



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

January 28, 2022

VIA Electronic Mail

[REDACTED]
Head of School

[REDACTED] Public Charter School
[REDACTED]

Gretchen Brumley
Director, Division of Transportation
Office of the State Superintendent of Education
1050 First Street NE, Second Floor
Washington, DC 20002

RE: State Complaint No. 021-008 Letter of Decision

LETTER OF DECISION

PROCEDURAL BACKGROUND

On November 29, 2021, 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 [REDACTED] Public Charter School (PCS) and OSSE Division of Transportation (DOT) alleging violations in the special education program of [REDACTED], [REDACTED] hereinafter “student” or “child.”

The complainant alleged that [REDACTED] PCS and OSSE DOT 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 timely transportation services.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that [REDACTED] PCS complied with its obligation related to transportation services for the student, but OSSE DOT did not comply with its obligation related to transportation services for the student. This Letter of Decision is the report of the final results of OSSE’s investigation.

COMPLAINT ISSUE

The allegation raised in the complaint, further clarified by a review of documents and

interviews revealed in the course of the investigation, raised the following issue under the jurisdiction of the OSSE SCO:

1. 34 CFR §§300.149(a)(1) and 300.323(c)(2)
 - a. Failure to make available special education and related services in accordance with the student's IEP, specifically with regard to transportation services.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. [REDACTED] PCS Head of School

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):

1. [REDACTED] amended individualized education plan (IEP)
2. [REDACTED] IEP
3. [REDACTED] amended IEP
4. [REDACTED] amended IEP

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 [REDACTED]
3. The student's local educational agency (LEA) is [REDACTED]

ISSUE: TRANSPORTATION SERVICES

[REDACTED] PCS has complied with 34 CFR §300.323(c)(2), because it timely submitted the student's transportation request form.

OSSE DOT has not complied with 34 CFR §§300.149(a)(1) and 300.323(c)(2), because it failed to timely transport the student to school.

The State Education Agency (SEA) is responsible for ensuring that the requirements under IDEA are carried out. (34 CFR §300.149(a)(1)) 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. In the District, the LEA is responsible for ensuring that the IEP Team determines the student's eligibility for special education transportation services.¹ If a student is found eligible for transportation services, the LEA must submit a transportation request form to OSSE DOT with

¹ OSSE Special Education Transportation Policy p. 3 (Available at: <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Transportation%20PolicyV07292014.pdf>).

pick up and drop off locations.² OSSE DOT provides the transportation services.³ The complainant alleges that the student is transported late to school.

Findings of Fact and Discussion

The student's [REDACTED] IEP that was in effect at the start of the [REDACTED] school year required transportation services. [REDACTED] PCS submitted a transportation request form to OSSE DOT prior to the start of the [REDACTED] school year. OSSE DOT added the student to a route and had transportation services in place for the start of school. All IEPs that were in effect during the investigation timeline [REDACTED] [REDACTED] required transportation services.

The parent reported and [REDACTED] PCS confirmed that since the start of the school year, the student has been transported late to school several days per week. In response to complaints about how long students spent on the bus, OSSE DOT split the bus route into two (2) groups [REDACTED]. After the new route started, the student continued to be transported late to school. OSSE DOT identified six (6) dates [REDACTED] that the student was transported to school more than thirty (30) minutes late and one (1) date [REDACTED] that the student was transported to school more than an hour late. In its response to this complaint, OSSE DOT asserts that days on which the student was transported fewer than thirty (30) minutes late to school had little impact on the student.

The student starts the day in [REDACTED]

[REDACTED]
After homeroom the student has [REDACTED] class. [REDACTED] PCS reported that maintaining a routine is important for the student and arriving late to school impacts the student by disrupting [REDACTED] routine and shortening [REDACTED] time to prepare for and transition into the remainder of the school day. It is important that the student arrives to school on time.

The U.S. Department of Education, Office of Special Education Programs has stated that the school day for a child with a disability should not be shorter than a school day for general education students due to the child's transportation time.⁴ On days when the student is more than half an hour late, the student misses instructional time. Even short increments of time from late arrival multiple days per week add up to a significant loss of school time. Therefore, the SCO finds that OSSE DOT must remedy the student's loss of school time and make adjustments to the route to ensure that the student arrives to school on time moving forward.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.323(c)(2), but OSSE DOT has not complied with 34 CFR §§300.149(a)(1) and 300.323(c)(2).

² *Id.* at p. 10

³ *Id.* at p. 2

⁴ OSEP Questions and Answers on Serving Children with Disabilities Eligible for Transportation p. 8 (November 2009). (Available at: https://sites.ed.gov/idea/files/OMB_08-0101_Transportation-11-4-09_FINAL-1.pdf).

CONCLUSION

1. [REDACTED] PCS has complied with 34 CFR §300.323(c)(2), because it timely submitted the student's transportation request form.
2. OSSE DOT has not complied with 34 CFR §§300.149(a)(1) and 300.323(c)(2), because it failed to timely transport the student to school.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §§300.149(a)(1) and 300.323(c)(2), OSSE DOT must do the following:
 - a. Authorize compensatory education services for the amount of 18 hours of specialized instruction. Documentation of completion of this requirement is due to the SCO within 30 days of the date of this letter.
 - b. Monitor the student's route, or take other necessary steps, to ensure that the student is transported on time to school. To close this corrective action, OSSE DOT must submit to the SCO documentation of timely transportation for 10 consecutive school days.

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 Kirstin.Hansen@dc.gov or 202-445-4893.

Sincerely,

Kirstin K Hansen

Kirstin Hansen
State Complaints Manager, Division of Systems and Supports, K-12

cc: [REDACTED]