



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

[REDACTED]

VIA U.S. Mail & Electronic Mail

[REDACTED]

District of Columbia Public Schools

[REDACTED]

RE: State Complaint No. 019-013 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] (complainant or parent) 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 implement the student’s IEP, ensure that all of the student’s teachers are aware of the student’s IEP, and provide a copy of the updated IEP to the parent.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS has not complied with its obligations related to implementing the IEP, ensuring teachers have access to the IEP, and providing a copy of the updated IEP 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. Requirement to provide IEP services at 34 CFR §300.323(c)(2)

- a. Failure to make available special education in accordance with the child’s IEP, specifically with regard to specialized instruction during the [REDACTED] school

year.

2. Requirement to ensure teacher access to the IEP at 34 CFR §300.323(d)

- a. Failure to ensure that the child’s IEP is accessible to each regular education teacher and special education teacher responsible for its implementation.

3. Failure to provide a copy of the IEP to parents at §300.501(a) and D.C. Code §38-2571.03(4)(A)

- a. Failure to afford the parents of a child with a disability 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, as required by 34 CFR §300.501(a).
- b. Failure to provide the parents with a copy of the IEP no later than 5 business days after a meeting at which a new or amended IEP has been agreed upon, as required by D.C. Code §38-2571.03(4)(A).

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 Education Data System (SEDS):

[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 for autism spectrum disorder and other health impairment.
- 3. The student’s local educational agency (LEA) is DCPS.

ISSUE ONE: IEP SERVICES

Findings of Fact

- 1. The [REDACTED] IEP from the student’s previous charter LEA prescribed 5 hours per week of specialized instruction inside the general education setting and 20 hours per

week of specialized instruction outside the general education setting.

- a. The school admitted that it did not provide specialized instruction in accordance with this IEP at the start of the [REDACTED] school year.
2. On [REDACTED] DCPS held an IEP Team meeting.
 - a. The IEP was updated to prescribe 15 hours per week of specialized instruction inside the general education setting and 5 hours per week of specialized instruction outside the general education setting.
3. Following the [REDACTED] IEP Team meeting the school provided 15 hours of specialized instruction inside the general education setting.
 - a. DCPS reported that the student's specialized instruction was provided through a co-teaching model in [REDACTED] Biology, Math, and English classes.
 - b. DCPS also reported that at some unidentifiable time the special education teacher in the student's Math class was reassigned to another classroom and the student received no specialized instruction in math following that change.
 - c. DCPS did not provide the 5 hours per week of specialized instruction outside the general education setting.
4. On [REDACTED] DCPS held an IEP Team meeting and revised the student's IEP to prescribe 15 hours per week of specialized instruction inside the general education setting.

Discussion/Conclusion

DCPS has not complied with 34 CFR §300.323(c)(2), because it failed to provide specialized instruction as prescribed by the student's IEP.

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 the school has not provided any specialized instruction since the start of the [REDACTED] school year.

The [REDACTED] IEP from the student's previous charter LEA prescribed 5 hours per week of specialized instruction inside the general education setting and 20 hours per week of specialized instruction outside the general education setting. The school admitted that it did not provide specialized instruction in accordance with this IEP at the start of the [REDACTED] school year.

On [REDACTED] DCPS held an IEP Team meeting to review the student's progress. The IEP was updated to prescribe 15 hours per week of specialized instruction inside the general education setting and 5 hours per week of specialized instruction outside the general education setting.

Following the [REDACTED] IEP Team meeting the school provided 15 hours of specialized instruction inside the general education setting. DCPS reported that the student's specialized instruction was provided through a co-teaching model in [REDACTED] Biology, Math, and English classes. DCPS also reported that at an unidentifiable time the special education teacher in the student's Math class was reassigned to another classroom and the student received no

specialized instruction in math following that change. DCPS did not provide the 5 hours per week of specialized instruction outside the general education setting.

On [REDACTED] DCPS held another IEP Team meeting and revised the student's IEP to prescribe 15 hours per week of specialized instruction inside the general education setting. DCPS continued to provide the student's specialized instruction through the co-teaching model.

OSSE finds that DCPS failed to provide specialized instruction as prescribed by the student's IEP. DCPS failed to provide the 20 hours per week outside the general education setting and 5 hours per week inside the general education setting as required by the student's previous charter LEA IEP from the start of the [REDACTED] school year on [REDACTED] until [REDACTED]. After the IEP was revised on [REDACTED], DCPS failed to provide the 5 hours per week of specialized instruction outside the general education setting and failed to provide specialized instruction in Math following the special education teacher's transfer out of the student's Math class. DCPS must remedy its failure to provide all of the specialized instruction required by the student's IEP.

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

ISSUE TWO: TEACHER ACCESS TO IEP

Findings of Fact

1. On [REDACTED] the special education coordinator tasked all special education case managers with sending the IEP snapshot to all regular education teachers who serve students with disabilities.
2. The student's case manager reported that [REDACTED] sent a snapshot of the student's IEP to the student's teachers as instructed and verified that the student's teachers received the snapshot.
3. In interviews DCPS reported that all of the student's teachers were provided a snapshot of the student's updated IEP.
4. In the [REDACTED] DCPS and parent email communication, it appears that the student's teachers were aware that the student had an IEP.

Discussion/Conclusion

DCPS has not complied with 34 CFR §300.323(d), because it failed to provide the student's teachers access to the student's [REDACTED] IEP from the previous charter LEA at the start of the [REDACTED] school year.

Pursuant to 34 CFR §300.323(d), each public agency must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. The complainant alleges that all of the student's teachers reported that they were unaware that the student had an IEP.

On [REDACTED] the special education coordinator tasked all special education case managers with sending the IEP snapshot to all regular education teachers who serve students

with disabilities. The student's case manager reported that [REDACTED] sent a snapshot of the student's IEP to the student's teachers as instructed and verified that the student's teachers received the snapshot. In interviews, DCPS reported that all of the student's teachers were provided a snapshot of the student's updated IEP. However, it is not clear if they were provided a copy of the student's IEP from the previous charter LEA at the start of the school year. In the [REDACTED] DCPS and parent email communication, it appears that the student's teachers were aware that the student had an IEP.

The record shows that the student's teachers had access to the student's updated [REDACTED] IEP at some point after the start of the school year. However, there is no evidence that the teachers were aware of the student's IEP from the previous charter LEA from the start of the school year. As discussed under Issue One above, DCPS admitted to not implementing the [REDACTED] IEP from the student's previous charter LEA at the start of the school year. If the student's teachers did not have access to this IEP then they were not able to implement the classroom supports and accommodations in addition to the specialized instruction that was not being provided. DCPS must take this into consideration when developing a remedy for its failure to implement the student's IEP under Issue One above.

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

ISSUE THREE: PROVIDE COPY OF IEP TO PARENTS

Findings of Fact

1. On [REDACTED] the IEP Team met and updated the IEP.
2. DCPS emailed a copy of the updated IEP to the parent on [REDACTED].

Discussion/Conclusion

DCPS has not complied with 34 CFR §300.501(a) and D.C. Code §38-2571.03(4)(A), because it failed to provide the parent with a copy of the updated IEP within 5 business days.

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 records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. No later than 5 business days after a meeting at which a new or amended IEP has been agreed upon, the public agency shall provide the parents with a copy of the IEP. (D.C. Code §38-2571.03(4)(A)) The complainant alleges that the school did not provide [REDACTED] with a copy of the student's updated IEP following the IEP Team meeting.

On [REDACTED] the IEP Team met and updated the IEP. DCPS emailed a copy of the updated IEP to the parent on [REDACTED]. This was past the 5 business day deadline required by local law. Although there is no record that DCPS ignored a records request from the parent, the local law creates an affirmative duty to provide the parent with a copy of the updated IEP within 5 business days. DCPS failed in this duty.

Therefore, DCPS has not complied with 34 CFR §300.501(a) and D.C. Code §38-2571.03(4)(A).

CONCLUSIONS

1. DCPS has not complied with 34 CFR §300.323(c)(2), because it failed to provide specialized instruction as prescribed by the student's IEP.
2. DCPS has not complied with 34 CFR §300.323(d), because it failed to provide the student's teachers access to the student's [REDACTED] IEP from the previous charter LEA at the start of the [REDACTED] school year.
3. DCPS has not complied with 34 CFR §300.501(a) and D.C. Code §38-2571.03(4)(A), because it failed to provide the parent with a copy of the updated IEP within 5 business days.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §§300.323(c)(2) and 300.323(d), DCPS must do the following:
 - a. Convene an IEP team meeting to develop a compensatory education plan for DCPS's failure to implement the student's IEP at the start of the school year and failure to provide all of the specialized instruction required by the student's IEP at the various points outlined in the discussion under Issue One. Documentation of completion of this corrective action is due to OSSE within 30 days of the date of this letter.
2. In order to correct the noncompliance with 34 CFR §§300.323(d), §300.501(a), and D.C. Code §38-2571.03(4)(A), DCPS must do the following:
 - a. Train relevant DCPS staff members on their obligations related to:
 - i. Ensuring that teachers are aware of and have access to students' IEPs from the start of the school year, and
 - ii. Providing parents with a copy of the updated IPE within 5 business days of making changes to the IEP.Documentation of completion of this corrective action is due to OSSE within 30 days of the date of this letter.

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 Victoria.Glick@dc.gov or 202-724-7860.

Sincerely,



Victoria Glick
State Complaints Manager, Division of Systems and Supports, K-12

cc: [REDACTED], Complainant