



DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

[REDACTED]

VIA U.S. Mail & Electronic Mail

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: State Complaint No. 018-001 Letter of Decision

LETTER OF DECISION

PROCEDURAL BACKGROUND

On [REDACTED], the State Complaint Office (SCO) of the Office of the State Superintendent of Education (OSSE), Division of Systems and Supports, K-12 received a State complaint from [REDACTED] (complainant or parent) against the [REDACTED] Public Charter School ([REDACTED] 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 follow the discipline procedures and provide required services and supports.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that [REDACTED] PCS complied with its obligation to follow the discipline procedures for students with disabilities and provide the services and supplementary aids and supports required by the student's IEP. This Letter of Decision (LOD) 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 OSSE SCO:

1. **Discipline requirements at 34 CFR §300.530**
 - a. Failure to ensure student discipline requirements were appropriately applied

to a student identified with a disability.

2. **IEP requirements at 34 CFR §300.323(a)**
 - a. Failure to have an individualized education program (IEP) in effect for the student, specifically a failure to provide specialized instruction and related services as required by the student's IEP.
3. **IEP requirements at 34 CFR §§300.107 and 300.117**
 - a. Failure to take steps, including the provision of supplementary aids and services determined appropriate and necessary by the student's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities, specifically with respect to field trips.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. [REDACTED]
3. [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):

1. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [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 emotional disturbance.
3. The student's local educational agency (LEA) is [REDACTED] PCS.

ISSUE ONE: DISCIPLINE

Findings of Fact

1. [REDACTED] PCS suspended the student on the following dates: [REDACTED]
[REDACTED]
[REDACTED].
2. On [REDACTED] the IEP Team revised the student's IEP and created a behavior intervention plan (BIP) for the student.
3. The student's suspension on [REDACTED] were the tenth (10th) and eleventh (11th) days of suspension during the [REDACTED] school year.
4. [REDACTED] PCS held a manifestation determination meeting on [REDACTED].
 - a. The team determined that the student's behavior was a manifestation of [REDACTED] disability, but not the result of the school's failure to implement the student's IEP.
 - b. The school reported that it was providing the student's behavioral support services and implementing the student's BIP with fidelity.
 - c. The team discussed a change in placement and the possibility of an interim alternative educational setting for the remainder of the school year.
 - d. The school expressed concern about the student's ability to be safe and served in [REDACTED] current placement, but acknowledged that the student was entitled to return to [REDACTED] placement and would not be moved to an interim alternative educational setting without the parent's agreement.
 - e. The team agreed that the student was entitled to make-up services for the days [REDACTED] was out of school.
5. The student returned to school on [REDACTED].
6. The student was suspended again on [REDACTED].
7. [REDACTED] PCS held a second manifestation determination meeting on [REDACTED].
 - a. The team determined that the student's behavior was a manifestation of [REDACTED] disability, but not the result of the school's failure to implement the student's IEP.
 - b. The team agreed that the student was entitled to make-up services for the three days [REDACTED] was out of school.
 - c. The team agreed that no additional changes were needed other than the ones already discussed at the [REDACTED] meeting.
8. [REDACTED] PCS held an IEP Team meeting on [REDACTED].
 - a. The parent did not attend this meeting despite [REDACTED] PCS' attempts to contact [REDACTED] through letters of invitation on [REDACTED]; emails on [REDACTED]; phone calls on [REDACTED]; and a text message on [REDACTED].
 - b. The IEP Team amended the student's IEP to increase the student's specialized instruction hours outside the general education setting and increase the student's behavioral support services to address the student's behavior issues in the general education setting.
 - c. The [REDACTED] amended IEP prescribes 20 hours per week of specialized

instruction outside the general education setting, 240 minutes per month of behavioral support services outside the general education setting, and 240 minutes per month of behavioral support services inside the general education setting.

- d. The IEP Team revised the student's BIP to be more specific about when the student would be removed from class to address escalating behavior.
9. On [REDACTED] [REDACTED] PCS issued a PWN to the parent informing [REDACTED] of the amendments made to the IEP.

Discussion/Conclusion

[REDACTED] PCS has complied with 34 CFR §300.530, because it followed all required discipline procedures for students with disabilities.

Pursuant to 34 CFR §300.530(b)(1), a school may remove a child with a disability who violates a code of student conduct from [REDACTED] current placement for not more than ten (10) consecutive school days, and for additional removals of not more than ten (10) consecutive school days in the same school year, as long as those removals do not constitute a change in placement. A change of placement occurs if the child has been subjected to a series of removals that constitute a pattern because the series of removals total more than ten (10) school days in a school year, the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals, and additional factors such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. (34 CFR §300.536(a)) A child with a disability who is removed from the child's current placement must continue to receive educational services so as to enable the child to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the child's IEP. (34 CFR §300.530(d)(1)) Within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team must review all relevant information to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability or if the conduct in question was the direct result of the LEA's failure to implement the IEP. (34 CFR §300.530(e)(1)) If the LEA, parent, and relevant members of the child's IEP Team determine that the conduct in question was a manifestation of the child's disability, the IEP Team must, if a BIP has already been developed, review the BIP, and modify it, as necessary, to address the behavior and return the child to the placement from which the child was removed. (34 CFR §300.530(f)) The complainant alleges that the student was repeatedly suspended.

The student had nine one-day suspensions from the beginning of the [REDACTED] school year through [REDACTED]. Shortly following the [REDACTED] suspension, the student was again suspended on [REDACTED], totaling eleven (11) days of suspension that school year. Accordingly, [REDACTED] PCS held a manifestation determination meeting on [REDACTED] where the team determined that the student's behavior was a manifestation of [REDACTED] disability, but not the result of the school's failure to implement the student's IEP. The school reported that it was providing the student's behavioral support services and implementing the student's BIP with fidelity. The team discussed a change in placement to address the student's behavior concerns

and the possibility of an interim alternative educational setting for the remainder of the school year. The school expressed concern about the student's ability to remain safe and be served in [REDACTED] current placement, but acknowledged that the student was entitled to return to [REDACTED] placement and would not be moved to an interim alternative educational setting without the parent's agreement. The team agreed that the student was entitled to make-up services for the days [REDACTED] was out of school.

The student returned to school on [REDACTED] and was suspended again on [REDACTED]. [REDACTED] PCS held a second manifestation determination meeting on [REDACTED]. The team determined that the student's behavior was a manifestation of [REDACTED] disability, but not the result of the school's failure to implement the student's IEP. The team agreed that the student was entitled to make-up services for the three days [REDACTED] was out of school. The team agreed that no additional changes were needed other than the ones already discussed at the [REDACTED] meeting. The student did not return to school because it was the end of the school year.

[REDACTED] PCS held an IEP Team meeting on [REDACTED] to make the agreed upon changes to the student's IEP. The parent did not attend this meeting despite [REDACTED] PCS's attempts to contact [REDACTED] through letters of invitation on [REDACTED]; emails on [REDACTED]; phone calls on [REDACTED]; and a text message on [REDACTED]. The IEP Team amended the student's IEP to increase the student's specialized instruction hours to 20 hours per week outside the general education setting and increase the student's behavioral support services to 240 minutes per month outside the general education setting and 240 minutes per month inside the general education setting to address the student's behavior issues in the general education setting. The IEP Team revised the student's BIP to be more specific about when the student would be removed from class in order to address escalating behavior. On [REDACTED] [REDACTED] PCS issued a PWN to the parent informing [REDACTED] of the amendments made to the IEP.

OSSE finds that [REDACTED] PCS followed all required discipline procedures for students with disabilities. [REDACTED] PCS held a manifestation determination meeting after the student surpassed ten (10) days of suspension in the [REDACTED] school year and held another manifestation determination meeting for a subsequent suspension. The team discussed needed changes to the student's supports and services and made those agreed upon changes at the [REDACTED] IEP team meeting. The team also agreed to make-up services for the days the student was suspended past ten (10) days in the school year.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.530.

ISSUE TWO: IEP SERVICES

Findings of Fact

1. The student's [REDACTED] IEPs prescribed 60 minutes per month of behavioral support services outside the general education setting and 60 minutes per month of behavioral support services inside the general education setting.

2. [REDACTED] provided all required behavioral support services for the [REDACTED] school year.

Discussion/Conclusion

[REDACTED] PCS has complied with 34 CFR §300.323(a), because it provided all behavioral support services required by the student's IEP.

Pursuant to 34 CFR §300.323(a), at the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP. 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 child's IEP. (34 CFR §300.323(c)(2)) The complainant alleges that the student missed services.

At the start of the [REDACTED] school year, the student's [REDACTED] IEP was in effect. That IEP, along with the student's [REDACTED] and [REDACTED] IEPs, prescribed 60 minutes per month of behavioral support services outside the general education setting and 60 minutes per month of behavioral support services inside the general education setting. OSSE reviewed the student's behavioral support service logs for the [REDACTED] school year and found that [REDACTED] PCS provided all services required by the student's IEP. In addition, as discussed under Issue One above, the team agreed to make-up services for all days of suspension over ten (10) days.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.323(a).

ISSUE THREE: SUPPLEMENTARY AIDS AND SERVICES

Findings of Fact

1. [REDACTED] PCS had a field trip on [REDACTED]. The student attended this field trip.
2. [REDACTED] PCS had a field trip on [REDACTED]. The student did not attend this field trip because [REDACTED] was absent from school.
3. [REDACTED] PCS had a field trip on [REDACTED]. The student did not attend this field trip because [REDACTED] was suspended.
4. [REDACTED] PCS had a field trip on [REDACTED]. The student did not attend this field trip because [REDACTED] was suspended.
5. The student's [REDACTED] IEPs require the following classroom aids and services: small group instruction, behavioral support plan, counseling, token economy, and social skills training.
6. On [REDACTED] the IEP Team amended the student's IEP to add the support of a dedicated aide for 3.25 hours per day.
7. On [REDACTED] the IEP Team revised the student's IEP and created a BIP for the student.

Discussion/Conclusion

[REDACTED] PCS has complied with 34 CFR §§300.107 and 300.117, because it provided the supplementary aids and supports required by the student's IEP.

Pursuant to 34 CFR §300.107, each public agency must take steps, including provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner

necessary to afford children with disabilities an equal opportunity for participation in those services and activities. In providing or arranging for the provision of nonacademic and extracurricular services and activities, each public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings. (Pursuant to 34 CFR § 300.117) The complainant alleges that the student was not allowed to attend field trips.

████████ PCS held four (4) field trips throughout the ██████████ school year on ██████████ ██████████. The student attended the first field trip, but missed the second field trip due to being absent from school that day. The student missed the two field trips in June because ██████████ was suspended on those days and it is a school-wide policy for all students that they cannot attend a field trip while they are suspended.

The student's IEPs throughout the ██████████ school year did not contain any supplementary aids and supports specifically related to participation in field trips, but did contain behavior supports, including a behavioral support plan, counseling services, a token economy, and social skills training. ██████████ PCS took steps throughout the school year to continue to address the student's behavior concerns, including adding the support of a dedicated aide for 3.25 hours per day to the student's IEP on ██████████ and revising the student's BIP on ██████████. Following the suspensions that resulted in the student missing the field trips on ██████████ ██████████ PCS held manifestation determination meetings where the team determined that although the behaviors that resulted in the suspensions were a manifestation of the student's disability, the behaviors and resulting suspensions were not the result of the school's failure to implement the student's IEP. After the student's escalating behavior concerns that resulted in three (3) suspensions in ██████████, the IEP team met to revise the student's IEP, including moving the student to a more restrictive placement, and updating the student's BIP. OSSE finds that ██████████ PCS provided the supplementary aids and supports required by the student's IEP as well as added additional supports as needed to address the student's behavior concerns that would allow the student to participate in nonacademic and extracurricular activities such as field trips.

Therefore, ██████████ PCS has complied with 34 CFR §§300.107 and 300.117.

CONCLUSIONS

1. ██████████ PCS has complied with 34 CFR §300.530, because it followed all required discipline procedures for students with disabilities.
2. ██████████ PCS has complied with 34 CFR §300.323(a), because it provided all behavioral support services required by the student's IEP.
3. ██████████ PCS has complied with 34 CFR §§300.107 and 300.117, because it provided the supplementary aids and supports required by the student's IEP.

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,

A handwritten signature in cursive script that reads "Elisabeth M. Morse".

Elisabeth M. Morse

Interim Assistant Superintendent, Division of Systems and Supports, K-12

cc: [REDACTED], Complainant