



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

[REDACTED]

VIA Electronic Mail

[REDACTED]

RE: State Complaint No. 019-021 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] and [REDACTED] (complainants or parents) against [REDACTED] Public Charter School (PCS) alleging violations in the special education program of their [REDACTED] [REDACTED] [REDACTED] (Student ID # [REDACTED] hereinafter “student” or “child.”

The complainant alleged that [REDACTED] PCS 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 access to education records, ensure parent participation in IEP Team meetings, and provide a copy of the IEP after it is finalized.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that [REDACTED] PCS has complied with its obligation to ensure parent participation and provide a copy of the finalized IEP within 5 business days of the IEP Team meeting. 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. Parent participation requirements at 34 CFR §300.501**

- a. Failure to afford the parents the opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. (34 CFR §300.501(a))
 - b. Failure to ensure parent participation in meetings with respect to the identification, evaluation, educational placement, and provision of FAPE to the child; specifically, with regard to the [REDACTED] IEP meeting. (34 CFR §300.501(b))
- 2. Requirement to provide the IEP at 34 CFR §300.322(f) and D.C. Code §38-2571.03(4)(A)**
- a. Failure to provide a copy of the IEP no later than 5 business days after a meeting at which a new IEP has been agreed upon.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. [REDACTED] PCS [REDACTED]

The investigation also included review of the following documents which were either submitted by the complainant, submitted by [REDACTED] PCS, 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 other health impairment.
3. The student's local educational agency (LEA) is [REDACTED] PCS.

ISSUE ONE: PARENT PARTICIPATION

[REDACTED] PCS has complied with 34 CFR §300.501, because it ensured parent participation in

the IEP Team meeting and provided access to education records.

Pursuant to 34 CFR §300.501(a), parents of a child with a disability must be afforded 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. The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. (34 CFR §300.501(a)) The complainants allege that the student's IEP was finalized without their consent.

██████████ PCS completed a psychological evaluation on ██████████ and provided a copy of the evaluation report to the parent on ██████████. The parent responded that some of the information contained in the report was not correct. On ██████████ ██████████ PCS updated the evaluation report with the changes requested by the parent.

██████████ PCS sent the parent a draft IEP on ██████████. ██████████ PCS held an IEP Team meeting on ██████████. The parent participated in the meeting via phone. Both the parent and student shared concerns and input with the IEP Team. ██████████ PCS addressed all concerns the parent and student raised during the meeting. Following the meeting ██████████ PCS finalized the IEP and sent a copy home to the parent on ██████████.

In a ██████████ email, the parent raised a concern that the student's address was incorrect in the IEP and asked a few clarifying questions about the content and services in the IEP. On ██████████ ██████████ PCS amended the IEP to correct the student's address. On ██████████ ██████████ PCS issued written notice that it had developed a new IEP for the student and that it would not make any changes to the IEP without the parent's approval and consent and that the IEP Team meeting could reconvene at any time if the parent had any concerns regarding the IEP. On ██████████ the parent emailed ██████████ PCS to reiterate the concerns and questions ██████████ had about the student's IEP and services. On ██████████ ██████████ PCS responded to all of the parent's questions and confirmed that the student's address had been corrected in the IEP through the ██████████ amendment. On ██████████ ██████████ PCS provided the parent with a copy of the amended IEP.

In the ██████████ email, the parent also asked about the updated psychological evaluation report. On ██████████ ██████████ PCS sent the parent a copy of the psychological evaluation report that had been updated on ██████████.

On ██████████ ██████████ PCS proposed an IEP amendment to update the student's postsecondary transition plan. This led to a ██████████ meeting with the parent to discuss ██████████ concerns. ██████████ PCS reviewed the concerns the parent previously emailed. ██████████ PCS reported that all changes to the IEP requested by the parent had been made. The parent wanted a phrase removed from the present levels of performance section of the IEP and ██████████ PCS agreed to remove it. The parent had no other outstanding concerns about the IEP content, but rather expressed dissatisfaction that the ██████████ IEP had been finalized without ██████████ approval and wanted it removed from the student's special education

records in SEDS. [REDACTED] PCS explained that they cannot remove the finalized IEP from the student's education record, but offered to create a new IEP document that addressed all of the parent's concerns. The parent refused to agree to amend the IEP at that meeting.

The complainants allege that the IEP contained errors that they requested be changed prior to finalizing the IEP. IEP Team decisions are made by a Team consensus and no one team member has veto power, including the parent.¹ OSSE found that all requested changes were made through the IEP amendment process after the IEP was finalized, and [REDACTED] PCS worked to address all of the parent's concerns. [REDACTED] PCS provided the complainants a copy of the draft IEP a month prior to the [REDACTED] IEP Team meeting. At that meeting, the parent fully participated and did not raise any concerns that were not addressed at that meeting. After being provided with a copy of the finalized IEP, the parent requested the student's address be corrected and asked several questions about the contents of the IEP. [REDACTED] PCS amended the IEP to correct the address, responded to the parent's questions, and continued to offer to meet with the parent to discuss any outstanding concerns and a create a new IEP if needed. OSSE finds that [REDACTED] PCS provided opportunity for the parent to participate and responded to all of the parent's concerns. [REDACTED] PCS made changes to the IEP as requested by the parent. [REDACTED] PCS provided the documents needed for the parent to participate, including the psychological evaluation report, the draft IEP prior to the [REDACTED] meeting, and the finalized IEP after the meeting.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.501.

OSSE reminds [REDACTED] PCS of the LEA's responsibility to ensure that IEP Team decisions are made by a Team consensus.² Issuance of a PWN deferring to a parent for consent for IEP modifications is inconsistent with the standard that no one IEP Team member has veto power, including the parent.

ISSUE TWO: PROVISION OF IEP

[REDACTED] PCS has complied with 34 CFR §300.322(f) D.C. Code §38-2571.03(4)(A), because it provided the parent a finalized copy of the IEP within five (5) business days of the IEP Team meeting.

Pursuant to 34 CFR §300.322(f), the public agency must give the parent a copy of the child's IEP at no cost to the parent. D.C. Code §38-2571.03(4)(A) additionally requires that 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. The complainants allege that they never received a copy of the IEP after the meeting.

On [REDACTED] [REDACTED] PCS sent a copy of the finalized IEP home with the student, as confirmed in an email to the parent sent the same day. This was within five (5) business days

¹ OSSE IEP Process Policy p. 2 (August 30, 2011).

² OSSE IEP Process Policy p. 2 (August 30, 2011). (Available at: <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FINAL%20IEP%20Process%20Policy%20and%20Memo.pdf>).

after the [REDACTED] IEP Team meeting.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.322(f) and D.C. Code §38-2571.03(4)(A).

CONCLUSIONS

1. [REDACTED] PCS has complied with 34 CFR §300.501, because it ensured parent participation in the IEP Team meeting and provided access to education records.
2. [REDACTED] PCS has complied with 34 CFR §300.322(f) and D.C. Code §38-2571.03(4)(A), because it provided the parent a finalized copy of the IEP within five (5) business days of the IEP Team meeting.

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]