



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

Nov. 19, 2022

VIA Electronic Mail

[REDACTED] Public Charter School

RE: State Complaint No. 022-009 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 [REDACTED] Public Charter School ([REDACTED] PCS) alleging violations in the special education program of [REDACTED] [REDACTED] (Student ID # [REDACTED] hereinafter “student” or “child.”

The complainant alleged that [REDACTED] PCS 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 base the child’s placement on the IEP and 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 [REDACTED] PCS complied with its obligations related to placement and providing IEP 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. **Placement requirements at 34 CFR §300.116**
 - a. Failure to base the child’s placement on their IEP.
2. **Requirement to provide services at 34 CFR §300.323(c)(2)**
 - a. Failure to make available special education and related services in

accordance with students' IEPs, specifically with regard to tutoring during virtual instruction.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. [REDACTED] PCS [REDACTED]
3. [REDACTED] PCS [REDACTED]

The investigation also included review of the following documents which were either submitted by the complainant, submitted by [REDACTED] PCS, 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 specific learning disability.
3. The student's local educational agency (LEA) for the [REDACTED] school year was [REDACTED] PCS.

ISSUE ONE: PLACEMENT

[REDACTED] PCS has complied with 34 CFR §300.116, because it made available the specialized instruction required by the student's IEP.

Pursuant to 34 CFR §300.116, each public agency must ensure that the child's placement is based on the child's IEP. The complainant alleges that following a fight in [REDACTED] the student was placed in virtual instruction for the remainder of the [REDACTED] school year.

Findings of Fact and Discussion

The [REDACTED] IEP prescribes ten hours per week of specialized instruction in the general education setting. On [REDACTED] [REDACTED] PCS emailed the parent to confirm the agreement via phone to have the student attend school virtually until [REDACTED] while the school put in place changes to support the student, including transportation services and a one-to-one aide. The attendance record shows that the student was suspended from [REDACTED], absent from virtual school from [REDACTED] and attended virtual school from [REDACTED]. [REDACTED] PCS was on spring break from [REDACTED]. The student returned to in-person school on [REDACTED]. The attendance records notes that the student had the support of a dedicated aide beginning [REDACTED].

OSSE's investigation found that [REDACTED] PCS and the parent agreed to temporarily place the student in virtual school. [REDACTED] PCS confirmed this agreement via email and there is no documentation that the parent objected to this plan. [REDACTED] PCS continued to make available the specialized instruction required by the student's IEP while the student was in the virtual setting through daily live instruction. The student returned to in-person school as planned following spring break with additional supports in place.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.116.

ISSUE TWO: IEP SERVICES

[REDACTED] PCS has complied with 34 CFR §300.323(c)(2), because it made available the 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 the student received no instruction or tutoring support while in virtual learning.

Findings of Fact and Discussion

The [REDACTED] IEP prescribes ten hours per week of specialized instruction in the general education setting. The IEP does not require tutoring. On [REDACTED] [REDACTED] PCS sent instructions to staff members to arrange for the student's virtual learning, including logging in to google classroom for virtual live instruction and to complete classwork uploaded by teachers daily. The attendance record shows that virtual live instruction was made available to the student from [REDACTED], although the student had unexcused absences for eight of those days. OSSE finds that [REDACTED] PCS made available the services required by the student's IEP.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.323(c)(2).

CONCLUSIONS

1. [REDACTED] PCS has complied with 34 CFR §300.116, because it made available the specialized instruction required by the student's IEP.
2. [REDACTED] PCS has complied with 34 CFR §300.323(c)(2), because it made available the services required by the student's IEP.

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