



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Office of the Chief Operating Officer

VIA EMAIL

April 1, 2021

[REDACTED]

RE: Letter of Response for Grievance #3839 filed on January 7, 2021

Dear [REDACTED]:

In accordance with Chapter 25 Subtitle 5-B, Section 2405 of the District of Columbia Municipal Regulations, D.C. Public Schools (DCPS) Comprehensive Alternative Resolution and Equity (CARE) team has completed its review of the above-referenced grievance.

Grievance Issues

Based on a review of the information provided, the grievance raised the following issues under the jurisdiction of this office:

1. **5-B DCMR 2405.2(c)**: Where it is alleged that any student or group of students is being subjected to an arbitrary or unreasonable regulation, procedure, or standard of conduct.
 - a. It is alleged that you requested work packets for Student [REDACTED] to complete in lieu of distance learning online and that copies were not provided by [REDACTED] School [REDACTED].
 - b. It was alleged that Student [REDACTED] was inappropriately withdrawn from [REDACTED] for non-attendance.

2. **5-B DCMR 2405.2(d)**: Where it is alleged that any student is being denied participation in any activity for which the student is eligible.
 - a. It is alleged that [REDACTED] did not consider the impact Student [REDACTED]'s disability had on her ability to access the virtual learning environment; and requiring her to do so denied her participation in the educational setting.

Review Procedure

The review included collecting information from and/or interviewing the following individuals:

1. [REDACTED], Parent of Student [REDACTED]
2. [REDACTED], DCPS Monitoring & Compliance Manager
3. [REDACTED], DCPS Attendance Manager

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4. [REDACTED], DCPS Attendance Specialist
 5. [REDACTED], DCPS Enrollment Director¹
 6. [REDACTED] DC Child and Family Services Agency (CFSA) Educational Neglect Triage Unit Supervisor
 7. [REDACTED], [REDACTED] Special Education Coordinator/Local Education Agency (LEA) Representative
 8. [REDACTED], DCPS Special Education Accountability Manager
 9. [REDACTED], [REDACTED] Principal
 10. [REDACTED], DCPS Student Information Systems Manager
 11. [REDACTED], [REDACTED] Attendance Counselor
 12. [REDACTED], [REDACTED] Special Education Teacher
 13. [REDACTED], Office of Teaching and Learning Program Manager
 14. [REDACTED], Office of Teaching and Learning Special Education Inclusion Manager

The review also included the following which were either submitted by the complainant, submitted by the school, or accessible via DCPS data systems:

1. Aspen – DCPS student information database
2. SEDS – DCPS Special Education Database
3. DCPS Attendance and Truancy Policy dated [REDACTED]
4. DCPS Admission and Withdrawal Policy Central Office Guide dated [REDACTED]
5. [REDACTED] Newsletter uploaded to the [REDACTED] website
6. DCPS website
7. Email chains between [REDACTED], [REDACTED] Attendance Counselor; [REDACTED], DCPS Attendance Specialist; and [REDACTED], [REDACTED] Special Education Coordinator regarding withdrawing students due to non-attendance dated [REDACTED] and [REDACTED]
8. Email between [REDACTED], [REDACTED] Attendance Counselor and parent dated [REDACTED]
9. DC Attendance Accountability Amendment Act of 2013
10. DCPS Enrollment Training documents from [REDACTED] and [REDACTED]
11. 5-A DCMR 2100, 5-A DCMR 2101, 5-A DCMR 2102, 5-A DCMR 2103, 5-A DCMR 2199, 5-E DCMR 2100, 5-E DCMR 2101, 5-E DCMR 2103, 5-E DCMR 2199

Pertinent Regulatory, Policy, and Procedural Considerations

As it relates to the provision of paper educational packets, the following applies:

1. According to the [REDACTED] DCPS Distance Learning Guide, “[c]ourse materials for your student are also available in the printed distance learning packets provided by your school.”
2. According to the [REDACTED] guide, Reopening Strong Together – A Family Guide to Learning at Home, “[i]ndividualized distance learning addendums will be created by special education teachers in collaboration with parents to help apply each student’s Individualized Education Program during virtual learning.”

As it relates to Student [REDACTED] being improperly withdrawn, the following applies:

1. The DCPS Attendance and Truancy Policy outlines the school-based attendance interventions

¹ Student withdrawals are completed by school registrars. The DCPS Enrollment Team is responsible for training school registrars.

related to students' unexcused absences. The policy states that after one day of an unexcused absence, the school is to contact the parent.

2. The Attendance and Truancy Policy states that after three days of unexcused cumulative absences, parent(s) will receive a wellness check phone call to check in on student.
3. The Attendance and Truancy Policy states that after five days of unexcused cumulative absences within one term, a letter is sent to the parent and the student is referred to the Student Support Team (SST) for an attendance intervention conference to be held within five days of the referral. The policy states that the SST will develop an action plan in partnership with the student and the student's parent.
4. The Attendance and Truancy Policy states that after seven days of unexcused cumulative absences, a Metropolitan Police Department (MPD) warning letter is sent to the parent. After 10 days of unexcused cumulative absences, the student is considered truant and a DC Child and Family Services Agency (CFSA) referral should be made for students aged 5-13. After 15 days of unexcused absences, a court referral should be made for students aged 14-17.
5. The Attendance and Truancy Policy also states that after 20 days of unexcused consecutive absences, the parent is notified that the student is eligible for withdrawal.
6. The Office of the State Superintendent of Education (OSSE) Entry and Exit Guidance states the following: In the case that a child with an IEP is not withdrawn by the parent, and the LEA does not know the whereabouts of the child, it is expected that LEA will follow its truancy guidelines. In addition, the LEA must make reasonable efforts to contact the parent in accordance with 5-E DCMR §3005.2 (b) If none of these attempts is successful, the LEA/school must issue a PWN that: 1. Details the attempts made (dates, types and modalities); 2. Denotes that as a result of being unable to make contact with the parent, the child will be withdrawn from the school and individualized education program; and 3. Advises that the parent has a right to pursue re-enrollment and special education services at any time up to the age of 22.

As it relates to Student [REDACTED]'s disability impacting her ability to participate in virtual learning, the following applies:

1. According to the [REDACTED] guide, Reopening Strong Together – A Family Guide to Learning at Home, “[I]ndividualized distance learning addendums will be created by special education teachers in collaboration with parents to help apply each student’s Individualized Education Program during virtual learning.”

Findings of Fact

Below are the findings of fact related to the provision of paper educational packets:

1. Student [REDACTED] is 13 years old with a disability classification of Autism. DCPS CARE conducted a review of Student [REDACTED]'s Individualized Education Program (IEP) in SEDS, which states that Student [REDACTED] has significant cognitive and communication delays that impact her ability to access the general education curriculum.
2. Student [REDACTED] was enrolled at [REDACTED] for the [REDACTED] school year ([REDACTED]). [REDACTED]'s parent reported that Student [REDACTED] did not log on to remote learning, during [REDACTED], because she was unable to utilize the online educational platform. [REDACTED]'s parent requested paper educational packets in

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- lieu of using online educational programming for [REDACTED] at the start of [REDACTED].
3. In [REDACTED], [REDACTED] requested the return of Student [REDACTED]'s school-issued laptop to reconfigure it. At the time of this request [REDACTED]'s parent returned the laptop. The laptop remained in the possession of [REDACTED] staff.
 4. The same day Student [REDACTED]'s parent returned the laptop, she reported receiving one hard copy packet of work for Student [REDACTED] to complete. DCPS CARE found no evidence that additional paper packets of work were provided to Student [REDACTED]'s parent, or that Student [REDACTED]'s parent returned the original packet of completed work to [REDACTED].
 5. Prior to the start of the [REDACTED], DCPS began informing parents and community stakeholders that all distance learning would take place via Canvas and Microsoft Teams.
 6. Parents at [REDACTED] were informed of the switch to Canvas and Microsoft Teams through the school newsletter that was emailed to parents and uploaded to the school's website. Additionally, this information was posted on the DCPS homepage.
 7. [REDACTED], DCPS Special Education Accountability Manager reported to DCPS CARE that paper educational packets were available for students with disabilities and that requests for this program modification should have been discussed between the parent and student's case manager. DCPS CARE could not find evidence that this discussion occurred, or an individualized distance learning addendum was created by special education teachers in collaboration with the parent of [REDACTED].

Below are findings of fact regarding whether Student [REDACTED] was inappropriately withdrawn:

1. Student [REDACTED] received 68 unexcused absences between the first day of school on [REDACTED] and [REDACTED], the date on which the student was withdrawn from [REDACTED].
2. There is no documentation demonstrating that Student [REDACTED]'s parent was contacted after Student [REDACTED]'s first unexcused absence.
3. There is no documentation demonstrating that a wellness check phone call was made to Student [REDACTED]'s parent after the third unexcused absence.
4. There is no documentation demonstrating Student [REDACTED]'s parent was invited to the SST meeting held on [REDACTED].
5. There is no documentation demonstrating that an MPD letter was sent to Student [REDACTED]'s parent.
6. A review of Aspen demonstrates that [REDACTED] documented a CFSA referral made [REDACTED]. This referral was made 24 days after Student [REDACTED]'s tenth unexcused absence.
7. The SEDS database contains a 20-day attendance letter dated and emailed to the parent [REDACTED]. This letter stated that Student [REDACTED] was slated to be withdrawn.
8. Parent [REDACTED] reported receiving one email stating that Student [REDACTED] needed to log onto the computer daily. After receiving this email Parent [REDACTED] reported that she called the school to remind them that she had returned Student [REDACTED]'s computer and therefore she was unable to log on.
9. Parent [REDACTED] reported to DCPS CARE that she received a second email on [REDACTED] stating that Student [REDACTED] had been unenrolled from [REDACTED].
10. CARE could not find any evidence that [REDACTED] implemented the attendance protocol prior to Student [REDACTED]'s withdrawal.
11. There is a Prior Written Notice (PWN) for Student [REDACTED] generated in SEDS by [REDACTED], [REDACTED] Special Education Coordinator, dated [REDACTED]. This PWN does not comply with the OSSE Entry and Exit Guidance. It did not detail the attempts made (dates, types and modalities) or

advise that the parent had a right to pursue re-enrollment and special education services at any time up to the age of 22. Student [REDACTED] was withdrawn from [REDACTED] on [REDACTED] due to non-attendance.

12. [REDACTED] created and issued another PWN on [REDACTED] which complied with OSSE requirements. However, it was issued after Student [REDACTED] was already withdrawn.

Below are findings of fact regarding Student [REDACTED]'s disability and its impact on her ability to participate in virtual learning:

1. The parent of Student [REDACTED] reported that Student [REDACTED] was unable to access virtual instruction using the DCPS-issued laptop because of her disability from the time school began on [REDACTED] through [REDACTED], when Student [REDACTED]'s parent returned the laptop to [REDACTED]. [REDACTED] did not convene an IEP meeting or develop an Individualized Distance Learning Plan for Student [REDACTED].
2. Neither the SST meeting notes from the [REDACTED] meeting, nor the [REDACTED] PWN considered Student [REDACTED]'s disability prior to withdrawal.
3. There are no contact attempts documented in the SEDS communication log by any DCPS staff from the start of the school year through [REDACTED]. There are three contact attempts in SEDS (phone call, letter, and email) prior to student withdrawal [REDACTED]. On [REDACTED], [REDACTED], [REDACTED] Special Education Coordinator attempted to contact the parent by phone. According to SEDS, "parent could not be reached." On [REDACTED], [REDACTED], [REDACTED] Special Education Coordinator sent a letter to the parent. According to SEDS, "documentation provided to parent and not returned." On [REDACTED], [REDACTED], [REDACTED] Special Education Coordinator sent an email to the parent. According to SEDS, there was no response.

Discussion/Conclusion

During this investigation DCPS CARE found a lack of adherence to the following legal/regulatory requirements:

1. DCPS Attendance and Truancy Policy ([REDACTED])
2. OSSE Entry and Exit Guidance ([REDACTED])
3. 5-E DCMR 3005.2(b)
4. Reopening Strong Together – A Family Guide to Learning at Home ([REDACTED])

The DCPS CARE investigation resulted in the following conclusions:

1. As it relates to Student [REDACTED] being subjected to an arbitrary or unreasonable regulation, procedure, or standard of conduct by not receiving paper packets, DCPS CARE finds that **5-B DCMR 2405.2(c)** is substantiated. At the beginning of the [REDACTED] school year, Student [REDACTED]'s parent requested paper educational packets. [REDACTED] did not provide an educational packet to Student [REDACTED] until [REDACTED]. Additionally, [REDACTED] did not convene an IEP meeting or develop an Individual Distance Learning plan for Student [REDACTED]. As a result, DCPS CARE finds that Student [REDACTED] was subjected to an unreasonable procedure.
2. As it relates to Student [REDACTED] being subjected to an arbitrary or unreasonable procedure by inappropriately being withdrawn, DCPS CARE finds that **5-B DCMR 2405.2(c)** is substantiated. During the review, DCPS CARE found that [REDACTED] did not comply with the Attendance and Truancy Policy or OSSE Entry and Exit Guidance prior to withdrawal. As result, DCPS CARE finds that Student [REDACTED] was subjected to an arbitrary procedure.

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3. As it relates to Student [REDACTED] being denied participation in an educational activity based on disability, DCPS CARE finds that **5-B DCMR 2405.2(d)** is substantiated. [REDACTED] did not take into consideration Student [REDACTED]'s disability prior to withdrawal. As a result, DCPS CARE finds that Student [REDACTED] was denied access to an educational activity based on their disability.

DCPS has taken or will take the following action as a result of these findings:

1. On [REDACTED], Student [REDACTED] was re-enrolled at [REDACTED].
2. By [REDACTED] a designee from the central service Division of Specialized Instruction team, in conjunction with Student [REDACTED]'s IEP team, will meet to develop a missed service plan.
3. Before the start of [REDACTED], DCPS Attendance, DCPS Enrollment, and DCPS Specialized Instruction teams will train [REDACTED] staff on all guidance and procedures regarding withdrawing students with disabilities and the considerations that should be made prior to withdrawal.

During our conversation, you expressed concerns regarding your student's IEP. IEP implementation concerns fall outside the jurisdiction of DCPS CARE. To address your IEP concerns, DCPS CARE has taken the following action:

1. A referral was sent to the Division of Specialized Instruction on [REDACTED]. For more information regarding your student's IEP and the Individuals with Disabilities Education Act (IDEA), please contact the DCPS Monitoring and School Support Team at dcps.spedconcerns@k12.dc.gov. Additionally, you can file a written complaint with the Office of the State Superintendent of Education by contacting hearing.office@dc.gov or call (202) 698-3819. You may also file a state complaint with the Office of the State Superintendent of Education State Complaint Office by contacting osse.IDEAstatecomplaints@dc.gov or (202) 727-6436.

If you are not satisfied with this outcome, you have the right to file an appeal. Appeals must be submitted in writing and received within 10 calendar days of receipt of this notice. Please submit appeal requests to Chief Integrity Officer (CIO) via U.S. Postal Mail to 1200 First St., NE, 10th Floor, Attn: CIO or via email at dcps.cio@k12.dc.gov. You may also contact the U.S. Department of Education, Office for Civil Rights (1-800-421-3481) to report any educational discrimination.

Sincerely,

[REDACTED]

[REDACTED], Director CARE

Cc: Principal
Instructional Superintendent