

Office of the State Superintendent of Education
Department of Special Education
State Complaint Office
1050 First Street, NE
Washington, DC 20002

osse.IDEASStateComplaints@dc.gov

STATE COMPLAINT

Required Information

Name of Complainant	Advocates for Justice & Education, Inc.
Address	1200 G. St. NW Suite 725 Washington DC 20005
Point of Contact	Maria Blaeuer
Phone	202-678-8060 ext. 213
Email	maria.blaeuer@aje-dc.org
Complaint is filed on behalf of	This complaint is filed on behalf of all DCPS students in self-contained classrooms whose classroom was not consistently staffed by qualified teachers.
Complaint is filed against	This complaint is filed against District of Columbia Public Schools (DCPS).

Organizational Standing

Advocates for Justice and Education, Inc. (AJE) is the District of Columbia's federally designated parent training and information center. Our mandate is to educate and empower families of students with disabilities, advocate for improvements to the systems serving students with disabilities and ensure that the rights of vulnerable students, including those with disabilities, are protected. AJE receives more than 800 calls per year from families in the District of Columbia seeking information, advice, and representation in educational matters concerning their children. As a result, we are in a unique position to identify trends in local education matters and we view it as our responsibility to amplify parent and student voices when we become aware of systemic violations of law.

AJE knows that a "[d]isability is a natural part of the human experience and in no way diminishes the right of individuals to participate in, or contribute to, society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals

with disabilities.” 20 U.S.C. §1400(c)(1). This guidance from the Individuals with Disabilities Education Improvement Act (IDEA) provides us with a lens through which we are filing this complaint. The essential nature of IDEA as a civil rights statute is clear, in that it strives to ensure equal and full access to a meaningful education for all students.

We are filing this systemic state complaint in our organizational capacity, because we are concerned that students with disabilities in self-contained classes in District of Columbia Public Schools (DCPS) are not receiving the free appropriate public education (FAPE) they are entitled to. We filed a similar complaint earlier this year about staffing in six (6) DCPS schools, and ask that OSSE investigate this complaint as a systemic issue, and ensure that all self-contained classrooms in DCPS were adequately staffed during the 2018/19 school year and are adequately staffed during the 2019/2020 school year.

Alleged Violations

AJE is asking the Office of the State Superintendent of Education (OSSE) to investigate DCPS. Our work at AJE lead us to believe that DCPS has denied students a FAPE by failing to ensure that all self-contained classrooms are taught by qualified special educators at all times.

Under both federal and local law, students with disabilities have the right to a FAPE. 20 U.S.C. §1400. A FAPE means special education and related services available to the student at no charge to the parent or guardian, which meet the state educational standard and conform to the student’s IEP. 20 U.S.C. § 1401 (9). By failing to ensure that classrooms are staffed by qualified special educators at all times, DCPS has denied students FAPE.

I. DCPS fails to ensure that classrooms are staffed by qualified special educators when permanent teachers are on extended leave of absence.

If permanent teachers are on extended leave of absence and an LEA fails to provide adequately trained substitute teachers, this practice is a failure on the part of the LEA and it is a denial of FAPE. Additionally it is inconsistent with DCPS’s plainly stated obligations under IDEA, specifically §§300.156(a) and 207 which require LEAs to:

- (a) establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. § 300.156(a). The LEA [also] must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of §300.156 (related to personnel qualifications) and section 2122 of the ESEA. §300.207.

The DCPS hiring website specifies that full-time teachers must possess at minimum the following to be hired: “possesses or is eligible for a valid District of Columbia Teaching License; meets Highly Qualified status as defined by the NCLB mandates; successful completion of Praxis I and II exams

(unless holding a standard teaching license)”¹ In contrast, paraprofessionals by DCPS standards must only have the following: “Associate’s Degree or 48 college credit hours or have successfully passed the ParaPro Assessment administered by ETS (with a high school diploma or equivalent); Experience working with students with disabilities strongly preferred.”² It is clear from the language on the DCPS website that a licensed special education teacher and a paraprofessional are not equivalent. This information found on the DCPS website supports our position that a failure to provide adequately trained special educators in situations where a full-time teacher is on leave for an extended period of time is an undisputable denial of FAPE.

II. DCPS denied students FAPE for the 2018-2019 and 2019-20 school year.

Under both federal and District laws, students with disabilities have the right to FAPE. A FAPE means that special education and all related services are made available to the student at no charge to the parent or guardian, and which meet the educational standards outlined by the District, while conforming with a student’s IEP. Under IDEA, DCPS is required to provide students with the basic foundation and opportunity that allows a student to access specialized instruction and related services that have been individual designed to provide the student with an educational benefit.

This failure can be attributable to lack of policies and procedures on the part of DCPS and poor oversight of school staffing. We do not believe this is an isolated issue and more likely than not it is an issue that impacts the entire DCPS system. Based on our information and research we again request that OSSE investigate the staffing of all of DCPS’ self-contained classrooms, in addition to these two self-contained classrooms -

A self-contained classroom at Payne ES did not have a licensed special education teacher for the school year 2018-19. They had one at the outset, but that person left in either September or October 2018. Much of the instruction was handled by the behavior technician who taught the class based on torn out manual sheets.

A self-contained classroom at Patterson ES is currently staffed by a long term substitute who is not a qualified special educator during much of the 2019/20 school year.

Sources upon which we base our belief

We base our belief on the following sources: communication by AJE staff with members of the parent’s bar, including Kimberly Glassman (regarding Patterson ES ksglassman@gmail.com) and Eric Williams (regarding Payne ES, available at ejwilliamsesq@yahoo.com).

¹ Full-Time Teacher’s Position Description, D.C. Public Sch. Sys., <https://dcps.dc.gov/node/987062> (last visited Jun. 27, 2019).

² Educational Aides, D.C. Public Sch. Sys., <https://dcps.dc.gov/page/educational-aides> (last visited Jun. 27,2019).

Proposed Resolution

This failure of policy is one that was preventable and resulted from a lack of planning and preparation on the part of individual schools and DCPS' central office. Since this is an issue that likely impacts DCPS on a systemic level we ask that OSSE open an investigation into the policies and procedures related to extended absences of full-time special–education teachers. We also ask that OSSE specifically examine the staffing at the two schools mentioned, as well as any other DCPS school hosting self-contained classrooms.

DCPS has seven different types of self-contained classes in addition to the Communication and Education Support (CES) previously mentioned, including: Early Learning Support (ELS), Independence and Learning Support (ILS), Medical and Education Support (MES), Sensory Support Programs (for students who are deaf/hard of hearing and/or blind/visually impaired) and Behavior and Education Support (BES) classrooms in DCPS.

Additionally, we request the following relief:

- All students who were impacted by this failure be provided with individualized compensatory education plans created in consultation with their families; and
- That OSSE affirmatively reach out to the potentially impacted families as part of their investigation and not rely on the representations of DCPS regarding staffing; and
- That OSSE ensure that DCPS develop and implement policies and procedures for how to handle extended absences of teachers so that future absences do not lead to a denial of FAPE; and
- That OSSE ensure that DCPS develop and implement policies and procedures about communicating extended teacher absences, resignations and other separations from DCPS to parents in a timely manner.

Mediation

Because of the systemic nature of this complaint, mediation is likely inappropriate. However, AJE welcomes the opportunity to participate in any conversations regarding the resolution of this matter.

Signature

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October 15, 2019

Certificate of Service

I hereby certify that on this ____ day of October a copy of this State Complaint was provided to DCPS. The Complaint was provided via _____.

Respectfully submitted,

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