



DISTRICT OF COLUMBIA  
OFFICE OF THE STATE SUPERINTENDENT OF

# EDUCATION

May 9, 2022

*VIA Electronic Mail*

[REDACTED] Public Charter School

RE: State Complaint No. 021-018 Letter of Decision

## LETTER OF DECISION

### **PROCEDURAL BACKGROUND**

On March 17, 2022, 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] (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 provide access to education records.

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 obligations related to student records. 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. **Requirement to provide education records at 34 CFR §300.501(a)**
  - a. Failure to provide an opportunity to inspect and review education records, specifically with regard to records related to the [REDACTED] incident.

### **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]
2. [REDACTED]
3. [REDACTED]
4. [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. During the period under investigation, the student's local educational agency (LEA) was [REDACTED] PCS.

#### **ISSUE: EDUCATION RECORDS**

[REDACTED] PCS has complied with 34 CFR §300.501(a), because it did not maintain any education records related to the [REDACTED] incident between the student and a staff member and so has nothing for the parent to review.

Pursuant to 34 CFR §300.501(a), the parents of a child with a disability must be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. Each public agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under IDEA. (34 CFR §300.613(a)) The complainant alleges that [REDACTED] PCS has refused to allow the parent to view video footage of an incident involving the student and a staff member.

#### **Findings of Fact and Discussion**

On [REDACTED] the student was involved in a fight with another student and then a physical altercation with a staff member who was escorting the student to another location. As a result of the incident, [REDACTED] PCS suspended the student. The parent began working with an advocate. On [REDACTED] the advocate requested all of the student's education records, including all documents related to the [REDACTED] incident. On [REDACTED] [REDACTED] PCS provided the student's education records, but no incident reports were yet available.

On [REDACTED] [REDACTED] PCS sent a notice of a disciplinary hearing to the parent. The LEA recommended expulsion but would make the final decision

following the disciplinary hearing after reviewing all evidence. The notice listed the evidence as statements from staff witnesses and video footage.

During a conversation with the advocate, [REDACTED] PCS agreed to suspend the expulsion proceedings if the parent withdrew the student and enrolled the student in another LEA. On [REDACTED] the advocate confirmed that the parent agreed to withdraw the student instead of expulsion and requested that no documents related to the [REDACTED] incident be maintained as part of the student's education record so as to not follow the student to the new LEA. The student withdrew from [REDACTED] PCS on [REDACTED] and the expulsion recommendation did not proceed to a final decision and no incident reports were finalized.

On [REDACTED] the advocate requested that the parent have an opportunity to review camera footage and other evidence [REDACTED] PCS had in its possession related to the [REDACTED] incident. [REDACTED] PCS responded that, pursuant to the agreement with the parent, it did not maintain witness statements or video footage as part of the student's education record and had nothing for the parent to review.

[REDACTED] PCS reported that although the school building has security cameras, there are many blind spots and there was no security camera footage from the incident. There was a cell phone video of the fight between the students, but it did not include the later physical altercation between the student and a staff member. The cell phone footage was not maintained in the student's education record. The [REDACTED] confirmed that there was no video footage of the altercation between the student and the staff member.

OSSE's investigation found that although [REDACTED] PCS was in the process of collecting witness statements about the [REDACTED] incident, it did not finalize any written incident reports or include anything about the incident in the student's education record prior to the student's withdrawal from the LEA. No witness statements or video footage were ultimately used as part of a disciplinary hearing or relied on to make a final decision regarding expulsion. [REDACTED] PCS has not maintained any education records related to the [REDACTED] incident and thus there is nothing for the parent to review.

Therefore, [REDACTED] PCS has complied with 34 CFR §300.501(a).

## **CONCLUSION**

1. [REDACTED] PCS has complied with 34 CFR §300.501(a), because it did not maintain any education records related to the [REDACTED] incident between the student and a staff member and so has nothing for the parent to review.

If you have any questions regarding this decision, please contact me at [Kirstin.Hansen@dc.gov](mailto:Kirstin.Hansen@dc.gov)

or 202-445-4893.

Sincerely,

*Kirstin K. Hansen*

Kirstin Hansen  
State Complaints Manager, Division of Systems and Supports, K-12

cc: [REDACTED], Complainant