



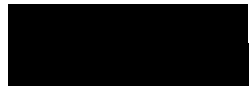
DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

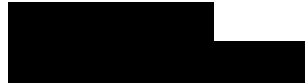
EDUCATION

June 23, 2022

VIA Electronic Mail



District of Columbia Public Schools



RE: State Complaint No. 021-021 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] (complainant or parent) against the District of Columbia Public Schools (DCPS) alleging violations in the special education program of her [REDACTED] [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 a dedicated aide and revise 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 has complied with its obligation to provide special education and related services but has not complied with its obligation to revise the IEP. 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 provide specialized education and related services, specifically with regard to a dedicated aide.
2. **Requirement to revise the IEP at 34 CFR §300.324(b)(1)(ii)**
 - a. Failure to review and revise the child’s IEP as appropriate to meet the child’s

needs.

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 autism spectrum disorder.
3. The student's local educational agency (LEA) is DCPS.

ISSUE ONE: IEP SERVICES

DCPS has complied with 34 CFR §300.323(c)(2), because it provided the special education services required 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 DCPS has failed to provide a dedicated aide for the student.

Findings of Fact and Discussion

The [REDACTED] IEP prescribes 24 hours per week of specialized instruction outside the general education setting, 150 minutes per month of speech language services, and 60 minutes per month of occupational therapy. The IEP does not require the support of a dedicated aide.

The student is placed in a [REDACTED] self-contained special education classroom. The [REDACTED] classroom is highly structured and supported by special education teachers, paraprofessionals, and service providers. Through this placement, DCPS is able to provide all of the special education services required by the student's IEP.

Therefore, DCPS has complied with 34 CFR §300.323(c)(2).

ISSUE TWO: REVISE THE IEP

DCPS has not complied with 34 CFR §300.324(b)(1)(ii), because it has not revised the student's IEP to address the student's behavior needs.

Pursuant to 34 CFR §300.324(b)(1)(ii), each public agency must ensure that the IEP Team revises the IEP, as appropriate, to address the child's anticipated needs. The complainant alleges that DCPS has failed to provide a dedicated aide for the student.

Findings of Fact and Discussion

On [REDACTED] the student eloped from the school building and exhibited unsafe behavior while in the neighborhood. During the interview for this investigation, the parent raised additional concerns about the student's safety, including when the student got ahold of a pair of scissors and cut up the student's jacket. The SEDS communication log records behavior incidents on [REDACTED] and [REDACTED]. The parent and school spoke about these concerns over the phone.

In its response, DCPS reported that following the [REDACTED] elopement and other incidents, it put in place the following supports: 1) student is accompanied by an adult at all times, during all transitions (bathroom, lunch, recess, specials); 2) unsafe objects such as scissors are no longer in the student's reach; 3) school social worker created and implemented a partial interval data sheet for teachers and aides to use in class, and behavior intervention strategies to track behaviors and implement strategies. The partial interval data sheets from [REDACTED] show frequent disruptive behavior and physical aggression towards other students.

Following the period of tracking data, the school agreed to start the dedicated aide request process, which requires an observation and approval by central office. The school completed a justification and plan for dedicated aide on [REDACTED]. The justification form stated that the student's impulsive and disruptive behaviors negatively impact the student's ability to access the curriculum without constant supervision of a teacher or instructional aide. DCPS central office completed the observation on [REDACTED] and plans to schedule a meeting to discuss the results.

DCPS held an IEP Team meeting on [REDACTED]. During this meeting the parent brought up again that the student needed a dedicated aide. DCPS agreed to conduct a functional behavioral assessment and develop a behavior intervention plan.

The student has had behavioral concerns throughout the [REDACTED] school year, but DCPS has not addressed any of these concerns through the IEP process. None of the supports cited in DCPS's response are incorporated into the student's IEP. DCPS collected behavior data in [REDACTED] and [REDACTED] and began the dedicated aide process, but the required observation did not occur for 3 months, and a dedicated aide has not been added to the student's IEP. DCPS held the first IEP Team meeting to discuss the student's behavior concerns near the end of the school year on [REDACTED]. Although DCPS has now agreed to actions to address the student's behavior, the student has gone the entire school year without needed supports and changes to the IEP.

Therefore, DCPS has not complied with 34 CFR §300.324(b)(1)(ii).

CONCLUSIONS

1. DCPS has complied with 34 CFR §300.323(c)(2), because it provided the special education services required by the student’s IEP.
2. DCPS has not complied with 34 CFR §300.324(b)(1)(ii), because it has not revised the student’s IEP to address the student’s behavior needs.

CORRECTIVE ACTION

1. In order to correct the noncompliance with §300.324(b)(1)(ii), DCPS must do the following:
 - a. Convene an IEP Team meeting to review and revise the IEP to address the student’s behavior concerns. At this meeting the IEP Team must make a final decision about the student’s need for a dedicated aide and revise the IEP if necessary. The IEP Team must also determine whether the student is owed compensatory education for DCPS’s delay in addressing the student’s behavior concerns through the IEP process. Documentation of the completion of this item is due to OSSE within 60 days of the date of this complaint.

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