



December 15, 2023

*VIA Electronic Mail*



RE: State Complaint No. 023-005 Letter of Decision

## LETTER OF DECISION

### **PROCEDURAL BACKGROUND**

On Oct. 23, 2023, 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] (PCS) alleging violations in the special education program of her son, [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 and seclusion procedures.

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 legal obligations for discipline and seclusion. 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.
2. **Seclusion requirements at D.C.M.R. §5-A3045**
  - a. Failure to follow seclusion requirements.

## 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 Special Programs:

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

## ISSUE ONE: DISCIPLINE

[REDACTED] has complied with 34 CFR §300.530, because it has not suspended the student for more than ten (10) days.

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). 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, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. (34 CFR §300.530(d)) The complainant alleges that the student was unfairly suspended, [REDACTED] PCS did not take into consideration the student's disability when deciding the suspension, and did not hold an IEP team meeting to discuss the suspension.

## Findings of Fact and Discussion

The student's [REDACTED] prescribes 14 hours per week of specialized instruction

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outside the general education setting for math and reading, 120 minutes per month of occupational therapy, 120 minutes per month of speech-language pathology, and 240 minutes per month of behavioral support services. [REDACTED] PCS reports that on [REDACTED] 3 the student threw a computer and injured another student. The principal emailed this information to the parent and provided a suspension notification letter that the student would be suspended for two (2) days. There have been no other suspensions. According to the incident tracker, the student was removed from the classroom to deescalate behavior on seven (7) occasions. Each of these removals lasted less than a class period and did not total more than one school day.

The student has not been suspended or removed from the classroom for more than ten (10) school days so there is no requirement that [REDACTED] PCS hold a meeting to determine if the student's conduct was a manifestation of the disability. [REDACTED] PCS may suspend the student for a violation of the code of student conduct like they would for any student. [REDACTED] PCS was not required to hold an IEP team meeting to discuss the suspension.

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

Although not a special education issue, OSSE found that [REDACTED] PCS did not unilaterally withdraw the student from school. As of the date of this letter of decision, the student is still enrolled in [REDACTED] PCS.

#### **ISSUE TWO: SECLUSION**

[REDACTED] PCS has complied with D.C.M.R. §5-A3045, because the student was not placed in seclusion.

Pursuant to D.C.M.R. §5-A3045.1, the LEA shall not use any form of seclusion except in emergency circumstances. In the event of seclusion, LEA personnel shall view a child placed in seclusion at all times by remaining within sight of the child and shall provide the child with an explanation of the behavior that resulted in the seclusion and instructions on the behavior required to be released from the seclusion. (D.C.M.R. §5-A3045.3) The complainant alleges that the student was placed in an isolation room as a form of punishment for at least 30 minutes.

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

[REDACTED] PCS denies that the student has been subjected to seclusion. On [REDACTED], prior to the incident that led to the suspension, the student was removed from the classroom to the behavior technician's office to deescalate. This was documented in the incident tracker and confirmed during interviews with staff members. [REDACTED] PCS reported that they do not use seclusion at all for students. There are nooks throughout the school building that are used for pull-out services and students may elect to go there to deescalate. Students are not placed in the nooks, are not stopped from leaving, and are monitored by staff when they are there. OSSE found no evidence that [REDACTED] PCS placed the student in seclusion.

Therefore, [REDACTED] PCS has complied with D.C.M.R. §5-A3045.

**CONCLUSIONS**

1. [REDACTED] PCS has complied with 34 CFR §300.530, because it has not suspended the student for more than ten (10) days.
2. [REDACTED] PCS has complied with D.C.M.R. §5-A3045, because the student was not placed in seclusion.

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 Hansen*

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

cc: [REDACTED]

[REDACTED]