



October 20, 2014

Public Charter School

RE: State Complaint No. 014-004

## LETTER OF DECISION

### PROCEDURAL BACKGROUND

On [REDACTED], the State Complaint Office of the Office of the State Superintendent of Education (OSSE), Division of Specialized Education received a State Complaint from [REDACTED] [REDACTED] (complainant) against [REDACTED] Public Charter School (PCS) alleging violations in the special education program of their [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 revise the IEP as appropriate to address any lack of expected progress toward the annual goals and in the general education curriculum.

The complainant also raised concerns regarding the student’s retention in the [REDACTED] grade, the lack of information provided to [REDACTED] about grade-level retention, and the amount of time [REDACTED] was given to consider the student’s possible grade-level retention. OSSE did not investigate these concerns because the IDEA does not regulate grade-level retention.

The State Complaint Office for OSSE has completed its investigation of the State Complaint. 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 issue under the jurisdiction of the State Complaint Office:

1. 34 CFR §300.324(b)(1)(ii)(A)
  - a. Failure to revise the IEP as appropriate to address any lack of expected progress toward the annual goals and in the general education curriculum.



**INVESTIGATIVE PROCEDURE**

The investigation included interviews with the following individuals:

1. Parent
2. [REDACTED] PCS [REDACTED]
3. [REDACTED] PCS [REDACTED]

The investigation also included review of the following documents which were either submitted by the complainant, submitted by [REDACTED] PCS, or accessible via the Special Education Data System (SEDS):



**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 specific learning disability.
3. The student’s LEA is [REDACTED] PCS.

**ISSUES ONE: REVISE IEP**

**Findings of Fact**

1. The [REDACTED] IEP prescribes 10 hours per week of specialized instruction outside the general education setting, 2.5 hours per week of specialized instruction inside the general education setting, 120 minutes per month of occupational therapy outside the general education setting, and 120 minutes per month of speech-language pathology outside the general education setting.

2. The [REDACTED] meeting participants were the parent, general education teacher, special education teacher, occupational therapist, speech language pathologist, counselor, and director of student support.
3. The [REDACTED] meeting notes stated: “[student’s] assessments show [REDACTED] reading at a 3<sup>rd</sup>-4<sup>th</sup> grade level.”
4. The [REDACTED] IEP prescribes 6 hours of specialized instruction outside the general education setting, 9 hours per week of specialized instruction inside the general education setting, 30 minutes per week of occupational therapy outside the general education setting, 60 minutes per week of speech-language pathology inside the general education setting, and 120 minutes per month of behavioral support services outside the general education setting.
5. The student was in a math intervention class and a writing intervention class for the entire [REDACTED] school year.
6. The student completed a Woodcock Reading Mastery test on [REDACTED].
7. The student was placed in a reading intervention class for the second semester of the [REDACTED] school year.
8. The student’s IEP was amended on [REDACTED] to add ESY services.
9. On [REDACTED] the IEP team met to make a final determination to retain the student.

### Discussion/Conclusion

#### **[REDACTED] PCS is in compliance with 34 CFR §300.324(b)(1)(ii)(A).**

Pursuant to 34 CFR §300.324(b)(1)(ii)(A), each public agency must review the IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved and revise the IEP as appropriate to address any lack of expected progress toward the annual goals and in the general education curriculum. The complainant alleges that [REDACTED] PCS does not have the proper educational services in place to meet the student’s needs.

The student began attending [REDACTED] PCS at the start of the [REDACTED] school year and was in the [REDACTED] grade. The student’s [REDACTED] IEP from the previous LEA prescribed 10 hours per week of specialized instruction outside the general education setting, 2.5 hours per week of specialized instruction inside the general education setting, 120 minutes per month of occupational therapy outside the general education setting, and 120 minutes per month of speech-language pathology outside the general education setting. On [REDACTED] the IEP team met to discuss the student’s progress and to update the student’s IEP. All required IEP team participants attended the meeting, including the parent, general education teacher, and special education teacher, as well as all of the student’s related service providers. The meeting notes indicate that the IEP team comprehensively discussed the student’s progress and IEP goals related to academics and related services. Meaningful changes and additions were made to the IEP goals. Behavior support services were added to the IEP to assist the student’s self-advocacy and social skills development. The student’s IEP was finalized on [REDACTED] to include 6 hours of specialized instruction outside the general education setting, 9 hours per

week of specialized instruction inside the general education setting, 30 minutes per week of occupational therapy outside the general education setting, 60 minutes per week of speech-language pathology inside the general education setting, and 120 minutes per month of behavioral support services outside the general education setting.

██████████ PCS reported that the student began the school year with an academic deficit. The student was reading at a 3<sup>rd</sup> or 4<sup>th</sup> grade level and was not making progress in the areas of math and writing. Interviews with ██████████ PCS staff and meeting notes reported that the student struggled with self-motivation and initiating work on classroom assignments. The student was placed in an intervention class for math and an intensive writing class. In addition, ██████████ PCS increased the student's specialized instruction hours inside the general education setting and included classroom aids and services in the student's ██████████ IEP; including small group instruction, proximity to the teacher, chunking of assignments, and use of a calculator and checklists. Throughout the ██████████ school year, ██████████ PCS monitored the student's academic progress. After implementing these supports and services, in January, ██████████ the student was assessed in reading. Assessment results indicated the student's present level of performance as below average in basic reading skills and reading comprehension. The test results showed that, on average, the student found reading tasks to fall into the very or extremely difficult proficiency categories. Based on these results, ██████████ PCS placed the student in a reading intervention class.

The IEP team met again on ██████████ to discuss the student's academic progress. ██████████ PCS reported that the student had made progress during the school year, but made less progress than required to master skills during a single academic year. The IEP team discussed the student's achievement in math and completing work independently, but noted that the student continued to show a lack of skill mastery on grade level. The IEP team decided to add ESY to the student's IEP based on evidence of regression over spring break and increased the student's specialized instruction to address continued mastery of reading and math skills. The student's IEP was amended on ██████████ to include ESY services and to increase specialized instruction outside of the general education setting from six to nine hours.

On ██████████ the IEP team met to make a final determination to retain the student. In order to make this decision the team discussed the student's present levels of performance and noted that although the Measures of Academic Progress scores showed some gains in math, the student's English scores declined. The student would continue to receive increased specialized instruction outside of the general education setting according the ██████████ IEP amendment. The complainant stated that she believed that students with IEPs could not be forced to stay back. This is not the case. The IDEA does not regulate grade promotion or retention and does not prohibit retention of students with IEPs. A review of the student's service logs show that the student received the related services ██████████ was entitled to throughout the school year. The complainant reported that ██████████ PCS did not fail to address any

concerns raised by the complainant during the course of the [REDACTED] school year.

The record indicates that [REDACTED] PCS made meaningful changes to the student's IEP and academic program in order to address the student's lack of expected progress.

Therefore, [REDACTED] PCS is in compliance with 34 CFR §300.324(b)(1)(ii)(A).

If you have any questions regarding this decision, please contact Victoria Glick, Manager, State Complaints, at [victoria.glick@dc.gov](mailto:victoria.glick@dc.gov) or 202-724-7860.

Sincerely,

Amy Maisterra, Ed.D., MSW  
Assistant Superintendent for Specialized Education

cc: [REDACTED], parent  
[REDACTED], parent  
Avni Patel, PCSB