



February 2, 2015

[REDACTED]
Public Charter School

RE: State Complaint No. 014-007

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] (complainant) against [REDACTED] Public Charter School (PCS) alleging violations in the special education program of her son, [REDACTED] (Student ID # [REDACTED] hereinafter “student” or “child.”

The complainant alleged that [REDACTED] PCS 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 to address any lack of expected progress towards the annual goals and in the general education curriculum, information about the child provided by the child’s parents, and the child’s anticipated needs; failure to make the placement decision in conformity with the LRE provisions; failure to offer a continuum of alternative placements; and failure to follow disciplinary procedures for removal of a child with a disability.

The complainant also raised concerns regarding issues from the [REDACTED] school year. In accordance with the IDEA regulations at 34 CFR §300.153(c), a complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received. OSSE did not investigate these concerns as they occurred more than one year prior to the date of the complaint. The complainant also raised concerns regarding grade-level retention and participation in extra-curricular activities being based upon a student’s grade point average. OSSE did not investigate these concerns as they did not allege a violation of Part B of the IDEA.

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 issues under the



jurisdiction of the State Complaint Office:

1. 34 CFR §300.324(b)(ii)
 - a. Failure to revise the IEP to address any lack of expected progress towards the annual goals and in the general education curriculum, information about the child provided by the child's parents, and the child's anticipated needs.
2. 34 CFR §300.116(a)(2)
 - a. Failure to make the placement decision in conformity with the LRE provisions.
3. 34 CFR §300.115
 - a. Failure to offer a continuum of alternative placements.
4. 34 CFR §300.530
 - a. Failure to follow disciplinary procedures for removal of a child with a disability.

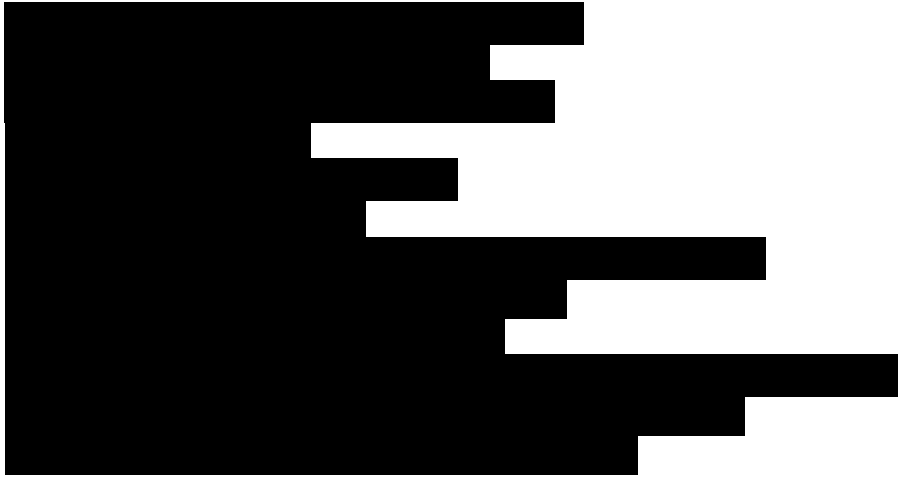
INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. [REDACTED] PCS head of school
3. [REDACTED] PCS exceptional learning specialist and student advocacy

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):

[REDACTED]



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 other health impairment.
3. The student’s LEA is [REDACTED] PCS.

ISSUE ONE: REVISE IEP

Findings of Fact

1. The letters from the student’s neurologist, [REDACTED], are dated [REDACTED].
2. Dr. [REDACTED] letter states; “Although [REDACTED] needs no physical therapy, Occupational therapy to help with skilled movements, particularly [REDACTED] hand writing would benefit [REDACTED].”
3. The [REDACTED] IEP prescribes 2.5 hours per week of specialized instruction in the general education setting, 2.25 hours per week outside the general education setting, 45 minutes per week of behavioral support services outside the general education setting, and 1 hour per month of behavioral support consultation services.
4. The [REDACTED] IEP contained the following classroom aids and services: “Checklists to help [REDACTED] remain organized and graph paper for DC CAS.”
5. An occupational therapist student observation was completed on [REDACTED] and the report was completed [REDACTED].
6. The [REDACTED] occupational therapy student observation report states: “Clinical observations, review of information provided and teacher reports indicate that an Occupational Therapy formal evaluation is not warranted at this time.”
7. The [REDACTED] occupational therapy student observation report contains the following recommendations: “a. Preferential seating at the front of the classroom to decrease distractions and improve accuracy in copying from board. b. Provide consistent visual checklists for [Student] to use when completing assignments. For example: 1. Check for capitals 2. Check for punctuation 3. Check spacing 4. Letters on line. c.

Consistent reminders for letter formation and line orientation; provide demonstration for correct formation. d. Provide [Student] with clear defined lines or raised lines and organized frameworks to place written answers on. e. Provide a clear, well organized letter strip to reference at near point. f. Use of a finger spacer to assist with appropriate spacing between words when composing sentences. g. Encouragement and cuing to self-correct written errors and give greater attention to detail and quality of work. h. Utilization of keyboarding and word processing to facilitate accuracy, editing, and revising of written assignments. i. Use of a timer to indicate end of work times . . . j. Limit auditory distractions (T.V.s, fans, side conversations, hallway noise) to improve attention span and promote optimal auditory processing. k. Strategies to promote independent functioning and organizational skills.”

8. An IEP team meeting was held [REDACTED] to discuss the occupational therapy student observation report.
9. The [REDACTED] meeting notes state: “[REDACTED] will add recommendations from this screener to [Student’s] file and share with teachers.”
10. A comprehensive psychological evaluation report was completed by Dr. [REDACTED] on [REDACTED].
11. The [REDACTED] comprehensive psychological evaluation report contains the following recommendations: “[REDACTED] will benefit from individualized academic instruction where there is a low teacher to student ratio, a small group setting and related services to promote academic success.” “[Student] would benefit from one hour of behavior counseling per week in the school setting.” “[Student] would benefit from a Behavior Intervention Plan (BIP). The BIP should address the completion of assignments, staying on task and distractions.”
12. The [REDACTED] BIP contains two replacement behaviors: 1) “[Student] will increase effort, work production, and the amount of homework turned in by 80%.” 2) “[Student] will refrain from disruptive horseplay with other students 80% of the time.”
13. The [REDACTED] BIP contains the following intervention strategies and positive behavior supports: 1) “[Student] will write homework in [REDACTED] CJ to take home for parents to review and sign, and then [Student] will have the teacher review and initial that [REDACTED] wrote the correct assignment down.” 2) “[Student] will check in with a LS at the end of each day to make sure [REDACTED] has the correct materials to bring home in order to complete [REDACTED] homework.” 3) “[Student] will be seated away from peers they might have conflicts with and or might be distracted by.” 4) “[Student] will ask to take a break when [REDACTED] feels a conflict will escalate out of control (break could be getting water, running an errand for teacher, specific spot to calm down, or the opportunity to go to [REDACTED] locker to retrieve supplies according to the student handbook etc.)” 5) “[Student] and teacher will develop a cue whereby when the teacher gives the cue to the student, they know to stop engaging in the inappropriate behavior.” 6) “[Student] will be allowed to speak with an Administrator.” 7) “Teacher will discuss cause/effect/consequences of behaviors with [Student] and/or class.”

14. The [REDACTED] school year attendance report shows that the student was absent 15 days, tardy 39 days, and left school early 10 days.
15. An annual IEP review meeting was held on [REDACTED].
16. The [REDACTED] IEP prescribes 4 hours per week of specialized instruction in the general education setting, 1 hour per week of specialized instruction outside the general education setting, 30 minutes per week of behavioral support services outside the general education setting, 15 minutes per week of behavioral support services in the general education setting, and 30 minutes per month behavioral support services consultation.
17. The [REDACTED] IEP contains the following classroom aids and services: "Checklists to help [REDACTED] remain organized, graph paper for DC CAS will be used as needed, non-verbal prompts/cues to increase on task behaviors, dean will give academic support and do daily check-ins."

Discussion/Conclusion

PCS is not in compliance with 34 CFR §300.324(b)(ii).

Pursuant to 34 CFR §300.324(b)(ii), the LEA must revise the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum, information about the child provided by the parent, and the child's anticipated needs. The complainant alleges that [REDACTED] PCS did not consider her suggestions and that the student's IEP is not working and the school will not change it.

Accommodations

The complainant alleges that [REDACTED] PCS did not consider the information and recommendations from five letters from Dr. [REDACTED] provided to the school by the parent. The dates of the letters from Dr. [REDACTED] range from [REDACTED] to [REDACTED]. A State complaint investigation may only include allegations that occurred not more than one year prior to the date that the complaint is received. (34 CFR §300.153(c)). All of these letters fall outside of the one-year investigation timeline and there is no evidence that the parent provided these letters to [REDACTED] PCS before or during the investigation timeline. However, a recommendation to provide OT services, which was made by Dr. [REDACTED] in the [REDACTED] letter, was discussed at an IEP team meeting that occurred during the investigation timeline, held on [REDACTED].

Dr. [REDACTED] [REDACTED] letter recommended that the student receive occupational therapy intervention to assist with skilled movements, including handwriting. Pursuant to the parent's request and this recommendation, [REDACTED] PCS conducted an occupational therapy observation to determine whether the student required occupational therapy services to assist with handwriting. The [REDACTED], [REDACTED] student observation report states that two of Dr. [REDACTED] reports, dated [REDACTED] and [REDACTED], were reviewed prior to conducting the observation. The report did not recommend a formal assessment or services,

but recommended accommodations including preferential seating, visual checklists, reminders, lined paper, letter strip, finger spacer, keyboarding and word processing, a timer, and limiting auditory distractions. An IEP team meeting was held on [REDACTED] to review the observation report. The [REDACTED] IEP in effect at the time of the meeting contained two recommended items under classroom aids and services: "Checklists to help [REDACTED] remain organized and graph paper for DC CAS." The IEP team did not add occupational therapy services to the student's IEP but did agree to add the recommendations from the report to the student's file and to share them with the student's teachers. OSSE's review of the student's record reflects the student's IEP was not updated to include any of the additional recommended accommodations. Where the record indicates mutual agreement among the IEP team that the student required the additional accommodations identified in the [REDACTED] observation report, the LEA's failure to modify the IEP to include these accommodations constitutes failure to revise the student's IEP to address anticipated needs.

Independent Psychological Evaluation Report Recommendations

The complainant alleges that [REDACTED] PCS did not consider the information from Dr. [REDACTED] psychological evaluation provided to the school by the parent. The evaluation was completed on [REDACTED]. The parent provided a copy to the school [REDACTED] and the IEP team met to review the evaluation on [REDACTED]. The evaluation report included the following recommendations: "[Student] should be classified as a student with Attention-Deficit/Hyperactivity Disorder and Social Communication Disorder. [REDACTED] will benefit from individualized academic instruction where there is a low teacher to student ratio, a small group setting and related services to promote academic success." "[Student] would benefit from one hour of behavior counseling per week in the school setting." "[Student] would benefit from a Behavior Intervention Plan (BIP). The BIP should address the completion of assignments, staying on task and distractions."

Many of the recommendations made by the evaluation report were already incorporated into the [REDACTED] IEP that was in effect at the time of the meeting. The student's disability classification of other health impairment is consistent with a diagnosis of ADHD. The IEP included 4.75 hours per week of specialized instruction and 45 minutes per week of behavioral support services. Meeting notes reflect the IEP team discussed the evaluation report's recommendation and parent's request that the student needs a small class size for every class. [REDACTED] PCS confirmed that the student was in a small teacher to student ratio classroom with a general education teacher and a special education teacher for math in the [REDACTED] school year. Meeting notes reflect that the IEP team agreed that the student's existing eligibility and IEP, including small classes and counseling services, were appropriate and that the evaluation report did not present any new information that would impact the current services in place for the student.

On [REDACTED], the IEP team developed a BIP for the student that included interventions and

positive behavioral supports to address two replacement behaviors directly related to the recommendations in the [REDACTED] [REDACTED] psychological evaluation report: 1) “[Student] will increase effort, work production, and the amount of homework turned in by 80%.” 2) “[Student] will refrain from disruptive horseplay with other students 80% of the time.” Where the student’s existing [REDACTED] IEP included a disability classification and services comparable to the report recommendations and the IEP team reviewed these recommendations to develop a BIP, there is no evidence that [REDACTED] PCS failed to update the student’s IEP to include services or supports that the student needed based on recommendations from the evaluation report.

IEP Services

The complainant alleges that [REDACTED] PCS refuses to revise the IEP to address the student’s lack of progress in the general education curriculum. The IEP team met for the annual review and updated the student’s IEP on [REDACTED] to prescribe 4 hours per week of specialized instruction in the general education setting, 1 hour per week of specialized instruction outside the general education setting, 30 minutes per week of behavioral support services outside the general education setting, 15 minutes per week of behavioral support services in the general education setting, and 30 minutes per month behavioral support services consultation. Two additions were made to the classroom aids and services section: “non-verbal prompts/cues to increase on task behaviors, dean will give academic support and do daily check-ins.” The student failed several classes in the [REDACTED] school year and was subsequently retained in the 8th grade. [REDACTED] PCS reported that the student’s academic failure was due to frequent absences and tardiness, and failure to complete homework. The [REDACTED] school year attendance report shows that the student was absent 15 days, tardy 39 days, and left school early 10 days. OSSE’s review of the record reflects that [REDACTED] PCS has continually attempted to address the student’s failure to complete homework as documented in the [REDACTED] IEP team meeting notes; the [REDACTED] change in placement meeting notes; the [REDACTED] BIP; the [REDACTED] IEP team meeting notes; the [REDACTED] BIP; and the [REDACTED] IEP team meeting notes. As noted above, the IEP has been updated in response to the student’s changing needs over time, including increased specialized instruction revised behavioral support services, and additional classroom aids.

Therefore, [REDACTED] PCS is not in compliance with 34 CFR §300.324(b)(ii) for failure to revise the IEP to include the recommended accommodations from the [REDACTED] occupational therapy observation report as agreed upon by the IEP team.

ISSUE TWO: PLACEMENT IN THE LRE

Findings of Fact

1. The [REDACTED] comprehensive psychological evaluation report states: “[REDACTED] will benefit from individualized academic instruction where there is a low teacher to student ratio, a small group setting and related services to promote academic success.”

2. A change in placement meeting was held on [REDACTED].
3. The [REDACTED] BIP provides supports to increase effort, work-production, and the amount of homework turned in by 80%.
4. The [REDACTED] IEP prescribes 4 hours per week of specialized instruction in the general education setting, 1 hour per week of specialized instruction outside the general education setting, 30 minutes per week of behavioral support services outside the general education setting, 15 minutes per week of behavioral support services in the general education setting, and 30 minutes per month behavioral support services consultation.
5. The student was hospitalized from [REDACTED] to [REDACTED].
6. The [REDACTED] Dominion Psychiatric Discharge Instruction/Plan identifies the student's discharge diagnosis as academic pressures.

Discussion/Conclusion

[REDACTED] PCS is in compliance with 34 CFR §300.116(a)(2).

Pursuant to 34 CFR §300.116(a)(2), each public agency must ensure that placement decisions are made in conformity with a determination of the student's Least Restrictive Environment (LRE). In determining each child's LRE, the IDEA requires that children with disabilities be educated with children who are non-disabled to the maximum extent appropriate. (34 CFR §300.114 (2)(i)) In addition, the placement must be based on the student's IEP. (34 CFR §300.116(b)(2)) The complainant alleges that the school does not provide the accommodations the student needs and refuses to change the student's placement to ensure receipt of these accommodations.

The complainant asserts that the student needs a placement in a special education school with small class sizes that are close to one on one instruction. There is no evidence in the record that the student requires this type of support. While the [REDACTED] independent comprehensive psychological evaluation recommends a low teacher to student ratio and a small group setting, it does not recommend one to one instruction throughout the academic school day and does not recommend the student be placed in a separate special education school. Although [REDACTED] PCS believed that the student's placement as required by the [REDACTED] IEP was appropriate, the school made a change in placement request to OSSE due to the parent's request. A meeting to discuss a change in placement was held on [REDACTED] where the IEP team reviewed student data and discussed the student's needs. The IEP team determined that a change in placement was not warranted and the team would reconvene to develop a BIP to address homework completion in the context of the student's disability.

The student is currently in the general education setting and most of [REDACTED] classes have approximately 20 students, a general education teacher, and a learning specialist to deliver specialized instruction services. The student receives 4 hours per week of specialized instruction in the general education setting, an additional hour per week of specialized

instruction outside of the general education setting, and 45 minutes per week of behavioral support services both inside and outside of the general education setting in accordance with IEP. A BIP was finalized on [REDACTED] to include supports for homework completion. The record indicates that the student's placement is in conformance with the student's IEP and recommendations made by the psychological evaluation, where the student's classroom has a 1 to 10 teacher to student ratio and supports are in place to address the student's behavior as it relates to classwork and homework completion.

The student was hospitalized for two weeks at the beginning of the [REDACTED] school year—the last week in October and the first week of November. The parent reported the student's hospitalization was due to a medical diagnosis of academic pressure, as confirmed by the student's [REDACTED] discharge instructions/plan. [REDACTED] PCS met with the complainant prior to the student's hospital discharge on [REDACTED] and put in place a recovery plan that consisted of collecting essential assignments from teachers in each class, outlining supports for the student to complete the assignments, and agreeing upon a due date. The parent reported that she does not believe that the student required a change in placement to a therapeutic setting and there is no evidence that the supports put into place required [REDACTED] PCS to change the student's placement subsequent to the student's hospitalization.

Therefore, [REDACTED] PCS is in compliance with 34 CFR §300.116(a)(2).

ISSUE THREE: CONTINUUM OF ALTERNATIVE PLACEMENTS

Findings of Fact

1. The [REDACTED] IEP prescribes 4 hours per week of specialized instruction in the general education setting; and
2. [REDACTED] PCS provides an inclusion setting for all special education students, including a general education and learning specialist teacher that provides specialized instruction services.
3. The [REDACTED] IEP prescribes 4 hours per week of specialized instruction in the general education setting, 1 hour per week of specialized instruction outside the general education setting, 30 minutes per week of behavioral support services outside the general education setting, 15 minutes per week of behavioral support services in the general education setting, and 30 minutes per month behavioral support services consultation.
4. The student's learning specialist provides one to one learning for extra support outside the general education setting.

Discussion/Conclusion

[REDACTED] PCS is not in compliance with 34 CFR §300.115.

The IDEA at 34 CFR §300.115(a) requires each public agency to ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special

education and related services. The continuum must include the alternative placements listed in the definition of special education (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and make provision for supplementary services (such as a resource room or itinerant instruction) to be provided in conjunction with regular class placement. (34 CFR §300.115(b)) The complainant alleges that [REDACTED] PCS said that the student could not receive placement in small classes at their LEA.

[REDACTED] PCS reported that it offers an inclusion setting for all special education students with a general education teacher and learning specialists that push services into the classroom when students require specialized instruction. As discussed in Issue Two above, the student is placed in the general education setting with 4 hours per week of specialized instruction in the general education setting and 1 hour per week of specialized instruction outside the general education setting. The student's learning specialist provides one to one learning outside the general education setting for extra support. [REDACTED] PCS staff reported that instruction outside the general education setting is made available to this student because the parent insisted on delivery of these services. [REDACTED] PCS is able to provide the placement that is required by the student's IEP.

Pursuant to 34 CFR §300.151(b)(2), in resolving a complaint in which the SEA has found a failure to provide appropriate services, the SEA, pursuant to its general supervisory authority; must address appropriate future provision of services for all children with disabilities. [REDACTED] PCS staff reported that the LEA provides specialized instruction only in the general education setting. Staff additionally reported that if this environment cannot meet a student's needs, they refer the student for a change in placement through the OSSE Change in Placement review process. This process requires the IEP team to consider whether the student's needs can be met in the current placement with additional supports, or if the student requires a more restrictive environment, such as a full time special education placement.¹ OSSE's investigation revealed that the LEA does not make special classes and resource room instruction available. Making specialized instruction available only in the general education setting, or in an entirely special education setting outside of the school building, does not constitute a continuum of alternative placements. (34 CFR §300.115(a)) While services were provided to this student outside the general education setting, this is not sufficient evidence of a continuum of alternative placements because LEA staff admit these services were provided at the insistence of the parent, and not based on student need. OSSE finds that [REDACTED] PCS has failed to ensure a continuum of placements is available, where referral for a full time special education placement is the only alternative for students who require a more restrictive environment than the general education setting.

Therefore, [REDACTED] PCS is not in compliance with 34 CFR §300.115.

¹ OSSE Policies and Procedures for Placement Review, Revised at p. 4 (January 5, 2010).

ISSUE FOUR: DISCIPLINARY PROCEDURES

Findings of Fact

1. The student was suspended for 3 school days on [REDACTED].
2. The student was suspended for 1 school day on [REDACTED].
3. The student was suspended for 1 school day on [REDACTED].
4. The student was sent to academic redirection 9 times during the [REDACTED] school year.
5. When sent to academic redirection, the student was out of class for less than one hour.
6. The student has been sent to academic redirection 6 times so far during the [REDACTED] school year.
7. When sent to academic redirection, the student was out of class for one or two class period.
8. The [REDACTED] BIP contains two replacement behaviors: 1) "[Student] will increase effort, work production, and the amount of homework turned in by 80%." 2) "[Student] will refrain from disruptive horseplay with other students 80% of the time."
9. The [REDACTED] BIP contains the following intervention strategies and positive behavior supports: 1) "[Student] will write homework in [REDACTED] CJ to take home for parents to review and sign, and then [Student] will have the teacher review and initial that [REDACTED] wrote the correct assignment down." 2) "[Student] will check in with a LS at the end of each day to make sure [REDACTED] has the correct materials to bring home in order to complete [REDACTED] homework." 3) "[Student] will be seated away from peers they might have conflicts with and or might be distracted by." 4) "[Student] will ask to take a break when [REDACTED] feels a conflict will escalate out of control (break could be getting water, running an errand for teacher, specific spot to calm down, or the opportunity to go to [REDACTED] locker to retrieve supplies according to the student handbook etc.)" 5) "[Student] and teacher will develop a cue whereby when the teacher gives the cue to the student, they know to stop engaging in the inappropriate behavior." 6) "[Student] will be allowed to speak with an Administrator." 7) "Teacher will discuss cause/effect/consequences of behaviors with [Student] and/or class."
10. The [REDACTED] BIP contains two replacement behaviors for the student: 1) "[Student] will turn in homework 80% of the time." 2) "[Student] will bring proper materials to class 80% of the time."
11. The [REDACTED] BIP contains the following intervention strategies and positive behavior supports: 1) "[Student] will properly write homework in [REDACTED] planner (CJ) to take home for parents to review. School staff will check that [Student] wrote down [REDACTED] assignments." 2) "[Student] will check in with Dean for Academic Support or Learning Specialist once a day to make sure [REDACTED] has the correct materials to bring home in order to complete [REDACTED] homework and to collect data on HW completion from previous day." 3) "[Student] will have ample opportunity to collect materials needed during transitions between classes." 4) "[Student] will ask to take a break when [REDACTED] feels a conflict will escalate out of control (break could be getting water, running an errand for teacher, specific spot to calm down, or the opportunity to go to [REDACTED] locker to retrieve supplies

according to the student handbook etc.)” 5) “[Student] and teacher will develop a cue whereby when the teacher gives the cue to the student, they know to stop engaging in the inappropriate behavior.” 6) “[Student] will be allowed to speak with an Administrator regarding concerns.” 7) “Teacher will discuss cause/effect/consequences of both positive and negative behaviors with [Student] and/or class, and use nonverbal cues for initial redirections.”

12. The student had a disciplinary incident on [REDACTED] for class disruption.
13. The student was suspended for 1 school day on [REDACTED] for refusing to turn in [REDACTED] cell phone.

Discussion/Conclusion

[REDACTED] PCS is in compliance with 34 CFR §300.530.

Pursuant to 34 CFR §300.530, an LEA must hold a manifestation determination within 10 school days of any decision to remove the child for more than 10 consecutive school days or a series of removals that constitute a pattern. The complainant alleges that the student has been inappropriately subjected to out of school and in school suspensions.

[REDACTED] PCS reports that the student has not been removed for more than 10 consecutive school days. The student received two suspensions during the [REDACTED] school year—one for 1 day and one for 3 days. [REDACTED] PCS’s in school suspension is called, “academic redirection.” When a teacher is unable to manage a student’s behavior in class, the student is sent to the dean of students where the dean addresses the student’s behavior and sends the student back to class when ready. The dean of students calls the student’s parent to report the incident and will solicit work from the student’s teacher if the student remains in academic redirection for an extended period of time. In the [REDACTED] school year the student was sent to academic redirection 9 times. The student’s time spent out of class for each incident was less than one hour, at most totaling about one full school day for all incidents.² The total time spent out of class due to disciplinary incidents in the [REDACTED] school year was 5 school days. In the [REDACTED] school year, the student has received one out of school suspension for 1 school day. In the current school year the student has been sent to academic redirection 6 times. The student’s time spent out of class for each incident ranged from one to two class periods for a total of 1.5 school days at most. The total time spent out of class due to disciplinary incidents in the [REDACTED] school year so far is 2.5 school days. The student has not been removed for more than 10 school days during the [REDACTED] school year or during the [REDACTED] school year. Therefore, [REDACTED] PCS was not required to hold a manifestation determination meeting.

[REDACTED] PCS further reported that the school has a BIP in place to address the student’s behavioral needs. The IEP team finalized a BIP for the student on [REDACTED]. The BIP contained one replacement behavior to address the student’s disruptive classroom behavior:

² This calculation is based on an 8-hour school day.

“[Student] will refrain from disruptive horseplay with other students 80% of the time.” In order to help the student achieve this, the BIP contained the following interventions and positive behavioral supports: “[Student] will be seated away from peers they might have conflicts with and or might be distracted by; [Student] will ask to take a break when [redacted] feels a conflict will escalate out of control (break could be getting water, running an errand for teacher, specific spot to calm down, or the opportunity to go to [redacted] locker to retrieve supplies according to the student handbook etc.); [Student] and teacher will develop a cue whereby when the teacher gives the cue to the student, they know to stop engaging in the inappropriate behavior; [Student] will be allowed to speak with an Administrator; Teacher will discuss cause/effect/consequences of behaviors with [Student] and/or class.” The IEP team met on [redacted] and discussed student behavior and updated the student’s BIP. The student’s BIP was updated on [redacted]. The replacement behavior related to disruptive classroom behavior was removed, but the interventions and positive behavioral supports remained. The IEP team met again on [redacted] to review the student’s BIP. At this meeting, the team discussed that the student had not mastered [redacted] BIP goals related to completion of homework and discussed the student’s missing assignments for each class. Although the student’s disciplinary record indicates an incident causing classroom disruption on [redacted] the student did not receive a suspension for this incident³ and there was no discussion of persistent disruptive classroom behavior at the [redacted] meeting. OSSE finds that [redacted] PCS has addressed student behavior through in school supports rather than out of school removals that require a manifestation determination meeting, and the student has not been suspended for more than 10 school days.

Therefore, [redacted] PCS is in compliance with 34 CFR §300.530.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §300.324(b)(ii), [redacted] PCS must convene an IEP team meeting to revise the student’s IEP to include the recommended accommodations from the [redacted] occupational therapy student observation report previously agreed upon by the IEP team. Documentation of the completion of this corrective action is due to OSSE within 60 days of the date of this letter.
2. In order to correct noncompliance with 34 CFR §300.115, [redacted] PCS must:
 - a. Develop a plan to ensure the availability of a continuum of alternative placements, including resource room instruction and special classes, for students who may require a more restrictive environment than the general education setting but a less restrictive environment than a full time special education

³ The student received a 1 day out of school suspension on this date for a subsequent refusal to turn in [redacted] cell phone.

environment. Documentation of completion of this plan is due to OSSE within 60 days of the date of this letter.

- b. Receive technical assistance from a private provider, local organization, or OSSE on the LEA's responsibility to ensure that a continuum of alternative placements is available to serve all students with disabilities, as required by 34 CFR §300.115. If [REDACTED] PCS selects to receive technical assistance from a private provider or local organization, documentation of completion is due to OSSE within 45 days of the date of this letter. If [REDACTED] PCS selects to receive technical assistance through OSSE; LEA staff must contact Dr. Jennifer Masoodi, Director, of Monitoring and Compliance at Jennifer.Masoodi@dc.gov to access these resources within 30 days of the date of this letter.

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

Sincerely,

Elisabeth M. Morse, J.D.
Interim Assistant Superintendent for Elementary, Secondary, and Specialized Education

cc: [REDACTED], Complainant
Avni Patel, Public Charter School Board