

REDACTED

From: REDACTED
Sent: Tuesday, April 11, 2023 3:40 PM
To: 'DOE - ODRAS, rr'; 'Hollins, Samantha'; 'Patricia Haymes'; 'Richey, Kimberly'; 'Elizabeth Schultz'
Cc: 'Boyd, Michelle'; 'Reid, Michelle C'; 'Ritenour, Tracy M'; 'Austin, Ayorkor'
Subject: RE: systemic complaint
Attachments: SpecialEducationParentHandbook.pdf

USDOE:

Please add the attached/below to your monitoring.

VDOE:

Please add the following to this complaint.

FCPS's recently-updated Special Education Parent Handbook is additional proof of noncompliance – that FCPS is intentionally misleading parents on their procedural safeguards. See attached and link here: [Special Education Parent Handbook \(fcps.edu\)](#)

FCPS's department of special services, headed by Michelle Boyd and a number of other FCPS "experts" developed this manual.

And yet, it contains that same local administrative review process that is in noncompliance with IDEA and VA Code.

In addition, it adds additional hoops for parents to jump through regarding manifestation determinations.

Please confirm receipt.

Redacted

From: Redacted
Sent: Monday, April 10, 2023 4:05 PM
To: 'DOE - ODRAS, rr' <odras@doe.virginia.gov>; 'Hollins, Samantha' <samantha.hollins@doe.virginia.gov>; 'Patricia Haymes' <patricia.haymes@doe.virginia.gov>; 'Richey, Kimberly' <kimberly.richey@doe.virginia.gov>; 'Elizabeth Schultz' <elizabeth.schultz@doe.virginia.gov>
Cc: 'Boyd, Michelle' <mboyd@fcps.edu>; 'Reid, Michelle C' <mcreid@fcps.edu>; 'Ritenour, Tracy M' <tmritenour@fcps.edu>; 'Austin, Ayorkor' <Ayorkor.Austin@ed.gov>
Subject: RE: systemic complaint

I'm amending this complaint to include the following:

FCPS enforces the extra step of referrals to the superintendent and school board, and allowing them to make decisions.

However, neither IDEA nor VA Code allow for such actions. See:

[8VAC20-81-160. Discipline procedures. \(virginia.gov\)](#)

[Sec. 300.530 Authority of school personnel - Individuals with Disabilities Education Act](#)

The IEP team makes the decision, not the superintendent or school board.

Yet, FCPS has for years had that noncompliant piece in play – and included it in its student rights & responsibilities manual as law.

FCPS is not above IDEA or VA Code. It doesn't have the power to change the rules and enforce additional conditions.

Please confirm receipt.

Thanks,

Redacted

From: [REDACTED]
Sent: Monday, April 10, 2023 11:12 AM
To: 'DOE - ODRAS, rr' <odras@doe.virginia.gov>; 'Hollins, Samantha' <samantha.hollins@doe.virginia.gov>; 'Patricia Haymes' <patricia.haymes@doe.virginia.gov>; 'Richey, Kimberly' <kimberly.richey@doe.virginia.gov>; 'Elizabeth Schultz' <elizabeth.schultz@doe.virginia.gov>
Cc: 'Boyd, Michelle' <mboyd@fcps.edu>; 'Reid, Michelle C' <mcreid@fcps.edu>; 'Ritenour, Tracy M' <tmritenour@fcps.edu>; 'Austin, Ayorkor' <Ayorkor.Austin@ed.gov>
Subject: RE: systemic complaint

VDOE,

Please confirm receipt of this complaint.

Thanks,

Redacted

From: [REDACTED]
Sent: Friday, April 07, 2023 4:45 PM
To: 'DOE - ODRAS, rr' <odras@doe.virginia.gov>; 'Hollins, Samantha' <samantha.hollins@doe.virginia.gov>; 'Patricia Haymes' <patricia.haymes@doe.virginia.gov>; 'Richey, Kimberly' <kimberly.richey@doe.virginia.gov>; 'Elizabeth Schultz' <elizabeth.schultz@doe.virginia.gov>
Cc: 'Boyd, Michelle' <mboyd@fcps.edu>; 'Reid, Michelle C' <mcreid@fcps.edu>; 'Ritenour, Tracy M' <tmritenour@fcps.edu>; 'Austin, Ayorkor' <Ayorkor.Austin@ed.gov>
Subject: RE: systemic complaint

FYI: In case the documents cited below disappear from FCPS's site, I've attached time-stamped screenshots. Note how the VA Safeguards that FCPS links to from its dispute resolution site has NO local administrative review within an LEA option. **Redacted**

From: [REDACTED]
Sent: Friday, April 07, 2023 4:17 PM
To: 'DOE - ODRAS, rr' <odras@doe.virginia.gov>; 'Hollins, Samantha' <samantha.hollins@doe.virginia.gov>; 'Patricia Haymes' <patricia.haymes@doe.virginia.gov>; 'Richey, Kimberly' <kimberly.richey@doe.virginia.gov>; 'Elizabeth Schultz'

<elizabeth.schultz@doe.virginia.gov>

Cc: 'Boyd, Michelle' <mboyd@fcps.edu>; 'Reid, Michelle C' <mcreid@fcps.edu>; 'Ritenour, Tracy M' <tmritenour@fcps.edu>; 'Austin, Ayorkor' <Ayorkor.Austin@ed.gov>

Subject: systemic complaint

Importance: High

VDOE,

I'm filing a systemic complaint against Fairfax County Public Schools.

For years, FCPS has misled parents about their procedural safeguards, by leading them to believe that a local administrative review within FCPS, done by a hearing officer that is an employee of FCPS, is in compliance with IDEA and implementing state regulations. Hence, parents have taken this local administrative review route, at which there is NO impartial hearing officer and NO hearing in compliance with IDEA or implementing state regs. Indeed, I did this myself back in 2016, because I was falsely led to believe this was my recourse – and the same practice continues today. See FCPS's pre-formatted notice of appeal form here: [NOTICE OF APPEAL \(fcps.edu\)](#)

FCPS believes it can operate outside of federal and implementing state regs by forwarding an appeal option that 1) is not in compliance with IDEA, Sec 504, or VAC, and 2) by its own existence in its student rights & responsibility manual, and on the FCPS site, falsely lead parents to believe that they are accessing procedural safeguards under fed and state implementing regs. I know you don't handle Section 504, but I'm throwing it in for good measure, since OCR will need to know that FCPS noncompliance is longstanding in other areas.

FCPS's student rights and responsibilities manual states:

"If the parent/guardian does not agree to a change in special education placement or with the outcome of the MDR, they have the opportunity to request a local administrative review within FCPS. The parent/guardian may also request an expedited due process hearing through the Virginia Department of Education according to the procedures outlined in the VDOE Special Education Procedural Safeguards Requirements (<https://www.fcps.edu/sites/default/files/media/forms/se4.pdf>)."

FCPS's dispute resolution web site page lists administrative hearings at the top:

"An administrative review (AR) is a Fairfax County Public Schools (FCPS) informal, voluntary process to resolve special education and Section 504 disputes, convened at the request of the parent or the school principal. The parent or principal must submit a written request specifically describing their concern that is signed and dated to the office of Due Process and Eligibility. Issues related to child find, special education eligibility or Section 504 qualification, manifestation determination review or 504 causality hearing, and individualized education program (IEP)/504 Plan can be addressed through an AR. The administrative review committee consists of FCPS staff members with specific expertise, who have not had prior involvement and are impartial. The administrative review committee considers all available, relevant oral and written information before rendering an opinion or decision. A summary statement of the review discussion, opinion, and recommendations is provided to the parent and becomes part of the student record. The entire process typically takes up to six weeks to complete." [Dispute Resolution Options | Fairfax County Public Schools \(fcps.edu\)](#)

HOWEVER, there is no "local administrative review with [an LEA]" under VAC, 504, or IDEA.

VA CODE states:

"1. If the child's parent(s) disagrees with the determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement under these disciplinary procedures, the parent(s) may request an expedited due process hearing. 2. A local educational agency that believes that maintaining the current

placement of the child is substantially likely to result in injury to the child or others, may request an expedited due process hearing.”

Section 504’s procedural safeguards state:

“A recipient that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.”

IDEA states:

“(a) General. The parent of a child with a disability who disagrees with any decision regarding placement under §§[300.530](#) and [300.531](#), or the manifestation determination under §[300.530](#)(e), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to §§[300.507](#) and [300.508](#)(a) and (b).”

“(c) Expedited due process hearing. (1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of §§[300.507](#) and [300.508](#)(a) through (c) and §§[300.510](#) through [300.514](#), except as provided in paragraph (c)(2) through (4) of this section.”

As a resolution, I request the following:

- 1) FCPS be forced to change its practice, and to come into compliance with IDEA and implementing state regulations.
- 2) FCPS identify every individual who went through the local administrative review hearing process and provide compensatory damages addressing the failure to ensure FCPS they were aware of their procedural safeguards.
- 3) FCPS be required to do an audit of all special education-related forms, practices, policies, training, and so on, to identify other areas in which FCPS remains at fault for systemic noncompliance.

Please confirm receipt.

Please advise if you have any questions.

Thanks,

Redacted