



May 6, 2024

*VIA Electronic Mail*



RE: State Complaint No. 023-016 Letter of Decision

## LETTER OF DECISION

### PROCEDURAL BACKGROUND

On [REDACTED] [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] (parent/complainant) against the [REDACTED] (PCS) alleging violations in the special education program of [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 the special education and related services required by 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 failed to provide the services required by the student’s IEP. This Letter of Decision is the report of the final results of OSSE’s investigation.

### COMPLAINT ISSUE

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 IEP services at 34 CFR §300.323(c)(2)**
  - a. Failure to ensure that special education and related services are made available in accordance with the student’s IEP.

## **INVESTIGATIVE PROCEDURE**

The investigation included interviews with the following individuals:

1. Complainant
2. [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 Programs data system:

[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) is [REDACTED] PCS.

## **ISSUE: IEP SERVICES**

[REDACTED] PCS has not complied with 34 CFR §300.323(c)(2), because it failed to provide the specialized instruction and speech language pathology services required by the student's IEP.

Pursuant to 34 CFR §300.323(c)(2), each public agency must 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. The complainant alleges that [REDACTED] PCS has routinely failed to provide the services required by the student's IEP.

## **Findings of Fact and Discussion**

### **Speech and Language Services**

The student's [REDACTED] IEPs prescribe 2 hours per month of speech language pathology. The complainant alleges that [REDACTED] PCS failed to provide speech and language services to the student for four months during [REDACTED]. In its response to this complaint, [REDACTED] PCS admits that the student missed speech language services during the [REDACTED] school year. The student did not receive speech language services from [REDACTED]. The regular speech language pathologist was on leave and a contractor was hired; however, the student was inadvertently left off the list to receive services. This oversight did not impact any other students' receipt of services. The student missed 8 hours of speech language services and [REDACTED] PCS must

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make them up.

### Specialized Instruction

The student's [REDACTED] IEP prescribes 5 hours per week of specialized instruction in the general education setting, 2 hours per week of specialized instruction outside the general education setting for Reading, 1 hour per week of specialized instruction outside the general education setting for Written Expression, and 1 hour per week of specialized instruction outside the general education setting for Mathematics. The student's [REDACTED] IEP prescribes 2 hours per week of specialized instruction in the general education setting, 5 hours per week of specialized instruction outside the general education setting for Reading, 5 hour per week of specialized instruction outside the general education setting for Written Expression, and 1 hour per week of specialized instruction outside the general education setting for Mathematics. The complainant alleges that the student did not receive any specialized instruction outside the general education setting from the beginning of the [REDACTED] - [REDACTED] school year until [REDACTED] [REDACTED], and from mid-[REDACTED] until the filing of this complaint.

In its response to the complaint, [REDACTED] PCS admits that there were gaps in staffing for a special education teacher in the student's classroom. The student did not receive pull-out specialized instruction from [REDACTED] [REDACTED] - [REDACTED] [REDACTED]. When a special education teacher was hired the teacher made up the missed specialized instruction hours. On [REDACTED] the IEP team increased the student's specialized instruction hours outside of the general education setting to mitigate any adverse educational impact on the student due to not receiving specialized instruction at the start of the [REDACTED] - [REDACTED] school year. On [REDACTED] the student's special education teacher unexpectedly went on medical leave, and the student again did not receive specialized instruction from [REDACTED]. A new special education teacher started on [REDACTED] and [REDACTED]. PCS plans to have the teacher make up the missed services. These gaps in staffing impacted nine other students' receipt of specialized instruction. These services must be made up.

Therefore, [REDACTED] PCS has not complied with 34 CFR §300.323(c)(2)

### CONCLUSION

1. [REDACTED] PCS has not complied with 34 CFR §300.323(c)(2), because it failed to provide the specialized instruction and speech language pathology services required by the student's IEP.

### CORRECTIVE ACTION

1. In order to correct the noncompliance with 34 CFR §300.323(c)(2), [REDACTED] [REDACTED] PCS must do the following:
  - a. Develop a plan to make up the 8 hours of missed speech-language pathology services, or, if the parent prefers, authorize 8 hours of independent speech

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language services. Documentation of the completion of this corrective action is due to OSSE within 30 days of the date of this letter of decision.

- b. Develop a plan to make up the missed specialized instruction hours for all impacted students. For any hours that are not made up by the end of the [REDACTED] school year, [REDACTED] PCS must give parents the option to obtain independent tutoring services for the remaining hours. Documentation of the completion of this corrective action 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 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 202-741-0274.

Sincerely,

*Kirstin Hansen*

Kirstin Hansen  
State Complaints Manager  
Office of Special Education

cc: [REDACTED]