



November 20, 2023

VIA Electronic Mail



RE: State Complaint No. 023-001 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) against [REDACTED] (PCS) alleging violations in the special education program of [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 timely provide education records.

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 providing education records. 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 at 34 CFR §300.323(g)**
 - a. Failure to facilitate the transition of a child's IEP.
2. **Requirement to provide access to education records at 34 CFR §§300.501(a) and 300.613**
 - a. Failure to permit a parent to inspect and review education records.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant (DCPS [REDACTED])
2. [REDACTED]
3. Parent

The investigation also included review of the following documents which were either submitted by the complainant, submitted by [REDACTED] PCS, or accessible via Special Programs:

1. [REDACTED]
2. [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 current local educational agency (LEA) is DCPS and prior LEA was [REDACTED] PCS.

ISSUE ONE: TRANSITION OF IEP

[REDACTED] PCS has complied with 34 CFR §300.323(g), because it provided the student's IEP to the new LEA.

Pursuant to 34 CFR §300.323(g), to facilitate the transition for a child who transfers public agencies in the same state, the new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP, from the previous public agency in which the child was enrolled and the previous public agency must take reasonable steps to promptly respond to the request from the new public agency. The complainant alleges that they have been contacting [REDACTED] PCS for two weeks to obtain education records without success.

Findings of Fact and Discussion

The student unenrolled from [REDACTED] at the end of the [REDACTED] school year and enrolled in DCPS on [REDACTED]. The complainant, a DCPS [REDACTED], reported that the student's education records were not available in Special Programs, so the complainant called the student's prior LEA to obtain a copy of the IEP. The complainant first called [REDACTED] PCS on [REDACTED]. [REDACTED] PCS provided the student's IEP to DCPS on [REDACTED].

District of Columbia local law details expectations for requesting and providing education records for students transferring between LEAs. The new LEA must send a written request for the child's education records within five (5) school days of the student's enrollment and the prior LEA must respond to the request within ten (10) school days. (5-A DCMR §§3020.2-

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3020.3) The complainant did not send a written request for education records; however, [REDACTED] PCS responded to the request within nine (9) school days.

OSSE provides a special education database for all LEAs, which enables LEAs to access a student's special education records upon enrollment in their LEA instead of relying on the previous LEA to send over education records. OSSE rolled out a new special education database, Special Programs, for all LEAs during summer [REDACTED] which resulted in some delays in accessing student education records, typically of a few business days, for both LEAs enrolling new students and LEAs' access to records for previously enrolled students. At the time of the investigation of this complaint, all of the student's education records from prior school years are available to DCPS. The complainant's allegation that the records are all blank because [REDACTED] PCS did not properly upload documents to the database is inaccurate. The complainant could have contacted the OSSE Help Desk for assistance in accessing the student's education record in Special Programs.

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

ISSUE TWO: ACCESS TO EDUCATION RECORDS

OSSE declines to find that [REDACTED] PCS failed to comply with 34 CFR §§300.501(a) and 300.613, because there is insufficient evidence to support the allegation that [REDACTED] PCS failed to respond to a request from the parent for the student's IEP in August [REDACTED] 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 the provision of FAPE to the child. Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency. (34 CFR §300.613) The agency must comply with a request without unnecessary delay and in no case more than 45 days after the request has been made. (34 CFR §300.613) The complainant alleges that [REDACTED] PCS failed to respond to the parent's request for education records.

Findings of Fact and Discussion

The parent reported asking for the student's IEP during a phone call with the principal from the student's former [REDACTED] PCS campus at the end of August [REDACTED] but does not recall the exact date. [REDACTED] PCS denied receiving a request for the student's IEP during that phone call. There is no record documenting a request for the student's IEP or what was discussed during the phone call and therefore OSSE could not confirm that the parent requested the student's IEP in August [REDACTED] However, both the parent and [REDACTED] PCS confirmed that [REDACTED] PCS provided a copy of the student's IEP to the parent following the [REDACTED] IEP team meeting, which the parent then provided to DCPS after enrolling the student. OSSE did not find sufficient evidence to support the allegation that [REDACTED] PCS failed to respond to a request from the

parent for the student's IEP in August [REDACTED] and therefor declines to make a finding of noncompliance.

Therefore, there is insufficient evidence to find that [REDACTED] PCS failed to comply with 34 CFR §300.501(a).

CONCLUSIONS

1. [REDACTED] PCS has complied with 34 CFR §300.323(g), because it provided the student's IEP to the new LEA.
2. OSSE declines to find that [REDACTED] PCS failed to comply with 34 CFR §§300.501(a) and 300.613, because there is insufficient evidence to support the allegation that [REDACTED] PCS failed to respond to a request from the parent for the student's IEP in August [REDACTED]

If you have any questions regarding this decision, please contact me at Kirstin.Hansen@dc.gov or 202-445-4893.

Sincerely,

Kirstin Hansen

Kirstin Hansen
State Complaints Manager, Division of Systems and Supports, K-12

cc: [REDACTED]