



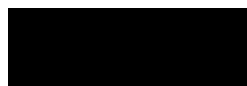
DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

**EDUCATION**

September 27, 2022

*VIA Electronic Mail*



District of Columbia Public Schools



RE: State Complaint No. 022-004 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 their [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 IEP services, revise the IEP to address bullying, provide education records, and provide a continuum of alternative placements.

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 obligations related to provision of IEP services, IEP revision, education records, and continuum of alternative placements. 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)**
  - a. Failure to make available special education and related services in accordance with the IEP of students eligible for special education at [REDACTED] [REDACTED] Highschool.

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, specifically with regard to concerns related to bullying interventions.
3. **Requirement to provide a continuum of alternative placements at 34 CFR §300.115**
  - a. Failure to ensure a continuum of alternate placements is available to meet the needs of children with disabilities for special education and related services.
4. **Requirement to provide education records at 34 CFR §300.501(a)**
  - a. Failure to provide an opportunity to examine records.

**INVESTIGATIVE PROCEDURE**

The investigation included interviews with the following individuals:

1. Complainant
2. DCPS [REDACTED]
3. 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 intellectual disability.
3. The student’s local educational agency (LEA) is DCPS.

**ISSUES ONE & TWO: IEP SERVICES AND REVISION**

**DCPS has complied with 34 CFR §300.323(c), because it made available the services required by the student’s IEP.**

**DCPS has complied with 34 CFR §300.324(b)(1)(ii), because it repeatedly offered to address the parent’s concerns.**

Pursuant to 34 CFR §300.323(c), 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. 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 or other matters. The complainant alleges that DCPS failed to address the

bullying experienced by the student and the student did not receive any educational services from [REDACTED].

### **Findings of Fact and Discussion**

The student's [REDACTED] and [REDACTED] IEPs prescribe 20 hours per week of specialized instruction outside the general education setting, 120 minutes per month of behavioral support services, and 120 minutes per month of occupational therapy. The complainant alleges that from the start of the [REDACTED] school year the student experienced bullying from another student. DCPS characterized it as ongoing conflict with another student. Following a physical altercation between the students on [REDACTED], the parent became concerned about the student's safety and kept the student home from school. On [REDACTED] the school offered to hold a meeting to discuss the student's safety on [REDACTED]. During this meeting the parent expressed concern about the student's safety and DCPS offered three potential solutions: 1) change the student's class schedule to avoid the other student, 2) the parent could request a safety transfer, or 3) the parent could apply for virtual instruction. The parent wanted time to consider the options.

DCPS had a follow-up conversation with the parent on [REDACTED] and stated that a plan would be put in place to ensure the student's safety upon return to school but the parent preferred to have the student attend virtually. On [REDACTED] DCPS emailed the parent the virtual learning application. The case manager frequently checked in with the parent about the virtual learning application and offered information and support on how the student could access class assignments. The SEDS communication log records conversations with the parent on [REDACTED]. On [REDACTED] the case manager spoke to the parent and suggested holding a meeting to discuss next steps for the student. On [REDACTED] the case manager called the parent to schedule a meeting to address the student's attendance issues. The meeting was scheduled for [REDACTED] but then the parent had to cancel. On [REDACTED] [REDACTED] the student's outside social worker picked up school work and equipment to deliver to the student. Throughout [REDACTED] the case manager repeatedly attempted to reschedule the meeting and check-in on the student's class assignments, but the parent was unresponsive.

DCPS eventually held an IEP team meeting on [REDACTED]. The IEP team added a behavioral goal to assist the student in understanding how to develop positive social interactions with peers and adults. At this meeting the parent still preferred that the student receive virtual instruction. The parent submitted the virtual learning application on [REDACTED] and the student began the virtual program on [REDACTED].

Based on its investigation, OSSE agrees with DCPS' characterization of the conflict between the two students because the information came from staff members who were present during conflicts and have more knowledge of the other student involved. OSSE finds that DCPS continued to make available the special education and related services required by the student's IEP, but the parent chose to keep the student home from school. DCPS communicated with the parent frequently following the [REDACTED] physical altercation with another student and repeatedly attempted to address the parent's concerns, offering three

different options and frequent check-ins and offers of assistance.

Therefore, DCPS has complied with 34 CFR §§300.323(c) and 300.324(b)(1)(ii).

### **ISSUE THREE: CONTINUUM OF ALTERNATIVE PLACEMENTS**

**DCPS has complied with 34 CFR §300.115, because it made available the placement required by the student's IEP.**

Pursuant to 34 CFR §300.115, each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The complainant alleges that virtual instruction did not meet the student's IEP requirements.

#### **Findings of Fact and Discussion**

Both the student's [REDACTED] and [REDACTED] IEPs prescribe 20 hours per week of specialized instruction outside the general education setting. At the start of the [REDACTED] school year DCPS placed the student in an independence and learning support (ILS) classroom that could implement the student's IEP. That placement remained available to the student throughout the school year. Following the [REDACTED] physical altercation with another student, the parent preferred to have the student attend virtually. The student's IEP and placement did not change to virtual instruction; that decision was made by the parent due to safety concerns. OSSE finds that DCPS made available the placement required by the student's IEP.

Therefore, DCPS has complied with 34 CFR §300.115.

### **ISSUE FOUR: EDUCATION RECORDS**

**DCPS has complied with 34 CFR §300.501(a), because it provided the education records requested by the parent.**

Pursuant to 34 CFR §300.501(a), the parents of a child with a disability must be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and provision of FAPE to the child. The complainant alleges that DCP failed to provide incident reports and video footage related to the [REDACTED] and [REDACTED] disciplinary incidents and the suspension letter from [REDACTED].

#### **Findings of Fact and Discussion**

On [REDACTED] the parent's advocate requested via email the student's complete education record, including the IEP, IEP progress reports, all incident reports and police reports involving the student, SEDS communication log, and all other disciplinary records. DCPS provided the requested educational records on [REDACTED]. OSSE's investigation identified no additional records requests.

Therefore, DCPS has complied with 34 CFR §300.501(a).

**CONCLUSIONS**

1. DCPS has complied with 34 CFR §300.323(c), because it made available the services required by the student’s IEP.
2. DCPS has complied with 34 CFR §300.324(b)(1)(ii), because it repeatedly offered to address the parent’s concerns.
3. DCPS has complied with 34 CFR §300.115, because it made available the placement required by the student’s IEP.
4. DCPS has complied with 34 CFR §300.501(a), because it provided the education records requested by the parent.

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: [REDACTED], Complainant  
[REDACTED], DCPS  
[REDACTED], DCPS