



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

September 16, 2022

VIA Electronic Mail

[REDACTED]
District of Columbia Public Schools
[REDACTED]

RE: State Complaint No. 022-002 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 [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 transportation and speech and language services, provide training on the student’s assistive technology (AT) device, and provide the same extracurricular opportunities to students with IEPs.

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 obligations related to AT and extracurricular activities but did not comply with its obligation to provide 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 services at 34 CFR §300.323(c)(2)**
 - a. Failure to make available special education and related services in accordance with the child's IEP, specifically with regard to transportation and

speech and language services.

2. Requirement to provide assistive technology at 34 CFR §300.105

- a. Failure to provide access to assistive technologies in accordance with the child's IEP, specifically with regard to appropriate training and software.

1. Requirement to provide access to extracurricular services and activities at 34 CFR §300.117

- a. Failure to provide access to extracurricular services and activities to the maximum extent appropriate to the needs of that child, specifically with regard to aftercare.

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 not complied with 34 CFR §300.323(c)(2), because it failed to provide the transportation and speech and language 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 after the student transferred schools, DCPS failed to arrange transportation services and provide speech and language services.

Findings of Fact and Discussion

Transportation

The student's IEP prescribes transportation services. The parent alleges that when the student transferred to [REDACTED] on [REDACTED], DCPS did not arrange transportation services and so the parents transported the student to and from school until the end of the [REDACTED] school year. In its response, DCPS admitted that it failed to submit a transportation request form when the student transferred and agreed to reimburse the parent for transportation costs.

Speech and Language Services

The student's IEP prescribes 240 minutes per month of speech language services. The parent alleges that DCPS notified parents that there would be a lapse in speech language services due to staffing shortages. DCPS confirmed that a speech language therapist was not available at [REDACTED] from [REDACTED]. On [REDACTED] DCPS contacted the parent to schedule make-up services over the summer, but the parent did not respond. On [REDACTED] DCPS created a make-up services plan for the 300 minutes of speech language services missed while the service provider was unavailable. DCPS plans to make-up the missed services by [REDACTED]. DCPS reported that it created make-up plans for all students who missed speech-language services while the provider was unavailable.

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

ISSUE TWO: ASSISTIVE TECHNOLOGY

DCPS has complied with 34 CFR §300.105, because it made available the AT device in accordance with the student's IEP.

Pursuant to 34 CFR §300.105, each public agency must ensure that AT devices or AT services, or both, are made available to a child with a disability if required as a part of the child's special education, related services, or supplementary aids and services. The complainant alleges that DCPS did not provide training on the student's AT device until six weeks after receipt and that the software may not be appropriate for the student's age.

Findings of Fact and Discussion

Under the AT section on the student's [REDACTED] IEP, it states that the student would benefit from a Picture Exchange Communication System (PECS) to communicate with adults and peers. On [REDACTED] DCPS completed an AT consultation and recommended a specific AT device for the student. On [REDACTED] a DCPS AT specialist emailed [REDACTED] to inform that the student would be transferring to the school and had recently begun a trial with an AT device. The AT specialist instructed the [REDACTED] staff members to continue the trial and collect data, provided links to training resources on how to use the device, and offered to schedule an in-person training. The AT specialist followed-up again on [REDACTED] about scheduling an in-person training. On [REDACTED] the AT specialist trained the student, relevant staff members, and parent on how to use the AT device. The student's [REDACTED] amended IEP states that the amendment is to add new AT, but the AT section of the IEP contains the same language as the [REDACTED] IEP and does not list the specific AT device

DCPS that should be provided to the student. The accompanying prior written notice states that the IEP amendment was to reflect the implementation and use of AT at school as well as home. DCPS confirmed that use of the AT was changed to include usage at the student's home. OSSE advises DCPS to update the IEP to reflect this additional use of AT by the student.

OSSE finds that DCPS completed the AT trial and data collection as planned, had training resources available to staff members on how to use the device during the trial period, and completed training for the parent and relevant staff members before making a final decision that the AT device and software was appropriate for the student.

Therefore, DCPS has complied with 34 CFR §300.105.

ISSUE THREE: EXTRACURRICULAR SERVICES AND ACTIVITIES

DCPS has complied with 34 CFR §300.117, because it made its limited aftercare services available to all students, both with and without IEPs.

Pursuant to 34 CFR §300.117, in providing or arranging for the provision of nonacademic and extracurricular services and activities, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings. The complainant alleges that the extended school year option for students with IEPs is different from the option available to general education students.

Findings of Fact and Discussion

DCPS reported that [REDACTED] aftercare program had a waitlist and because the student transferred in the middle of the school year, the student was not able to secure a spot in the aftercare program. DCPS also reported that [REDACTED] did not offer summer programming to any students. The student's IEP does not prescribe extended school year (ESY) services and so the student was not entitled to services over the summer. OSSE found no evidence that students with IEPs were not given the same extracurricular opportunities as students without IEPs.

Therefore, DCPS has complied with 34 CFR §300.117.

CONCLUSIONS

1. DCPS has not complied with 34 CFR §300.323(c)(2), because it failed to provide the transportation and speech and language services required by the student's IEP.
2. DCPS has complied with 34 CFR §300.105, because it made available the AT device in accordance with the student's IEP.
3. DCPS has complied with 34 CFR §300.117, because it made its limited aftercare services available to all students, both with and without IEPs.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §300.323(c)(2), DCPS must do the following:
 - a. Implement the [REDACTED] make-up missed services plan for speech and language services. DCPS must submit to OSSE documentation of the completion of this item within 15 days of completing the make-up missed services plan.
 - b. Contact the parent to coordinate reimbursement for transportation. DCPS must provide documentation of the completion of this item 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