



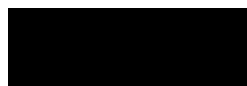
DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

**EDUCATION**

December 15, 2022

*VIA Electronic Mail*



District of Columbia Public Schools



RE: State Complaint No. 022-013 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] [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 special education services in accordance with the student’s out of state individualized education program (IEP).

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that DCPS failed to comply with its obligations related to provision of comparable services. This Letter of Decision is the report of the final results of OSSE’s investigation.

#### **COMPLAINT ISSUE**

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 issue under the jurisdiction of the OSSE SCO:

1. **Requirement to provide comparable services at 34 CFR §300.323(f)**
  - a. Failure to adopt the out of state IEP and provide services comparable to those described in the child’s IEP from the previous public agency until the new public agency conducts an evaluation, if necessary, and develops a new

IEP, if appropriate.

**INVESTIGATIVE PROCEDURE**

The investigation included interviews with the following individuals:

1. 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 other health impairment.
3. The student’s local educational agency (LEA) is DCPS.

**ISSUE: COMPARABLE SERVICES**

**DCPS has not complied with 34 CFR §300.323(f), because it did not provide comparable special education services to the student for four weeks after the parents enrolled the student and provided a copy of the out of state IEP.**

Pursuant to 34 CFR §300.323(f), if a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency develops, adopts, and implements a new IEP. The complainant alleges that DCPS failed to provide special education services in accordance with the student’s out of state IEP.

**Findings of Fact and Discussion**

The student enrolled in DCPS on [REDACTED] and began attending school on [REDACTED]. The parent provided a copy of the student’s IEP upon enrollment. The DCPS [REDACTED] [REDACTED] claims that the parent did not provide a copy of the student’s out of state IEP until [REDACTED]; however, a [REDACTED] email confirms that the parent provided a copy of the out of state IEP to the school registrar. The same day the [REDACTED] states that once the student is enrolled, the student would be assigned to the inclusion setting with resource classes and that the special education coordinator will convert the student’s out of

state IEP and schedule an IEP meeting with the parents. None of those steps were taken and on [REDACTED] the student's inclusion special education English teacher emailed the special education coordinator that the student was not listed under the teacher's section of the class for specialized instruction and there were no accommodations listed for the student. On [REDACTED], the parent alerted the special education coordinator that the student's teachers were unaware that the student has an IEP and that the student was not receiving special education services. In an [REDACTED] email, the DCPS special education coordinator confirmed receipt of the out of state IEP.

The student's [REDACTED] out of state IEP prescribed 210 minutes per week of specialized instruction for English and World History inside the general education setting, 180 minutes per week of specialized instruction for Math inside the general education setting, 210 minutes per week of specialized instruction outside the general education setting, and 30 minutes per month of direct services and 30 minutes per month of indirect services from the school psychologist. The IEP included various classroom supports and accommodations, such as access to word processing with spell check and grammar check, audiobook version of a reading text, predictive text or speech-to-text for writing assignments, instruction on organizational techniques and accountability, frequent checks for understanding, graphic organizers, extended time, repeated instructions, use of a calculator, chunking of assignments and checklists, and use of notes on assessments.

DCPS obtained an evaluation and transcript from the student's prior school on [REDACTED]. On [REDACTED] DCPS issued a comparable services letter, which prescribed 180 minutes per week of specialized instruction in the general education setting for math, 210 minutes per week of specialized instruction in the general education setting for reading, 210 minutes per week of specialized instruction outside the general education setting, 30 minutes per month of behavioral support services, and 30 minutes per month of consultation services for behavior support. The comparable services letter listed the same accommodations from the student's out of state IEP. DCPS and the parents met on [REDACTED] to review the student's IEP and eligibility. DCPS accepted the student's out of state eligibility determination and created a DCPS IEP.

OSSE's review of the record found that the parent provided DCPS with a copy of the student's out of state IEP on [REDACTED] but DCPS did not begin providing comparable services until four weeks later on [REDACTED].

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

## **CONCLUSION**

1. DCPS has not complied with 34 CFR §300.323(f), because it did not provide comparable special education services to the student for four weeks after the parents enrolled the student and provided a copy of the out of state IEP.

**CORRECTIVE ACTION**

1. In order to correct the noncompliance with 34 CFR §300.323(f), DCPS must do the following:
  - a. Provide or authorize 20 hours of tutoring services and one hour of behavioral support services.

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](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], Parent  
[REDACTED], DCPS  
[REDACTED], DCPS