

**VIRGINIA DEPARTMENT OF EDUCATION  
DIVISION OF SPECIAL EDUCATION AND STUDENT SERVICES  
OFFICE OF DISPUTE RESOLUTION AND ADMINISTRATIVE SERVICES**

**NOTICE OF COMPLAINT/ADDITIONAL MONITORING**

<p><b>School Division</b> Fairfax County Public Schools Dr. Michelle Boyd, Assistant Superintendent, Special Services Ms. Dawn Schaefer, Director, Special Education Procedural Support 8270 Willow Oaks Corporate Drive—Second Floor Fairfax, Virginia 22031 <a href="mailto:mboyd@fcps.edu">mboyd@fcps.edu</a> <a href="mailto:DMSchaefer@fcps.edu">DMSchaefer@fcps.edu</a></p>	<p><b>Parent</b> Ms. Callie Oettinger [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p>
<p><b>Date Complaint Received</b> May 12, 2023</p>	<p><b>Complainant (if other than parent)</b> N/A</p>
<p><b>Notice of Complaint Date</b> May 23, 2023</p>	<p><b>Findings Due Date</b> July 11, 2023</p>
<p><b>Early Resolution Date/ LEA Response Due Date</b> June 7, 2023</p>	<p><b>Additional Information Due Date</b> June 21, 2023</p>
<p><b>Complaints Department Phone #</b> (804) 225-2013</p>	

The Office of Dispute Resolution and Administrative Services in the Virginia Department of Education (VDOE) has received a complaint alleging that Fairfax County Public Schools (FCPS or “LEA”) has violated federal and state laws and regulations governing special education programs. This notice of complaint gives official notice to all parties that a formal written complaint has been filed with our office and confirms that it is sufficient pursuant to federal special education regulations.

**APPLICABLE REGULATIONS:**

This office will base its investigation and findings on the reauthorization of the federal Individuals with Disabilities Education Improvement Act, December 3, 2004 (IDEA '04), its implementing federal regulations, adopted October 13, 2006 (the 2006 implementing regulations), and the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, effective on July 7, 2009, and were reissued on January 25, 2010, and on July 29, 2015, (the Virginia Regulations). The Virginia Regulations are available online at:

<https://law.lis.virginia.gov/admincode/title8/agency20/chapter81/>

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**REDACTED**

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### **ISSUES AND REGULATIONS:**

#### **1. Free Appropriate Public Education (FAPE)**

Complainant has made allegations regarding a wide range of topics in her May 12, 2023, filing. These include allegations concerning pre-school programs, high school honors programs and public day programs. A copy of Complainant's filing is attached to this notice of complaint.

Specifically, the complainant has alleged that:

- “Pre-school students throughout FCPS are being categorically denied occupational therapy, physical therapy, and speech/language therapy, and related services and services of being provided a communication device and training on how to use it.”
- “Over the past year, numerous parents of FCPS preschool students have testified at ACSD meetings that FCPS’s heads of special education (Michelle Boyd) and due process and eligibility (Dawn Schaeffer) have attended about FCPS refusing these services to their children. These FCPS “leaders” haven’t addressed these parents’ concerns or denial of FAPE to these children and don’t even bother to show up to the ACSD meetings in person any more, instead logging in virtually, even though some of their offices are in the same buildings the ACSD meetings are held.”
- “Parents attending ACSD meetings have made the committee, and FCPS leadership in attendance (Schaeffer, Boyd, etc), aware that FCPS is refusing to provide the related service of transportation, too.”
- “2017-2023: FCPS PSL’s and PSL managers advised parents repeatedly that they aren’t required to provide services in Honors classes or foreign language classes, that FCPS is only responsible for English-language classes and for general education. VDOE has repeatedly been made aware of this issue.”
- “May 10, 2023: West Springfield High School (WSHS) Assistant Principal and Special Education Supervisor Amy Brown admitted FCPS isn’t staffed for providing accommodations to students in Honors classes, that WSHS has only five 9<sup>th</sup> graders enrolled in honors for next year, and that WSHS is transitioning into supporting honors and obtaining staffing. However, this doesn’t change the fact past students were denied services, and “transitioning” indicates WSHS and FCPS are not fully providing services.”

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- “WSHS Assistant Principal and Special Education Supervisor Amy Brown specifically stated the following after a parent asked, “Do you provide accommodations in Honors classes?”:  
‘That is a good question. That is becoming more and more popular. So the answer to that is yes—right?—because if your student requires to access honors level curriculum, then we have to provide that service. So I think this year we are transitioning, and so far we have about five students that are taking honors level to start, um, and so, yep, so we’re going to provide those services and have teachers push in for that. We’re not staffed for that typically, um, with that being said, so what I do is I [inaudible] and so I send that to our human resources department, and I work with Mr. Mukai [principal], and that’s how we get, we work together to get additional staffing that will can continue to support that.’
- Finally, Complainant has included numerous quotations from staff surveys from FCPS’ five public day schools. In short, while many of the issues involve administrative matters, some of these statements also suggest that services, particularly in terms of behavioral supports, are not being provided, and that the school is not able to provide access to certain aspects of the general curriculum.

### Applicable Regulations:

- The 2006 implementing regulations, at 34 C.F.R. § 300.101, and the Virginia Regulations, at 8 VAC 20-81-100, mandate that all individuals with disabilities, from age 2 to 21 inclusive, residing in Virginia, shall have available a free and appropriate public education (FAPE). Further, the 2006 implementing regulations, at 34 C.F.R. § 300.17, and the Virginia Regulations, at 8 VAC 20-81-10, define FAPE to mean special education and related services that, among other things, are provided in conformity with an IEP that meets applicable regulatory requirements.

### **EARLY RESOLUTION REQUIREMENTS:**

Our complaint system has an Early Resolution System that supports both parties working cooperatively to resolve this matter prior to the due date for the school division’s response without formal investigation by our office. We believe early resolution will benefit both parties and that it is in the best interest of students. Early resolution may include use of the statewide special education mediation system. We have enclosed a brochure for the complainant that describes mediation that is voluntary on the part of both parties. Both parties are asked to keep our office informed of changes in the status of this complaint.

If this complaint is resolved within the 10-day timeline, the school division must furnish a written response, including the following:

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1. A record of contacts with the complainant;
2. A statement of the proposed resolution;
3. A signed statement indicating that the complainant has agreed to the resolution and the details of the resolution.

If the complaint is not resolved, the school division must furnish a written response, including all requested documentation in the areas noted below, by the designated due date, as indicated above. The school division must simultaneously provide a copy of the response, along with all submitted documentation, to the complainant if the complaint was filed by the parent or parents of the student, a student who has reached the age of majority, or their attorney. If the complaint was filed by another individual, the school division must provide a copy of the response and documentation to the complainant only if a release signed by the parent or parents or the student who has reached the age of majority has been provided.

For technical assistance in resolving the complaint, the school division should contact its VDOE Regional School Division Technical Assistance Specialist.

### **INFORMATION/DOCUMENTATION REQUESTED:**

VDOE is currently engaged with FCPS in comprehensive monitoring activities as a part of VDOE's general supervision responsibilities. VDOE will engage with FCPS on the issues raised in this complaint as a part of that process to access necessary documents and gather relevant information, and communication with the school division concerning these activities will be forthcoming. Additionally, we ask the school division to provide the following information on or before the response date identified above:

1. FCPS is requested to provide this office with a narrative response addressing each allegation contained in parent's complaint filing.

### **TIMELINES FOR RESPONSE AND ADDITIONAL INFORMATION:**

#### **School Division Response Timeline**

Please mail all documentation to our office, so that it is received by **June 7, 2023**, at the following address:

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Office of Dispute Resolution and Administrative Services  
Virginia Department of Education  
P. O. Box 2120  
Richmond, Virginia 23218

**ODRAS retains discretion to base its review of LEA's materials on the documentation LEA submitted by the response due date.**

**Additional Information that may be submitted by either party no later than June 23, 2023.**

**The parties are instructed to copy all response and additional information submissions to each other. Information and/or materials submitted after this date will not be considered by this office, unless specifically requested by the compliance specialist for the purposes of clarification.**

/stg

Attachments - Complaint Resolution Procedures  
Complaint  
Mediation Brochure