



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

**EDUCATION**

Nov. 19, 2022

*VIA Electronic Mail*

[REDACTED]  
Public Charter School

RE: State Complaint No. 022-010 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] (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 discipline procedures and revise the IEP.

The SCO for OSSE has completed its investigation of the State complaint. During the course of the investigation OSSE determined that [REDACTED] PCS did not meet its obligation with regard to discipline and OSSE declined to make a finding of noncompliance with regard to IEP revision. 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 discipline procedures, specifically with regard to the student’s dismissal on [REDACTED].
2. **Requirement to revise the IEP 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.

### **INVESTIGATIVE PROCEDURE**

The investigation included interviews with the following individuals:

1. Complainant
2. Complainant's advocate
3. [REDACTED] PCS [REDACTED]
4. [REDACTED] PCS [REDACTED]
5. [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) at the start of the [REDACTED] school year was [REDACTED] PCS.

### **ISSUE ONE: DISCIPLINE**

**[REDACTED] PCS has not complied with 34 CFR §300.530, because it failed to provide educational services to the student following the tenth day of suspension.**

Pursuant to 34 CFR §300.530(b), school personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct. Within 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 in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine (1) If the conduct in

question was caused by, or had a direct and substantial relationship to, the child's disability; or (2) If the conduct in question was the direct result of the LEA's failure to implement the IEP. (34 CFR §300.530(e)). The complainant alleges that the student was unfairly expelled.

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

The student enrolled in [REDACTED] PCS for the [REDACTED] school year and on the student's first day of school on [REDACTED], the student was involved in a fight that led to a three-day suspension. [REDACTED] PCS requires that parents and students attend a reentry conference before students are allowed back at school following a disciplinary incident. [REDACTED] PCS and the parent had trouble scheduling the reentry conference and so the student did not return to school until [REDACTED]. [REDACTED] PCS' policy requiring a reentry conference caused the student to be excluded from school for an additional six school days. When the student returned to school on [REDACTED], the student was involved in a fight that resulted in another three-day suspension.

On [REDACTED] [REDACTED] PCS and the parent held a manifestation determination review meeting and a discipline review meeting. The manifestation determination review meeting was attended by the parent, student, dean of students, school psychologist, principal, assistant principal, teacher, athletic director, and student engagement specialist. At this meeting, the team determined that the student's behavior was not a manifestation of the student's disability nor the result of [REDACTED] PCS' failure to implement the student's IEP. At the discipline review meeting [REDACTED] PCS decided to dismiss the student from the LEA. On [REDACTED] [REDACTED] PCS notified the parent that the student was expelled from [REDACTED] PCS.

If an LEA finds that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities. (34 CFR §300.530(c)) Therefore, OSSE finds that [REDACTED] PCS was allowed to dismiss the student from the LEA.

After a child with a disability has been removed from his or her current placement for ten school days in the same school year, during any subsequent days of removal the public agency must provide educational services so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP. (34 CFR §300.530(b) & (d)) [REDACTED] PCS reported that they provide educational services to students after the tenth day of suspension. In this case, [REDACTED] PCS did not count the additional six days the student was excluded from school following the [REDACTED] disciplinary incident towards the ten days of suspension. According to OSSE's review of the record, the student's eleventh day of disciplinary removal began on [REDACTED]. [REDACTED] PCS should have begun providing services the student on this date.

Therefore, [REDACTED] PCS has not complied with 34 CFR §300.530.

### **ISSUE TWO: IEP REVISION**

**OSSE declines to make a finding of noncompliance for 34 CFR §300.324(b)(1)(ii), because the**

student did not attend school long enough for [REDACTED] PCS to identify additional needs for the student and address them through the IEP process.

Pursuant to 34 CFR §300.324(b)(1)(ii), each public agency must ensure that the IEP team revises the IEP, as appropriate, to address the child's anticipated needs. The complainant alleges that [REDACTED] PCS did not address bullying experienced by the student.

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

The [REDACTED] IEP prescribes ten hours per week of specialized instruction in the general education setting and 120 minutes per month of behavioral support services. The student attended school for two days on [REDACTED] and [REDACTED]. The parent alleges that the student was bullied on those days at school. [REDACTED] PCS reports that the student was the aggressor towards other students and staff members that led to the fights which resulted in the student's suspension and expulsion and that the parent never raised concerns about bullying. OSSE's investigation found no evidence to support the parent's claims of bullying. The student was expelled after the second disciplinary incident and the student did not attend school long enough for [REDACTED] PCS to identify additional needs for the student and address them through the IEP process.

Therefore, OSSE declines to make a finding of noncompliance for 34 CFR §300.324(b)(1)(ii).

### **CONCLUSIONS**

1. [REDACTED] PCS has not complied with 34 CFR §300.530, because it failed to provide educational services to the student following the tenth day of suspension.
2. OSSE declines to make a finding of noncompliance for 34 CFR §300.324(b)(1)(ii), because the student did not attend school long enough for [REDACTED] PCS to identify additional needs for the student and address them through the IEP process.

### **CORRECTIVE ACTION**

1. In order to correct the noncompliance with 34 CFR §300.530, [REDACTED] PCS must do the following:
  - a. Issue a letter authorizing the student to obtain 20 hours of independent tutoring services. Documentation of the completion of this item is due to OSSE with 30 days of this letter of 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 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