



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

December 27, 2019

VIA Electronic Mail



District of Columbia Public Schools



RE: State Complaint No. 019-014 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) against the District of Columbia Public Schools (DCPS) alleging violations in the special education program of medically fragile students attending [REDACTED] Education Campus (EC).

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 make available services required by the students' IEPs.

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 obligation to make available IEP services. 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 services at 34 CFR §300.323(c)(2)**
 - a. Failure to make available related services in accordance with the child's IEP, specifically with regard to school nurse services prior to 8:00 am.

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):

1. [REDACTED]

GENERAL FINDINGS OF FACT

1. The students included in this complaint are children with disabilities as defined by 34 CFR §300.8.
2. The students' local educational agency (LEA) is DCPS.

ISSUE: IEP SERVICES

Findings of Fact

1. On [REDACTED] DCPS sent a memorandum to DC Health requesting staffing of nurses for the entire school day, including the breakfast period before school.
2. On [REDACTED] DCPS sent a memorandum to DC Health requesting staffing of nurses for the entire school day, including the breakfast period before school. The memorandum specifically requested nurse coverage for [REDACTED] EC's school day from 7:15 am to 2:15 pm, with coverage beginning 30 minutes prior to the start of the school day.
3. DCPS reports that if there is a medical emergency prior to 8:00 am, a Licensed Practical Nurse (LPN) assigned to provide one-to-one care to an individual student fills in to provide aid to the other student in need.
 - a. The complainant reported that there was never a time that an assigned LPN responded to a medical emergency.
4. According to the [REDACTED] memorandum of agreement between DCPS and DC Health, DC Health will staff nurses at DCPS schools from 8:00 am to 4:30 pm.

Discussion/Conclusion

DCPS has not complied with 34 CFR §300.323(c)(2), because it does not have a nurse present when students arrive at the start of the day at [REDACTED] EC.

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 nurse¹ is not present at the start of [REDACTED] EC's school day when students arrive.

Through a memorandum of agreement, DC Health staffs nurses at DCPS schools. Nurse coverage is provided from 8:00 am to 4:30 pm for all schools. This start time is after the start of school for [REDACTED] EC, which is 7:15 am. This means that a school nurse is not available upon students' arrival to school for up to 45 minutes to monitor students who experience health concerns such as seizure while being transported to school by OSSE DOT. DCPS reported that a one-to-one assigned LPN responds to emergencies that occur prior to 8:00 am. The complainant, a former DCPS [REDACTED] reported that without a nurse to receive and medically clear the student, DCPS and OSSE DOT staff would disagree about who was responsible for the student's medical needs. This was often resolved by placing an emergency call to 911 and sending the student to the hospital. This resulted in missed school time for the student for an issue that could have been addressed by the school nurse if one had been present. While this issue could arise at any school, it happened with greater frequency at [REDACTED] EC because it serves students with the greatest needs.

DCPS is in agreement that school nurses should be present as students arrive to school. DCPS requested a change to nurse coverage to align with students' arrival at school in a [REDACTED] memo to DC Health, and continues to seek this change, but according to DCPS DC Health has not responded to the request. DCPS has made this request through memorandums on [REDACTED] and [REDACTED] and continued communication with DC Health about this issue is reported as unanswered. This change is necessary in order to fully serve students with disabilities, particular those with medical needs, and keep them in school as much as possible to receive instruction and services. Although DCPS has attempted to address this issue, it remains unresolved. DCPS must escalate this issue to secure DC Health's cooperation in finding a resolution.

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

CONCLUSIONS

1. DCPS has not complied with 34 CFR §300.323(c)(2), because there is no nurse present when students arrive at the start of the school day at [REDACTED] EC.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §300.323(c)(2), DCPS must do the following:
 - a. Escalate the issue of having nurse coverage at the start of the school day to the Deputy Mayor for Education to secure DC Health's cooperation in finding a resolution. Documentation of the completion of this item is due to OSSE within 90 days of the date of this letter.
 - b. Develop a corrective action plan (CAP) to ensure that it is employing qualified

¹ In accordance with 34 CFR §300.34, Related services also include school nurse services.

nursing staff at [REDACTED] during all hours that students are on-site. The CAP must address how DCPS plans to meet DC Code §38–621(a)(2) requirements for the use of nurses in public schools. DCPS must submit the CAP to OSSE for approval within 60 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
[REDACTED], DCPS
[REDACTED], DCPS
[REDACTED], DCPS