



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

[REDACTED]

VIA Electronic Mail

[REDACTED]

Public Charter School

RE: State Complaint No. 019-010 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 [REDACTED] Public Charter School (PCS) alleging violations in the special education program of [REDACTED] [REDACTED] [REDACTED] [REDACTED]), hereinafter “student” or “child.” The State Complaint was held in abeyance pending the outcome of the due process hearing as required by 34 CFR §300.152(c) from [REDACTED] until [REDACTED]. The SCO resumed its investigation of the State complaint following the dismissal of the due process complaint.

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, properly notify the parent of IEP Team meetings, appropriately revise the IEP, follow the placement procedures, and provide IEP services.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that [REDACTED] PCS has complied with its obligation to follow the discipline procedures, revise the IEP, and follow the placement procedures, but has not complied with its obligation to properly notify the parent of IEP Team meetings or provide the student’s 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 OSSE SCO:

1. **Discipline requirements at 34 CFR §300.530**
 - a. Failure to follow the discipline procedures.
2. **IEP revision requirements at 34 CFR §300.324(b)(1)(ii)**
 - a. Failure to revise the IEP, as appropriate, to address information about the child provided to, or by, the parents and the child's anticipated needs, specifically with regard to bullying.
3. **IEP meeting notice requirements at 34 CFR §300.322(a)(1) and (b)(1)**
 - a. Failure to ensure proper notice of the IEP meeting, specifically with regard to notifying parents of the meeting early enough to ensure that they will have an opportunity to attend, and information provided to parents.
4. **Placement requirements at 34 CFR §300.116**
 - a. Failure to follow the placement requirements.
5. **Requirement to provide services at 34 CFR §300.323(c)(2)**
 - a. Failure to ensure that as soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

INVESTIGATIVE PROCEDURE

The investigation included interviews with the following individuals:

1. Complainant
2. [REDACTED] PCS [REDACTED]
3. [REDACTED] PCS [REDACTED]
4. [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 multiple disabilities for autism spectrum disorder and other health impairment for ADHD.
3. The student's local educational agency (LEA) is [REDACTED] PCS.

ISSUE ONE: DISCIPLINE

Findings of Fact

1. In the [REDACTED] school year the student was suspended out-of-school for 2 days.
2. From the start of the [REDACTED] school year until the date this complaint was filed the student had no out-of-school suspensions.
3. The other classroom aids and services section on the [REDACTED] IEP contains a modified list of consequences for violating the school-wide behavior and discipline plan.
 - a. These modifications list various types of infractions and the corresponding consequences.
 - b. The infractions include physical conflict with other students and teachers, inappropriate language, and destruction of property.
 - c. The consequences range from one hour outside of class to out-of-school suspension.
4. [REDACTED] PCS ended the [REDACTED] school year on [REDACTED].

Discussion/Conclusion

[REDACTED] PCS has complied with 34 CFR §300.530, because it has not implemented disciplinary consequences that constitute a change in placement.

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)) The complainant alleges that the student has

had multiple suspensions from behaviors that are a result of [REDACTED] disability.

In the [REDACTED] school year the student was suspended out-of-school for 2 days. From the start of the [REDACTED] school year until the date this complaint was filed the student had no out-of-school suspensions. The out-of-school suspensions for neither school year constitute a change in placement because they are under ten days. However, official out-of-school suspensions are not the only type of removal that can constitute a change in placement.

The other classroom aids and services section on the [REDACTED] IEP contains a modified list of consequences for violating the school-wide behavior and discipline plan. These modifications list various types of infractions and the corresponding consequences. The infractions include physical conflict with other students and teachers, inappropriate language, and destruction of property, and the consequences range from one hour outside of class to out-of-school suspension. [REDACTED] PCS reported that the modified consequences are similar to the consequences for all students, but are listed more concretely in order to provide clear and consistent expectations and consequences to help the student feel a sense of fairness. While the student is out of class [REDACTED] has the support of the behavior team to make sure [REDACTED] still completes any work or instruction taking place in the classroom. [REDACTED] PCS did not track the exact time spent outside of class, but estimates that the student spent about two hours outside of class each week from the time this modification was added to the student's IEP on [REDACTED], until the end of the [REDACTED] school year, on [REDACTED]. The cumulative time spent out of class for these discrete infractions does not constitute a change in placement because it does not total more than ten school days.

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

OSSE reminds [REDACTED] PCS of the responsibility to ensure student data is available to determine when a student's IDEA disciplinary protections are triggered, including requirements for holding a manifestation determination meeting in accordance with 34 CFR §300.530.

ISSUE TWO: IEP REVISION

Findings of Fact

1. The complainant provided [REDACTED] PCS a copy of a [REDACTED] doctor's report.
2. The [REDACTED] IEP prescribes 30 minutes per day of specialized instruction in the general education setting, 80 minutes per month of speech-language pathology outside the general education setting, and 240 minutes per month of behavioral support services outside the general education setting.
 - a. Under positive behavior interventions and supports, the IEP states that:
"[Student] sometimes engages in verbally and physically aggressive behaviors towards [REDACTED] teachers and [REDACTED] when [REDACTED] is angry, frustrated, or receives a consequence. [Student] has identified three self-regulation strategies to utilize in class when [REDACTED] becomes angry or when [REDACTED] becomes overwhelmed to help regulate [REDACTED] reactions. [REDACTED] appears to be receptive to the school PBIS color

- system and has set the personal goal to maintain behavior at the highest color ratings.”
- b. Under communication considerations, the IEP states that: “[Student] presents difficulties with social interactions, particularly engaging in conversations with peers and adults that result in appropriate reactions.”
 - c. The IEP contains the following goal related to communication/speech and language:
 - i. Engage with peers verbally by initiating conversation, taking turns, responding to others’ statements, and appropriately ending conversations
 - d. The IEP contains the following goals related to social, emotional, and behavioral development:
 - i. Identify at least three coping strategies in session to utilize in the classroom when ■ experiences negative emotion to decrease the likelihood of acting out
 - ii. Show self-control of body and voice when ■ becomes upset
 - iii. Utilize specialized interventions for children with autism to help improve ■ social-emotional functioning, including improved ability to appropriately match ■ reactions to classroom situations, improved conversation skills, and improved quality of interactions with peers
3. The ■ IEP prescribes 30 minutes per day of specialized instruction in the general education setting, 80 minutes per month of speech-language pathology in the general education setting, 120 minutes per month of behavioral support services outside the general education setting, 120 minutes per month of behavioral support services inside the general education setting, and 60 minutes per month of occupational therapy inside the general education setting.
- a. Under positive behavior interventions and supports, the IEP states that: “[Student] sometimes engages in verbally and physically aggressive behaviors towards ■ teachers and ■ when ■ is angry, frustrated, or receives a consequence. [Student] has identified three self-regulation strategies to utilize in class when ■ becomes angry or when ■ becomes overwhelmed to help regulate ■ reactions. ■ appears to be receptive to the school PBIS color system and has set the personal goal to maintain behavior at the highest color ratings.”
 - b. Under communication considerations, the IEP states that: “[Student] presents difficulties with social interactions, particularly engaging in conversations with peers and adults that result in appropriate reactions.”
 - c. The IEP contains the following goal related to communication/speech and language:
 - i. Engage with peers verbally by initiating conversation, taking turns, responding to others’ statements, and appropriately ending conversations
 - d. The IEP contains the following goals related to social, emotional, and behavioral development:

- i. Identify at least three coping strategies in session to utilize in the classroom when █ experiences negative emotion to decrease the likelihood of acting out
 - ii. Explore and identify self-regulation strategies to improve █ ability to decrease self-stimulatory behaviors and improve control over bodily movements to maintain appropriate space boundaries with others
 - iii. Utilize specialized interventions for children with autism to help improve █ social-emotional functioning, including improved ability to appropriately match █ reactions to classroom situations, improved conversation skills, and improved quality of interactions with peers
 - e. The IEP contains the following goals related to motor skills/physical development:
 - i. Maintain self-regulation during classroom instruction and challenging/frustrating situations using sensory tools/strategies and fewer than three verbal/visual prompts from the teacher
 - ii. Independently identify █ zone once per day prior to a known challenging time and with fewer than two prompts identify one strategy/tool to use in order to return to a calm and alert state
- 4. The parent provided █ PCS with a copy of the █ doctor's report, which contained the following recommendations for █ education program: continuation of IEP services under Autism disability category; addition of autism specialist on IEP Team; completion of an FBA and BIP; instruction of social skills, specifically Unstuck and On Target curriculum; continuation of lunch bunch and meetings with school counselor; an aide for unstructured times; cease withholding lunch bunch as punishment; and addition of ABA therapy.
- 5. █ PCS completed an FBA on █.
- 6. The █ IEP prescribes 30 minutes per day of specialized instruction in the general education setting, 45 minutes per month of speech-language pathology in the general education setting, 120 minutes per month of behavioral support services outside the general education setting, 120 minutes per month of behavioral support services inside the general education setting, and 30 minutes per month of behavioral support services outside the general education setting for ABA therapy.
 - a. The IEP Team added 30 minutes per month of behavioral support services for ABA therapy and the Unstuck and On Target curriculum for use during █ behavioral support services.
 - b. Under positive behavior interventions and supports, the IEP states that: "[Student] sometimes engages in verbally and physically aggressive behaviors towards █ teachers and █ when █ is angry, frustrated, or receives a consequence. [Student] has identified three self-regulation strategies to utilize in class when █ becomes angry or when █ becomes overwhelmed to help regulate █ reactions. █ appears to be receptive to the school PBIS color system and has set the personal goal to maintain behavior at the highest color ratings."
 - c. Under communication considerations, the IEP states that: "[Student] presents

difficulties with social interactions, particularly engaging in conversations with peers and adults that result in appropriate reactions.”

- d. The IEP contains the following goals related to social, emotional, and behavioral development:
 - i. Effectively use coping skills identified in session when [REDACTED] becomes upset in class to decrease the likelihood of escalation
 - ii. Utilize techniques to increase [REDACTED] body awareness and [REDACTED] physiological response when [REDACTED] becomes overstimulated
 - iii. Utilize specialized materials for children with autism, including the Unstuck and On Target curriculum, to help improve executive functioning and social skills
 - iv. Independently and accurately complete a behavior contract daily
 - v. Reduce aggressive episodes by utilizing behavior contract and strategies from [REDACTED] school team
 - vi. Reduce episodes of property destruction by utilizing behavior contract and strategies from [REDACTED] school team
- e. The IEP contains the following goal related to motor skills/physical development:
 - i. Maintain self-regulation during classroom instruction and challenging/frustrating situations using sensory tools/strategies and fewer than three verbal/visual prompts from the teacher
- f. The IEP contains the following other classroom aids and services:
 - i. Extra teacher prompting to use strategies to calm [REDACTED] when [REDACTED] is feeling upset
 - ii. Access to sensory tools and strategies
 - iii. Use of Unstuck and On Target curriculum with school psychologist
 - iv. Monthly lunch bunch with school counselor
 - v. Additional adult support during unstructured times such as gym, transitions, and recess
 - vi. Personal school contract (as part of BIP)
 - vii. Visual support for transitions
7. On [REDACTED] PCS issued prior written notice that the IEP Team decided to keep specialized instruction hours the same, reduce speech-language pathology and occupational therapy services, add ABA services, and use the Unstuck and On Target curriculum.
8. [REDACTED] PCS developed a BIP on [REDACTED].

Discussion/Conclusion

[REDACTED] PCS has complied with 34 CFR §300.324(b)(1)(ii), because it revised the IEP to address the parent’s concerns and information provided by the parent.

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 has not taken steps to address the parent’s concerns over bullying and that the IEP Team does not adopt outside suggestions.

Addressing the Parent's Concerns about Bullying

The parent has raised concerns to ██████████ PCS about the student being bullied. Specific student-to-student conflict is addressed through the school's discipline procedures. The student's IEP contains services and goals to address the student's social skills and peer conflict. The ██████████ and ██████████ IEPs acknowledge that the student engages in verbally and physically aggressive behaviors when ██████████ becomes upset and that ██████████ struggles with appropriate social interactions. The student receives behavioral support services. All IEPs that were in effect during the investigation timeline contain goals in the area of social, emotional, and behavioral development. The goals address coping and self-regulation strategies, social-emotional functioning, executive functioning, and social skills. The goals help the student build social skills to reduce conflict with peers and help the student build self-regulation skills to appropriately deal with conflict when it arises. In addition, the IEPs prescribe other related services, such as occupational therapy and speech-language pathology, with associated goals that also target the student's development of self-regulation and conversation skills. ██████████ PCS utilizes strategies such as teacher prompts and sensory tools to assist with self-regulation and a lunch bunch to provide the student with opportunities to practice and build social skills. OSSE finds that ██████████ PCS has addressed the student's social skills and peer conflict concerns through ██████████ IEP services, goals, and strategies.

IEP Team Consideration of Outside Recommendations

The complainant asserts that when ██████████ provided ██████████ PCS a copy of the ██████████ doctor's report the school did not incorporate any of the recommendations into the student's IEP. The ██████████ report and the subsequent discussion of the ██████████ IEP both fall outside of the one-year investigation timeline (34 CFR §300.153(c)). Therefore, OSSE did not investigate the complainant's claims related to the ██████████ report.

The complainant provided ██████████ PCS with a second doctor's report dated ██████████. The IEP Team reviewed this report at the ██████████ meeting. The IEP Team went through the report's recommendations one by one. For the recommendation to continue IEP services under Autism disability category, the IEP Team determined that the student continued to qualify as a student with a disability under the category of multiple disabilities to account for the student's autism diagnosis as well as ██████████ ADHD diagnosis. For the recommendation to add an autism specialist on IEP Team, the IEP team came to a consensus that the student's therapist has sufficient experience working with students with autism. Although the complainant does not view the therapist as an expert on autism, IEP Team decisions are made by a Team consensus and no one team member has veto power, including the parent.¹ For the recommendation to complete an FBA and BIP, ██████████ PCS completed an FBA on ██████████ and developed a BIP on ██████████. For the recommendation for instruction of social skills, specifically Unstuck and On Target curriculum, the IEP Team decided to add the use of the Unstuck and On Target curriculum during the student's behavioral support services and include a corresponding IEP goal. For the recommendation to continue lunch bunch and

¹ OSSE IEP Process Policy p. 2 (August 30, 2011).

meetings with school counselor and to cease withholding lunch bunch as punishment, the IEP Team added a monthly lunch bunch to the student's IEP. For the recommendation to add an aide for unstructured times, the IEP Team added additional adult support during unstructured times such as gym, transitions, and recess to the IEP. For the recommendation to add ABA therapy, the IEP Team added 30 minutes per month of behavioral support services for ABA therapy and corresponding IEP goals. OSSE finds that [REDACTED] PCS considered the information provided by the parent and worked to incorporate all of the recommendations into the student's IEP.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.324(b)(1)(ii).

ISSUE THREE: IEP MEETING NOTICE

Findings of Fact

1. On [REDACTED] [REDACTED] PCS called the parent to schedule an IEP Team meeting.
2. On [REDACTED] PCS followed up with the parent via text message about scheduling the IEP Team meeting.
3. On [REDACTED] PCS held an IEP Team meeting.
 - a. The parent attended this meeting.
4. On [REDACTED] PCS sent the parent a letter of invitation to an IEP Team meeting on [REDACTED].
 - a. The parent signed and returned the letter indicating [REDACTED] would attend in person.
5. On [REDACTED] [REDACTED] PCS held the IEP Team meeting.
 - a. The parent attended this meeting.

Discussion/Conclusion

[REDACTED] PCS has not complied with 34 CFR §300.322(a)(1) and (b)(1), because it failed to provide proper notice for the [REDACTED] IEP Team meeting.

Pursuant to 34 CFR §300.322(a)(1), each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend. The notice must indicate the purpose, time, and location of the meeting and who will be in attendance. (§300.322(b)(1)) The complainant alleges that [REDACTED] has never received an official notice requesting an IEP Team meeting.

The parent reports that requests for meetings are always through phone or text. [REDACTED] PCS called the parent on [REDACTED] and followed up via text message on [REDACTED] to schedule an IEP Team meeting that was ultimately held on [REDACTED]. The parent attended this meeting. With its response [REDACTED] PCS provided a letter of invitation dated [REDACTED]; however, the letter of invitation dated the same date as the meeting was not the method used to notify the parent of the meeting. On [REDACTED] [REDACTED] PCS sent the parent a letter of invitation to an IEP Team meeting on [REDACTED]. This letter contained all of the required information. The parent signed and returned the letter

indicating [REDACTED] would attend in person and attended the meeting.

Communication via phone, mailed correspondence, and in-person are all acceptable modalities to ensure parent participation in IEP Team meetings.² A formal notification letter is not required; but the communication must contain the required information: purpose, time, location, and who will be in attendance. The communication log does not indicate whether the phone call and text message communications to schedule the [REDACTED] IEP Team meeting conveyed all of the required information.

Therefore, [REDACTED] PCS has not complied with 34 CFR §300.322(a)(1) and (b)(1).

ISSUE FOUR: PLACEMENT

Findings of Fact

1. The [REDACTED] and [REDACTED] IEPs prescribe 30 minutes per day of specialized instruction in the general education setting.
2. [REDACTED] PCS reports that the student receives specialized instruction for reading.

Discussion/Conclusion

[REDACTED] PCS has complied with 34 CFR §300.116, because the student's placement was determined by the IEP Team and is based on the student's IEP.

Pursuant to 34 CFR §300.116, when determining the educational placement of a child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and is made in conformity with the least restrictive environment provisions including that the child's placement is based on the child's IEP. The complainant alleges that the IEP Team was not consulted for the student's classroom placement.

The student's IEP prescribes 30 minutes per day of specialized instruction in the general education setting. The specialized instruction for reading support is provided by the teacher at a small table at the back of the classroom. The IEP Team, including the parent, are in agreement about the student's placement.

The parent is concerned that for the [REDACTED] school year the student was put in the same classroom as children who [REDACTED] believes have bullied [REDACTED] during previous school years. The classroom the student is assigned to is different from the student's placement. The placement is the learning environment classified by level of restrictiveness and is determined by the IEP Team, but the classroom or location assignment is not an IEP Team decision. How the school addressed the issue of conflict with peers is discussed under issue two above. OSSE finds that the student's placement was determined by the IEP Team and is based on the IEP.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.116.

² OSSE IEP Process Policy p. 3 (August 30, 2011)

ISSUE FIVE: IEP SERVICES

Findings of Fact

1. The [REDACTED], [REDACTED] IEP prescribes 240 minutes per month of behavioral support services outside the general education setting.
2. The [REDACTED] IEP prescribes 120 minutes per month of behavioral support services outside the general education setting and 120 minutes per month of behavioral support services inside the general education setting.
3. The [REDACTED] IEP prescribes 120 minutes per month of behavioral support services outside the general education setting, 120 minutes per month of behavioral support services inside the general education setting, and 30 minutes per month of behavioral support services outside the general education setting for ABA therapy.
4. The [REDACTED] doctor’s note recommended that the student get 10 hours of sleep per night and follow a nutrition and exercise program.

Discussion/Conclusion

[REDACTED] PCS has not complied with 34 CFR §300.323(c)(2), because it failed to provide all of the student’s behavioral support services.

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 child’s IEP. The complainant alleges that the school is not enforcing the student’s IEP as it is written and provides services only when it wants to.

The complainant states that [REDACTED] concerns are about the student’s behavior support and services, not the student’s academic performance. The parent reports that the student’s teacher told [REDACTED] that the service provider was not able to provide services because the student was sleeping in class. [REDACTED] PCS reported that there was a short period of time after the winter break where the student had an issue with sleeping in class. School staff worked with the student to address the issue of sufficient sleep at home, and the sleeping in class did not persist. Additionally, the [REDACTED] doctor’s note recommended that the student get 10 hours of sleep per night and follow a nutrition and exercise program, which would allow the student to stay alert during the school day.

The student’s IEP goals for the area of social, emotional, and behavioral support are worked on during the student’s behavioral support services. OSSE reviewed the behavioral support service trackers during the investigation timeline:

| Month | Services Provided | Services Missed due to Provider Unavailability | Services Missed due to Student Unavailability or School Closure |
|------------|--------------------|--|---|
| [REDACTED] | <i>School Year</i> | | |
| [REDACTED] | 30 minutes | 0 minutes | 180 minutes |
| [REDACTED] | 50 minutes | 120 minutes | 120 minutes (fall break [REDACTED]) |

| | | | |
|------------|--------------------|-------------|---------------------------------------|
| [REDACTED] | 40 minutes | 0 minutes | 180 minutes (winter break [REDACTED]) |
| [REDACTED] | 210 minutes | 0 minutes | 0 minutes |
| [REDACTED] | 0 minutes | 0 minutes | 120 minutes |
| [REDACTED] | 120 minutes | 0 minutes | 90 minutes |
| [REDACTED] | 210 minutes | 0 minutes | 60 minutes (spring break [REDACTED]) |
| [REDACTED] | 0 minutes | 120 minutes | 120 minutes |
| [REDACTED] | <i>School Year</i> | | |
| [REDACTED] | 40 minutes | 0 minutes | (school began [REDACTED]) |
| [REDACTED] | 235 minutes | 0 minutes | 0 minutes |
| [REDACTED] | 180 minutes | 0 minutes | 60 minutes |
| [REDACTED] | 60 minutes | 60 minutes | (fall break [REDACTED]) |
| [REDACTED] | 230 minutes | 0 minutes | (winter break [REDACTED]) |
| [REDACTED] | 180 minutes | 60 minutes | 0 minutes |
| [REDACTED] | 60 minutes | 0 minutes | 150 minutes |
| [REDACTED] | 90 minutes | 60 minutes | (school closure [REDACTED]) |

Depending on the duration of the school’s closure, generally, an LEA is not required to provide services when it is closed and is not providing services to any students; however, when a related service session is missed due to the service provider’s absence, the LEA must make up the service.³ Service providers must document all instances of actual and attempted service delivery.⁴ Although an occasional missed related service session due to a student’s unavailability may be unavoidable, the LEA must consider the impact of the missed session on the child’s progress and performance.⁵

[REDACTED] *School Year*

[REDACTED] PCS did not provide the full amount of behavioral support services required by the student’s IEP for any month of the [REDACTED] school year that fell within the investigation timeline. [REDACTED] PCS provided 660 minutes of behavioral support services total. [REDACTED] PCS missed 240 minutes due to provider unavailability, and missed 630 minutes⁶ due to student unavailability or school closure. [REDACTED] PCS must make-up the 240 minutes missed due to provider unavailability and should consider the impact on the student’s educational progress as a result of the student missing an additional 630 minutes of services, even if for the allowable reason of student unavailability.

[REDACTED] *School Year*

³ OSSE Related Services Policy p. 10 (January 5, 2010)

⁴ OSSE Related Services Policy p. 10 (January 5, 2010)

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

⁶ This total excludes the 240 minutes of services not provided during the 4 weeks of school breaks (fall, winter, and spring).

██████████ PCS has provided or made available most of the behavioral support services required by the student's IEP for the current school year. ██████████ PCS provided 1075 minutes of behavioral support services until the ██████████ ██████████. ██████████ PCS missed 180 minutes due to provider unavailability and missed 210 minutes⁷ due to student unavailability or school closure. ██████████ PCS must make-up the 180 minutes missed due to provider unavailability, and should consider the impact on the student's educational progress for missing an additional 210 minutes of services due to student unavailability.

Therefore, ██████████ PCS has not complied with 34 CFR §300.323(c)(2).

CONCLUSIONS

1. ██████████ PCS has complied with 34 CFR §300.530, because it has not implemented disciplinary consequences that constitute a change in placement.
2. ██████████ PCS has complied with 34 CFR §300.324(b)(1)(ii), because it revised the IEP to address the parent's concerns and information provided by the parent.
3. ██████████ PCS has not complied with 34 CFR §300.322(a)(1) and (b)(1), because it failed to provide proper notice for the ██████████ IEP Team meeting.
4. ██████████ PCS has complied with 34 CFR §300.116, because the student's placement was determined by the IEP Team and is based on the student's IEP.
5. ██████████ PCS has not complied with 34 CFR §300.323(c)(2), because it failed to provide all of the student's behavioral support services.

CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §§300.322(a)(1) and (b)(1), ██████████ ██████████ PCS must do the following:
 - a. Train relevant staff members on the notice requirements for IEP Team meetings. Documentation of the completion of this item is due to OSSE within 90 days of the date of this letter of decision.
2. In order to correct the noncompliance with 34 CFR §300.323(c)(2), ██████████ PCS must do the following:
 - a. Convene an IEP team meeting with the parent to determine the compensatory education owed to the student for ██████████ PCS's failure to provide all of the behavioral support services required by the student's IEP. The compensatory education must account for the 420 minutes of services that must be made up and should take into consideration the impact of missing an additional 840 minutes of services due to student unavailability. Documentation of the completion of this item is due to OSSE within 60 days of the date of this letter of decision.

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

⁷ This total excludes the 180 minutes of services not provided during the 3 weeks of school breaks (fall and winter).

one year from the date of this letter. If you have any questions regarding this decision, please contact me at Victoria.Glick@dc.gov or 202-724-7860.

Sincerely,



Victoria Glick
State Complaints Manager, Division of Systems and Supports, K-12

cc: [REDACTED], Complainant
[REDACTED], [REDACTED]