



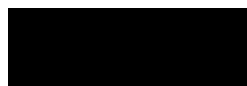
DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

March 16, 2023

VIA Electronic Mail



District of Columbia Public Schools



RE: State Complaint No. 022-016 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 complaint was put in abeyance for a simultaneously filed due process complaint on the same issues. The due process complaint was withdrawn without resolution and the SCO restarted its investigation on [REDACTED].

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 needed accommodations to enable the student to participate in the aftercare program.

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 supplementary aids and 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 supplementary aids and services at 34 CFR §§300.107 and 300.117**

- a. Failure to take steps, including the provision of supplementary aids and services determined appropriate and necessary by the student's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities, specifically with respect to the Champions after school care program at [REDACTED] Elementary School.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. DCPS [REDACTED]
3. DCPS [REDACTED]
4. DCPS [REDACTED]
5. DCPS [REDACTED]
6. Champions regional manager

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.
3. The student's local educational agency (LEA) is DCPS.

ISSUE: NONACADEMIC AND EXTRACURRICULAR SERVICES AND ACTIVITIES

DCPS has complied with 34 CFR §§300.107 and 300.117, because it is not obligated to provide the accommodations and supports to allow the student to attend the privately-run after-school care program.

Pursuant to 34 CFR §300.107, each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, 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. (34 CFR §300.117) The complainant alleges that DCPS and the Champions aftercare program failed to provide needed accommodations to enable the student to participate in the after-school care program.

Findings of Fact and Discussion

The before- and after-school care program at [REDACTED] Elementary School (ES) is run by Champions, a private organization. Parents enroll through and pay Champions directly. DCPS does not fund or provide staffing for the program but allows Champions to use DCPS facilities. Through its school program provider agreement with DCPS, Champions agrees to provide reasonable accommodations to allow students with disabilities to participate effectively in the activities offered and consult with the school's teachers/administrators on how to best serve the students. Champions reported that many students with disabilities are enrolled in their before- and after-school care programs.

The complainant enrolled the student in the after-school care program at the start of the [REDACTED] school year. Champions reported that the student often fell asleep during the after-school care program due to medication administered at the end of the school day. This presented challenges with transporting the student to the program, during fire drills, and when the other students went outside to play because a staff member needed to stay behind to monitor the sleeping student. Champions could not maintain the required provider to child ratio with one staff member assigned only to the student. Champions attempted to meet the needs of the student but determined that the student could not attend the program safely without the support of a one-to-one aide. DCPS helped Champions try to find a staff person to hire as a one-to-one aide but could not find anyone who was interested and Champions ultimately decided to not pay for a one-to-one aide to enable the student to attend the after-school care program. Champions unenrolled the student on [REDACTED].

The after-school care program is not part of the school day and is not a nonacademic or extracurricular service or activity provided by DCPS for its students. DCPS attempted to help Champions find a way to accommodate the student in the program, but ultimately the decision about what supports to provide or not provide to the student is Champions' and DCPS does not have the obligation to provide a one-to-one aide. OSSE finds that DCPS is not obligated to provide the needed accommodations and supports (in this case a one-to-one aide) to allow the student to attend the privately-run after-school care program.

Therefore, DCPS has complied with 34 CFR §§300.107 and 300.117.

CONCLUSION

1. DCPS has complied with 34 CFR §§300.107 and 300.117, because it is not obligated to provide the accommodations and supports to allow the student to attend the privately-run after-school care program.

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