



December 8, 2023

VIA Electronic Mail



District of Columbia Public Schools



RE: State Complaint No. 023-006 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 a dedicated aide for the student and identify an appropriate placement.

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 to provide IEP services and an appropriate educational placement. 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)(2)**
 - a. Failure to provide the special education and related services required by the child’s IEP, specifically with regard to dedicated aide services in the [REDACTED] school year.

2. Placement requirements at 34 CFR §300.116

- a. Failure to identify an appropriate educational placement for the child.

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 Special Programs:

[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 ONE: DEDICATED AIDE

DCPS has complied with 34 CFR §300.323(c)(2), because it provided services comparable to the student's out-of-state IEP, which did not include a dedicated aide.

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 DCPS failed to provide a dedicated aide for the student due to lack of funding.

Findings of Fact and Discussion

The student enrolled in DCPS on [REDACTED] after attending an LEA in another state. DCPS held transition conversations with the parent on [REDACTED] and [REDACTED] and received the student's out-of-state IEP on [REDACTED]. The out-of-state IEP prescribes eight (8) hours and 40 minutes per week of specialized instruction in the general education setting, four (4) hours per week of specialized instruction outside the general education setting, and 30 minutes per month of occupational therapy. DCPS created a comparable services plan on [REDACTED]. The comparable services plan prescribes eight (8) hours per week of specialized instruction in the general education setting, four (4) hours per week of specialized instruction outside the general education setting, and 30 minutes per month of occupational therapy. Neither the out-of-state

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IEP nor DCPS's comparable services plan prescribe a dedicated aide. DCPS is not required to provide a service that is not included in the IEP.

Therefore, DCPS has complied with 34 CFR §300.323(c)(2).

ISSUE TWO: PLACEMENT

DCPS has complied with 34 CFR §300.116, because it is able to provide the comparable services and educational placement agreed upon by the IEP team at the student's neighborhood school.

Pursuant to 34 CFR §300.116(a), in determining the educational placement of a child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. The public agency must ensure that the child's placement is based on the child's IEP. (34 CFR §300.116(b)) The public agency must ensure that unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled. (34 CFR §300.116(c)) The public agency must ensure that a child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum. (34 CFR §300.116(e)) The complainant alleges that placement in the student's neighborhood school is not appropriate and cannot meet the student's needs.

Findings of Fact and Discussion

The student attends the neighborhood school, ██████ Middle School. On ██████ DCPS created a comparable services plan that prescribed services nearly identical to the student's out-of-state IEP. The student's neighborhood school is able to implement the comparable services plan. On ██████ DCPS issued written notice stating that the IEP team, including the parent, agreed that the student would be best served in the specific learning supports (SLS) program, which provides intensive specialized instruction and scaffolding to meet individual student learning needs with accommodations provided to ensure access to the general education curriculum. This decision was made by reviewing the student's previous out-of-state IEP and evaluation and with input from the parent and teachers. The student's neighborhood school has an SLS program classroom. DCPS continues to collect data and plans to review it with the IEP team at a 30-day review meeting to develop an IEP for the student. OSSE's investigation finds that DCPS is able to provide the comparable services and educational placement agreed upon by the IEP team at the student's neighborhood school and continues to engage the parent in discussions about the student's educational placement. The student's neighborhood school is as close as possible to the student's home and is the school the student would attend if nondisabled.

Therefore, DCPS has complied with 34 CFR §300.116.

CONCLUSIONS

1. DCPS has complied with 34 CFR §300.323(c)(2), because it provided services comparable to the student’s out-of-state IEP, which did not include a dedicated aide.
2. DCPS has complied with 34 CFR §300.116, because it is able to provide the comparable services and educational placement agreed upon by the IEP team at the student’s neighborhood school.

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