. The LEA shall also provide the parent with a copy of the documentation of the determination of eligibility at no cost to the parent no later than five business days after the meeting at which the determination of eligibility was made.<sup>2</sup> The complainant alleges that DCPS did not provide the parent with a finalized copy of the eligibility determination report, the student's IEP, and other evaluation reports from the child's initial evaluation.

### **Discussion**

To allow a parent to meaningfully participate in and understand special education proceedings, the IDEA and DCMR establish timelines in which LEAs must adhere to in providing documentation to parents for their review. The complainant alleges that DCPS did not adhere to applicable documentation timelines relating to the student's [REDACTED] eligibility IEP Team meeting. OSSE finds that DCPS did not timely provide the parent with a copy of the student's evaluation summary report prior to the eligibility determination meeting. Specifically,

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<sup>2</sup> 5-A DCMR §3010.8

the parent was not provided this document until a few hours after the [REDACTED] meeting. An evaluation summary report is designed to be a comprehensive document containing all relevant evaluation data to support communication and understanding between LEA staff and a child's parent. Untimely providing this document can inhibit a parent's ability to meaningfully participate in a child's IEP meeting. Similarly, OSSE finds DCPS did not timely provide the parent with a copy of the final eligibility determination report as this was provided more than a month following the [REDACTED] IEP meeting. It should be noted that in OSSE's communications with the parent, there appeared to be some confusion by the parent in understanding not only the eligibility decision but understanding aspects of various documentation pertaining to the child's initial evaluation. Therefore, it is possible that the untimeliness of providing the aforementioned documentation has contributed to some of the parent's confusion regarding not only the documentation, but special education proceedings.

As the student was found ineligible for special education services, DCPS was not required to provide an IEP to the parent. Specifically, an IEP Team shall only develop an IEP for an eligible child with a disability who requires special education services.<sup>3</sup> Therefore, OSSE declines to make a finding regarding the complainant's allegation on not timely being provided a copy of the student's IEP as this documentation does not exist.

Therefore, DCPS has not complied with 5-A DCMR §§3009.4 and 3010.8, and OSSE declines to make a finding at 5-A DCMR §3009.8.

### **ISSUE THREE: ELIGIBILITY DETERMINATION**

**DCPS has complied with 34 CFR §§300.306(c) and 300.304(b)(2), because it appropriately reviewed and considered data from a variety of sources when making the child's eligibility determination.**

Pursuant to 34 CFR §§300.306(c) and 300.304(b)(2), each public agency, when interpreting evaluation data for the purpose of determining if a child is a child with a disability, must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior. The public agency shall ensure that information obtained from all of these sources is documented and carefully considered. Additionally, the agency shall not use any single measure or assessment as the sole criterion for determining whether the child is a child with a disability and for determining an appropriate educational program for the child.<sup>4</sup> The complainant alleges that DCPS did not determine the child's eligibility for special education services based on a variety of sources and rather solely

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<sup>3</sup> 5-A DCMR §3010.6

<sup>4</sup> 34 CFR §300.304(b)(2)

considered the student's attendance when making the student's eligibility determination.

### **Discussion**

In this complaint, the parent alleges that DCPS inappropriately found the child ineligible for special education services due to DCPS utilizing the student's attendance record as the sole determining factor. DCPS reviewed and considered multiple data points such as the student's psychological report and social history in addition to the student's attendance record. Following a comprehensive review, the student did not meet the criteria for either a developmental delay and/or specific learning disability.

DCPS and the complainant are largely in dispute regarding the weight given to the student's attendance record and if a significant number of absences qualifies as a lack of appropriate instruction. IDEA establishes that a child shall not be determined a child with a disability if the determinant factor for that determination is a lack of appropriate instruction in reading and/or in math.<sup>5</sup> OSSE finds that DCPS appropriately made the determination that the child could not be found eligible under the specific learning disability classification as the student did not adequately receive appropriate instruction during the [REDACTED] school year due to frequent absences. The student was absent 28% of instructional days and it was infrequent for the student to attend a full week of school during any given month during the school year. Per teacher interviews, the student's absences contributed to the student's difficulty in acquiring new knowledge and skills. Therefore, DCPS could not ascertain whether the student's areas of concerns are the result of a disability as the student did not receive consistent instruction. Moreover, DCPS appropriately took steps to understand the reasons for why the student was absent and, based on the information provided by the parent, it did not find that the student's attendance was related to the student's suspected disability. It is recommended that DCPS implement appropriate interventions to support the student's attendance and academic progress.

Therefore, DCPS has complied with 34 CFR §§300.306(c) and 300.304(b)(2).

### **ISSUE FOUR: PRIOR WRITTEN NOTICE**

**DCPS has not complied with 34 CFR §300.503(a), because it did not provide the parent with written notice regarding its refusal to find the child eligible for special education services within a reasonable timeframe.**

Pursuant to 34 CFR §300.503(a), prior written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, educational placement, or the provision of free appropriate public education (FAPE) to the child. The notice must contain (1) a description of

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<sup>5</sup> 34 CFR §300.306(b)(1)

the action proposed or refused, (2) an explanation of the proposal or refusal, (3) a description of each evaluation, procedure, assessment, record, or report used as a basis for the proposal or refusal, (4) a statement on the procedural safeguards, (5) resources for parents to contact to obtain assistance in understanding the provisions of this part, (6) a description of other options considered by the IEP Team and why those options were rejected, and (7) a description of other relevant factors.<sup>6</sup> The complainant alleges that DCPS did not provide written notice that adequately included the required content.

### **Discussion**

The complainant alleges that DCPS did not include the required content in the prior written notice dated [REDACTED]. Specifically, the parent alleges that DCPS (1) did not adequately describe the refused action by not stating which suspected disability categories were considered and rejected, (2) did not provide sufficient reasoning due to mention of the child's absences, (3) did not describe all records and evaluations relied upon, (4) did not identify other options considered, and (5) did not address other relevant factors. OSSE finds the written notice dated [REDACTED] adequately includes all required content. With regard to the complainant's fourth and fifth assertions, it is acceptable for an LEA to identify no alternative options were considered and/or there were no other relevant factors.

Although the written notice contains all required content, during the course of the investigation, OSSE identified that DCPS did not timely provide written notice to the parent. DCPS did not provide the written notice to the parent until 63 days after the refused action which is not a reasonable amount of time.

Therefore, DCPS has not complied with 34 CFR §300.503(a).

### **CONCLUSIONS**

1. DCPS has complied with 34 CFR §300.501(a), because it timely responded to the parent's [REDACTED] requests for a copy of the student's final eligibility determination report.
2. DCPS has not complied with 5-A DCMR §§3009.4 and 3010.8, because it did not timely follow procedures when providing the parent with the appropriate initial evaluation documentation prior to and following the [REDACTED] eligibility meeting.
3. OSSE declines to make a finding of noncompliance with 5-A DCMR §3009.8, because the student was found ineligible for special education services and, therefore, does not have an IEP.
4. DCPS has complied with 34 CFR §§300.306(c) and 300.304(b)(2), because it

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<sup>6</sup> 34 CFR §300.503(b)

appropriately reviewed and considered data from a variety of sources when making the child’s eligibility determination.

5. DCPS has not complied with 34 CFR §300.503(a), because it did not provide the parent with written notice regarding its refusal to find the child eligible for special education services within a reasonable timeframe.

**CORRECTIVE ACTION**

IDEA requires that State complaint procedures include those for effective implementation of decisions made as a result of a State complaint investigation, including corrective actions to achieve compliance.<sup>7</sup> Accordingly, the SCO has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner. The SCO will follow up with the public agency to ensure that it completes the required actions and provides the documentation of the completion of the corrective actions listed below.

<b>Corrective Action</b>	<b>Documentation Required to Demonstrate Compliance</b>	<b>Action Shall Be Completed No Later Than:</b>
In order to correct the noncompliance with 34 CFR §300.503(a) and 5-A DCMR §§3009.4 and 3010.8, DCPS must do the following:		
1a. Train relevant staff members on the procedural requirements regarding the timely issuance of prior written notice, evaluation summary reports, and eligibility determination reports.	DCPS shall submit training materials (i.e. slideshow) <u>prior</u> to conducting the training for approval.  Following approval and completion of training, DCPS shall provide: <ul style="list-style-type: none"> <li>• A sign-in sheet, list, or email documenting required staff completed the training.</li> </ul>	Training materials shall be submitted to OSSE for approval within 20 days of this letter of decision.  Documentation of the completion of the training shall be provided to OSSE within 15 business days of approval of the training materials.
1b. Convene a meeting with the parent to discuss and answer questions regarding the child’s evaluation summary report and eligibility determination report.	DCPS shall submit to OSSE: <ul style="list-style-type: none"> <li>• Meeting notes, which include the list of meeting attendees, OR</li> <li>• If the parent is unresponsive to</li> </ul>	Documentation of the completion of this action shall be to submitted to OSSE within 30 days of this letter of decision.

<sup>7</sup> 34 CFR §300.152

	DCPS's requests to schedule a meeting, documentation of reasonable efforts is sufficient.	
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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. Failure by the LEA to meet any of the timelines set forth above may adversely affect the agency's annual determination under the IDEA and subject the LEA to enforcement action by OSSE.

The Decision of the SCO is final and is not subject to appeal. Pursuant to 5-A DCMR §3048.6, if an issue is still in dispute, the parent or LEA may, to the extent permitted under IDEA, request mediation or file a due process complaint on the issue with which the party disagrees. This Decision shall become final as dated by the signature of the undersigned. If you have any questions regarding this decision, please contact me at [Kirstin.Hansen@dc.gov](mailto: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