



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

June 3, 2016

[REDACTED]
Public Charter School
[REDACTED]

RE: State Complaint No. 015-018

LETTER OF DECISION

PROCEDURAL BACKGROUND

On [REDACTED], the State Complaint Office of the Office (SCO) of the State Superintendent of Education (OSSE), Division of Elementary, Secondary, and Specialized Education received a State Complaint from [REDACTED] (complainant or parent) against [REDACTED] Public Charter School (PCS) alleging violations in the special education program of [REDACTED] [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, provide IEP services, and include in the IEP a statement of the supplementary aids and services to be provided to enable the child to participate in extracurricular and other nonacademic activities.

The SCO for OSSE has completed its investigation of the State Complaint. OSSE found that [REDACTED] PCS was in compliance with its obligation to revise the IEP and include all required components in the IEP, but not in compliance with its obligation to provide all IEP services. 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 SCO:

1. **IEP revision requirements at 34 CFR §300.324(b)(1)(ii)**
 - a. Failure to appropriately revise the IEP, specifically with regard to information about the child provided, to or by, the parent regarding student and teacher interactions; and the child’s anticipated needs.

2. **Requirement to provide IEP services at 34 CFR §300.323(c)(2)**
 - a. Failure to make special education and related services available in accordance with the IEP, specifically with regard to speech-language pathology services.
3. **IEP content requirements at 34 CFR §300.320(a)(4)(ii)**
 - a. Failure to include in the IEP a statement of the supplementary aids and services to be provided to enable the child to participate in extracurricular and other nonacademic activities, specifically with regard to trips to visit high schools.

The complainant also raised an additional claim which the State Complaint Office did not investigate. The complainant raised concerns regarding methods of discipline. OSSE did not investigate these concerns as they did not allege a violation of Part B of the IDEA.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. [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):

[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 specific learning disability.
3. The student’s local educational agency (LEA) is [REDACTED] PCS.

ISSUE ONE: IEP REVISION

Findings of Fact

1. The [REDACTED] IEP prescribed 20 hours per week of specialized instruction outside the general education setting and 120 minutes per month of speech-language pathology services.
2. The student enrolled at [REDACTED] PCS at the beginning of the [REDACTED] school year, beginning on [REDACTED].
3. A meeting to review and revise the IEP was held [REDACTED].
 - a. At the meeting the IEP team discussed the student's academic progress and reviewed scores from an achievement test and teacher input.
 - b. The meeting notes state: "[Student] was self-contained at [previous school] which neither parent nor student enjoyed."
 - c. The IEP team decided to reduce the student's specialized instruction hours outside the general education setting to 10 hours per week and add 10 hours per week of specialized instruction inside the general education setting.
 - d. The IEP team decided to remove the behavior goals from the IEP because there were no corresponding services and the team determined that the student had no behavioral needs.
 - e. The IEP team changed the academic goals based on the student's present levels of performance.
4. The [REDACTED] IEP prescribes 10 hours per week of specialized instruction outside the general education setting, 10 hours per week of specialized instruction inside the general education setting, and 120 minutes per month of speech-language pathology services.
5. A meeting was held [REDACTED].
 - a. The parent requested a reevaluation.
 - b. The parent expressed concern regarding teachers bullying the student and the student not making academic progress.
 - c. School staff reported that the parent interrupted school staff when they were talking and did not give school staff an opportunity to explain or address the parent's concerns.
 - d. School staff addressed concerns that the student's motivation and focus impact [REDACTED] completion of homework work, further stating that they see that [REDACTED] is capable of completing the work in school.
 - e. The IEP team decided to complete a comprehensive psychological assessment and a speech language assessment to determine the student's needs and reconvene to revise the IEP.

Discussion/Conclusion

Based on the analysis below, [REDACTED] PCS is in compliance with 34 CFR §300.324(b)(1)(ii), due to responding to the parent's request to discuss [REDACTED] concerns.

Pursuant to 34 CFR §300.324(b)(1)(ii), each public agency must revise the IEP, as appropriate, to address information about the child provided to, or by, the parents, and the child's anticipated needs. The complainant alleges that the school revised the student's IEP

after knowing the student for fewer than thirty days and that the school has failed to address the parent's concerns regarding bullying.

30-Day Review Meeting

The student enrolled at [REDACTED] PCS at the beginning of the [REDACTED] school year. The student's [REDACTED] IEP was developed by the previous school and prescribed 20 hours per week of specialized instruction outside the general education setting. [REDACTED] PCS implemented these IEP services from the start of the school year and held a 30-day review meeting on [REDACTED]. At this meeting the IEP team discussed the student's academic progress and reviewed scores from an achievement test and teacher input. The IEP team changed the academic goals based on the student's present levels of performance. The team additionally removed the behavior goals from the IEP because there were no corresponding services and the team determined that the student had no behavioral needs.

The parent reported to the IEP team that student was not successful in the self-contained setting at [REDACTED] previous school and the IEP team decided to reduce the student's specialized instruction hours outside the general education setting to 10 hours per week, and add 10 hours per week of specialized instruction inside the general education setting. All members of the IEP team, including the parent, were in agreement with the changes made at the meeting. OSSE finds that the IEP team appropriately relied on student data and parent input to revise the student's [REDACTED] IEP.

Bullying

Pursuant to the parent's request, a meeting was held on [REDACTED]. The parent requested a reevaluation and expressed concerns about teachers bullying the student and the student not making academic progress. In response to the parent's concerns about academic progress, school staff raised concerns about the student's lack of completion of homework. The parent expressed concern about the student's homework load and [REDACTED] ability to complete the work. School staff reported that the student's motivation and focus may impact homework completion because they see that [REDACTED] is capable of completing the work in school. School staff suggested a homework contract to add an incentive to complete homework and offered to assist with strategies to complete homework assignments. These solutions were rejected by the parent as [REDACTED] believed that the student was not able to complete the work. The parent requested increasing the student's specialized instruction hours outside the general education setting. School staff suggested waiting until the agreed upon comprehensive psychological and speech language assessments were completed in order to base any changes to the IEP on the student's needs consistent with least restrictive environment requirements.

In response to the parent's concerns about bullying, school staff reported attempts to respond but were unable to do so due to the parent's refusal to cooperate in a discussion of individual incidents at the meeting. At the conclusion of the meeting the only action items for moving forward were completion of the two assessments. The IEP team came to no agreements or understandings regarding homework completion and student - staff interactions.

OSSE finds that [REDACTED] PCS responded to the parent's request to hold a meeting to discuss [REDACTED] concerns; however, the poor relationship between the parent and school staff prevented meaningful discussion to resolve concerns and to identify strategies to help the student succeed. OSSE declines to make a finding where OSSE could not identify a failure by the school to respond to the parent's concerns, but encourages all parties to continue to work together to address all concerns regarding the student. OSSE reminds [REDACTED] PCS of the availability of facilitated IEP meetings through the OSSE Office of Dispute Resolution, which can be reached via phone at 202-698-3819 or email at hearing.office@dc.gov.

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

ISSUE TWO: IEP SERVICES

Findings of Fact

1. The [REDACTED] and [REDACTED] IEPs prescribe 120 minutes per month of speech-language pathology services.
2. The student missed 60 minutes of speech-language pathology services due to provider unavailability.
3. The student missed 300 minutes of speech-language pathology services due to school closure and student unavailability.

Discussion/Conclusion

Based on the analysis below, [REDACTED] PCS is not in compliance with 34 CFR §300.323(c)(2), due to failure to provide all speech-language pathology services required by the student's IEP.

Pursuant to 34 CFR §300.323(c)(2), as soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the IEP. The complainant alleges that the student is not receiving [REDACTED] speech therapy services.

Services that are missed due to the provider's absence must be made up.¹ Services that are attempted but missed due to the student's absence or school closure are not required to be made up, but the IEP team should consider the impact of missed services on the child's progress and receipt of FAPE.² The [REDACTED] and [REDACTED] IEPs prescribe 120 minutes per month of speech-language pathology services. OSSE reviewed service trackers to determine how many minutes of services were provided to the student each month from the beginning of the [REDACTED] school year until the filing of this complaint on [REDACTED]:

¹ OSSE Related Services Policy at p. 10 (January 5, 2010).

² Id.

Month	Services Received	Services Missed due to School Closure	Services Missed due to Student Unavailability	Services Missed due to Provider Unavailability
September³	90 minutes	0 minutes	0 minutes	0 minutes
October	60 minutes	30 minutes	30 minutes	30 minutes
November⁴	60 minutes	30 minutes	0 minutes	30 minutes
December⁵	30 minutes	60 minutes	0 minutes	30 minutes
January	30 minutes	90 minutes	90 minutes	0 minutes
February	120 minutes	0 minutes	0 minutes	0 minutes
March	60 minutes	30 minutes	60 minutes	60 minutes

Related services started the second week of school for all students; the student received the 90 minutes of services ■ was entitled to for the month of September ■ In October ■ the student received 60 minutes of services and missed the remaining services due to school closure, student unavailability, and provider unavailability. Although 30 minutes of services were missed due to provider unavailability, the remaining 60 minutes of services owed to the student were accounted for through attempted service delivery that was missed for reasons not required to be made up.

In November ■ the student received 60 minutes of services, 30 minutes were missed due to school closure, and 30 minutes were missed due to provider unavailability. The 30 minutes missed due to provider unavailability must be made up. In December ■ the student received 30 minutes of services, 30 minutes were missed due to provider unavailability, and the remaining 60 minutes were missed because the school was closed for two weeks for winter break. The 30 minutes missed due to provider unavailability must be made up.

In January ■ the student received 30 minutes of services and the rest were missed due to school closure and student unavailability, which are not required to be made up. The student received all services ■ was entitled to in February ■ In March ■ the student received 60 minutes of services and missed the rest due to school closure, student unavailability, and provider unavailability. Although 60 minutes of services were missed due to provider unavailability, the remaining 60 minutes of services owed to the student were accounted for through attempted service delivery that was missed for reasons not required to be made up.

As a result, OSSE finds that the student is owed 60 minutes of speech-language pathology services missed for provider unavailability for the months of November and December ■ Although missed services are not required to be made up for school closure and

³ Related services started the second week of school for all students thus the student was required to receive only 90 minutes of services this month.

⁴ The school was closed for two days for Thanksgiving and no services were provided to students on those days.

⁵ The school was closed for two weeks due to winter break, thus the student was required to receive only 60 minutes of services this month.

student unavailability, these reasons account for 300 minutes of missed services from October [REDACTED] through March [REDACTED]. The student's IEP team should consider the impact of these missed services on the child's progress and receipt of FAPE, and make a determination about whether the services should be made up.

Therefore, [REDACTED] PCS is not in compliance with 34 CFR §300.323(c)(2).

ISSUE THREE: SUPPLEMENTARY AIDS AND SERVICES

Findings of Fact

1. In [REDACTED] PCS's student-family handbook it states that completed permission slips are required for all field trips and that field trips are a privilege for all students and require acceptable behavior and attendance prior to the field trip.
2. The parent and student signed an acknowledgment of receipt of the student-family handbook on [REDACTED].
3. [REDACTED] PCS reported that reminders regarding upcoming field trips are included in the weekly newsletter sent out by the school.
4. [REDACTED] PCS reported that information about the requirements to attend a field trip are included in the permission slip.
5. The [REDACTED] IEP does not list any accommodations that are required to enable the student to complete homework assignments.
 - a. Under the present levels of academic achievement and functional performance section for the area of concern for mathematics it states: "So far this school year, [Student] has been completing [REDACTED] math homework and grasping math concepts because of specialized instruction."
 - b. Under the present levels of academic achievement and functional performance section for the area of concern for reading it states: "Assignment completion outside of the classroom has also been a consistent area of concern. [Student's] unwillingness or inability to complete take home assignments in the form of projects and homework make it difficult for [REDACTED] to demonstrate proficiency and practice skills and strategies taught in the classroom."
6. In December [REDACTED] all eighth grade students had the opportunity to visit a high school.
 - a. In order to go on the field trip, students were required to complete the homework assignments for the morning classes they would be missing.
 - b. On the day of the field trip, the student did not have [REDACTED] completed homework assignments and thus was not allowed to attend the field trip along with any other students who did not complete their homework.
7. At the [REDACTED] [REDACTED] meeting the IEP team discussed the student's lack of homework completion.

Discussion/Conclusion

Based on the analysis below, [REDACTED] PCS is in compliance with 34 CFR §300.320(a)(4)(ii), due to the IEP containing the supplementary aids and services required by the student to participate in extracurricular or nonacademic activities. Pursuant to 34 CFR §300.320(a)(4)(ii), the IEP must include a statement of the

supplementary aids and services to be provided to the child to participate in extracurricular and other nonacademic activities. The complainant alleges that the student was not allowed to participate in any trips to visit high schools.

On [REDACTED], the parent and student signed an acknowledgement of receipt of the [REDACTED] PCS's student-family handbook, which states that field trips are a privilege for all students, require acceptable behavior and attendance prior to the field trip, and that completed permission slips are required for all field trips. [REDACTED] PCS reported that information about the requirements to attend a field trip are included in the permission slip for each field trip and that reminders for upcoming field trips are included in the weekly newsletter sent out by the school. In December [REDACTED] all eighth grade students had the opportunity to visit a high school and were required to complete the homework for the morning classes they would be missing. [REDACTED] PCS reported that the requirements to attend this field trip were communicated through the permission slip and information was provided at the high school fair; however, a copy of the permission slip or any written communication from the school detailing the requirements to attend this particular field trip are unavailable.

On the day of the field trip, the student did not have [REDACTED] completed homework and thus was not allowed to attend the field trip along with any other students who did not complete their homework. OSSE finds that the homework completion requirement was generally applicable to all students. There are no accommodations in the student's IEP that are required to enable the student to complete homework assignments; although in one place in the IEP an issue with homework completion is identified while in another place in the IEP it is noted the student is capable of completing homework assignments. At the [REDACTED] meeting the IEP team discussed concerns about the student's homework completion, specifically identifying that this is inconsistent with the student's completion of classroom assignments. Although homework completion is a concern for this student, OSSE cannot conclude that the student is unable to complete homework assignments or requires an IEP accommodation to enable the student to meet the expectations for all students to attend field trips.

Therefore, [REDACTED] PCS is in compliance with 34 CFR §300.320(a)(4)(ii).

CONCLUSIONS

1. [REDACTED] PCS is in compliance with 34 CFR §300.324(b)(1)(ii), due to responding to the parent's request to discuss [REDACTED] concerns.
2. [REDACTED] PCS is not in compliance with 34 CFR §300.323(c)(2), due to failure to provide all speech-language pathology services required by the student's IEP.
3. [REDACTED] PCS is in compliance with 34 CFR §300.320(a)(4)(ii), due to the IEP containing the supplementary aids and services required by the student.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §300.323(c)(2), [REDACTED] PCS must:

- a. Make up 60 minutes of speech-language pathology services. Documentation of completion is due to OSSE within 30 days of this decision.
- b. Convene the IEP team to discuss the impact of the missed 300 minutes of speech-language pathology services and make a determination about whether the services should be made up. Documentation of completion is due to OSSE within 30 days of this decision.

All corrective actions must be completed by the date specified above, but in no case later than one year from 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,

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

cc: [REDACTED], Complainant