DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF
EDUCATION

March 2, 2022

VIA Electronic Mail

[redacted]
District of Columbia Public Schools
[redacted]

RE: State Complaint No. 021-011 Letter of Decision

LETTER OF DECISION

PROCEDURAL BACKGROUND

On January 11, 2022, 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 provide special education and related services required by the student's IEP.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS failed to make available to the student all of the accommodations required by the IEP. 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. **Requirement to provide IEP services at 34 CFR §300.323(c)(2)**
    a. Failure to provide special education and related services, specifically with regard to providing [redacted].

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]
2. [redacted]
3. [redacted]
4. [redacted]
5. [redacted]
6. [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 specific learning disability.
3. The student's local educational agency (LEA) is DCPS.

ISSUE: IEP IMPLEMENTATION

DCPS has not complied with 34 CFR §300.323(c)(2), because it failed to ensure that the student had access to [redacted]

Pursuant to 34 CFR §300.323(c)(2), the 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 DCPS has failed to provide [redacted].

Findings of Fact and Discussion

The student's [redacted] IEP requires ten (10) hours per week of specialized instruction inside the general education setting in the areas of Mathematics, Written Expression, and Reading and 120 minutes per month of behavioral support services. The IEP's other classroom aids and services section lists many supports, including "[redacted]" and "[Student] benefits from the following aids and services: [redacted]"

In its response to the complaint, DCPS asserts that the [redacted] referenced in the

complaint was created for organizational purposes and is not a required educational service or support for the student. The student's case manager reported that the [redacted] has been provided in various ways over the years, including weekly emails, and the method for the [redacted] school year is to use Microsoft Forms to create a tracking system. The student's teachers have access to the Microsoft Forms tracker to input a weekly [redacted]. The case manager reports that the student's teachers have continued to fill out the Microsoft Forms tracker during the [redacted] school year. The parent claims that the parent and student could not access the Microsoft Form trackers after [redacted] and so the parent created a Google tracker and asked the student's teachers to utilize it; however, DCPS staff members are not permitted to use Google applications for security reasons.

DCPS provided a spreadsheet of date- and time-stamped entries for the Microsoft Forms weekly [redacted] tracker. The spreadsheet captures weekly entries by the student's teachers or case manager from [redacted] through [redacted]. The spreadsheet shows entries for various classes [redacted]) for the following categories: [redacted]. The evidence shows that the student's teachers continued to utilize the Microsoft Forms tracker, but that does not mean that the student was able to access it. The parent repeatedly raised the issue to DCPS that the parent and student could no longer access the Microsoft Forms tracker. There is no evidence that DCPS provided technical assistance to resolve the access issue or provided the [redacted] in another way until the school began providing weekly emails with [redacted] in [redacted].

The parent reports that without [redacted] the student has been struggling academically. The [redacted] recovery plan and prior written notice indicate that the student was not making expected progress in the areas of Math, Reading, and Written Expression following the return from distance learning and needed support to continue working towards IEP goals. This assessment was based on a review of the student's first advisory grades, IEP goals, student observations, and teacher consultation. While OSSE finds that DCPS failed to ensure that the student had access to the [redacted] from [redacted] through [redacted], it continued to provide the specialized instruction and other supports and services required by the student's IEP. The [redacted] IEP progress report shows that overall the student made progress on IEP goals for core academic areas during the second reporting period [redacted]). The student mastered two (2) Math goals and continued making progress on the other four (4) goals. The student mastered two (2) Reading goals, made progress on one (1) goal, and did not make progress on one (1) goal. The student made progress on one (1) Written Expression goal and continued to not make progress on one (1) goal. The record shows the student had a mix of academic struggle and progress, starting from the beginning of the [redacted] school year when the student had access to the Microsoft Forms weekly pre-teaching review tracker and continued when the student did not have access to the Microsoft Forms tracker. There were various reasons for the academic struggle, including the failure to provide the [redacted]

[redacted] for a portion of the school year.

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

CONCLUSION

1. DCPS has not complied with 34 CFR §300.323(c)(2), because it failed to ensure that the student had access to the [redacted] on the IEP from [redacted].

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §300.323(c)(2), DCPS must do the following:
    a. Provide or authorize independent services for fifteen (15) hours of tutoring. Documentation of the completion of this action is due to OSSE within 60 days of the date of this letter.
    b. Revise the student's IEP to clarify how the [redacted] will be provided to the student. Documentation of the completion of this action is due to OSSE 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 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], Complainant
[redacted], DCPS
[redacted], DCPS