



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

**EDUCATION**

September 8, 2022

*VIA Electronic Mail*

[REDACTED]  
District of Columbia Public Schools  
[REDACTED]

RE: State Complaint No. 022-007 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 Dr. Venola Rolle (complainant) against the District of Columbia Public Schools (DCPS) alleging violations in the special education program of students attending [REDACTED] High School, hereinafter “students” or “children.”

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 services.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS complied with its obligation to provide special education 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 IEP services at 34 CFR §300.323(c)(2)**
  - a. Failure to make available special education and related services in accordance with the IEP to students within the BES program.

## **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 students included in this investigation are children with a disability as defined by 34 CFR §300.8.
2. The students' local educational agency (LEA) is DCPS.

## **ISSUE: SPECIAL EDUCATION SERVICES**

**DCPS has complied with 34 CFR §300.323(c)(2), because it provided the special education services required by the students' IEPs.**

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 in accordance with the IEP. The complainant alleges that DCPS failed to provide special education services to students in the Behavior and Education Support (BES) classroom at [REDACTED] High School.

## **Findings of Fact and Discussion**

The complainant reported teaching World History for the BES classroom at [REDACTED] High School during the [REDACTED] school year. DCPS' Special Education Programs and Resources Guide for Families (Resources Guide) describes the BES program as a therapeutic learning environment for students with emotional disabilities and is staffed with behavior technicians and paraprofessionals who are trained to support students with complex behavioral problems. The complainant alleges that the classroom was not staffed with the trained paraprofessional and behavior technician as described in the Resources Guide which resulted in insufficient support for a student who displayed disruptive behavior and inhibited the complainant's ability to deliver instruction. The complainant alleges that when a behavior technician was in the classroom, their presence was inconsistent, and they did not have the proper training to support the students.

During the interview for this investigation, the [REDACTED] reported that the complainant was not teaching a BES classroom, but rather a specific learning support (SLS) classroom that had some students with an emotional disability. The Resources Guide states that the SLS program provides intensive academic supports to students who have been identified with a specific learning disability or other disability to increase their access to the general education curriculum. A behavior technician was assigned to the classroom for the full school year but had occasional absences or responsibilities elsewhere during the school day. The location of services letter for the alleged disruptive student identified by the complainant confirms placement in an SLS classroom for the [REDACTED] school year.

OSSE reviewed the IEPs for the nine students in the classroom taught by the complainant. The IEPs require 20-26.5 hours per week of specialized instruction and various related services, including behavioral support services for all nine students. Eight of the students' IEPs include positive behavior interventions and supports. Some of the supports are for disruptive classroom behaviors and some are for learning distractions such as low frustration tolerance and needing assistance staying on task. One student's IEP requires a dedicated aide. Seven of the student's IEPs included other classroom aids and services, such as preferential seating, check-ins, graphic organizers, breaks, extended time, classroom jobs and leadership opportunities, and small group instruction. The students' disability categories were specific learning disability (1), emotional disturbance (3), other health impairment (1), and multiple disabilities (4). OSSE reviewed the behavior record for the alleged disruptive student identified by the complainant and found one recorded behavior incident during the [REDACTED] school year. The incident happened during lunch under the supervision of a different teacher and resulted in a two-day suspension.

The main allegation from the complainant is that the World History class did not have the staffing described in the Resources Guide for BES classrooms. Although OSSE's investigation found that the World History class was not designated as a BES classroom, the investigation focused on IEP requirements and supports and services available to the students in the class, rather than whether the classroom staffing aligned with the Resources Guide because that is not an IDEA violation and OSSE does not enforce DCPS' Resources Guide. OSSE's investigation found that most of the students in the class required behavior support in addition to specialized instruction and academic support. The classroom special education teacher and the behavior technician assigned to the classroom can provide the support and services required by the IEPs and the complainant did not report a personal failure to provide the specialized instruction and services required by the IEPs for the students in the class. Service providers outside the classroom deliver the behavior support services and other related services. The complainant additionally identified an alleged disruptive student. The data reviewed did not support extensive behavior issues for that student. OSSE found no evidence of a failure to provide the special education and services required by the students' IEPs.

## **CONCLUSION**

1. DCPS has complied with 34 CFR §300.323(c)(2), because it provided the special education services required by the students' IEPs.

If you have any questions regarding this decision, please contact me at [Kirstin.Hansen@dc.gov](mailto: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: Dr. Venola Rolle, Complainant

[REDACTED], DCPS  
[REDACTED], DCPS