

BPS's omissions and commissions in this matter constitute violations of the Individuals with Disabilities in Education Act ("IDEA"), §504 of the Rehabilitation Act of 1973, and corresponding state law and regulations.

I. Legal Violations

Bridgeport Public Schools ("BPS") has demonstrated a pattern of failing to design Individualized Education Plans ("IEPs") that adequately provide for a Free and Appropriate Education ("FAPE") and to implement IEPs developed by PPTs in a timely fashion. Further, BPS has continued to show a pervasive and systemic practice of failing to initiate referrals to Planning and Placement Team ("PPT") meetings for children who have exhibited multiple indicia of potential disability.

The Complaint alleges that BPS has violated federal and state law, as well as Connecticut state regulations, in the following ways:

A. Denial of FAPE

The Complaint alleges that BPS has violated federal and state law by:

1. Systemically failing to implement IEP plans within an appropriate time frame in accordance with 20 U.S.C. §1414(d)(2)(A); CFR §300.323 (a); C.G.S. §10-76d (a)(8)(A)(E); and Conn. Agencies Regs. 10-76d-13(a)(1) (e.g. [REDACTED]; [REDACTED]).
2. Systemically failing to conduct annual and triennial reviews of student's IEPs in accordance with C.G.S. §10-76d(g)(1). (e.g. [REDACTED]).
3. Systemically failing to implement IEPs designed to meet the needs of a child with a disability that result from the child's disability to enable such child to be involved in and make progress in the general education curriculum and meet each of such child's other educational needs that result from such child's disability in accordance with 20 U.S.C. §1414(d)(1)(A)(i)(II)(aa)(bb); 34 C.F.R. §300.320 et. seq.; C.G.S. §10-76d et. seq.; and Conn. Agencies Regs. 10-76d-11 et. seq. (e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]).
4. Systemically failing to provide special education and related services and supplementary aids and services for the child to advance appropriately toward attaining the annual goals and to be involved in and make progress in the general education curriculum in accordance with 20 U.S.C. §1414(d)(1)(A)(i)(IV)(aa)(bb); and 34 C.F.R. §300.320 et. seq. (e.g. [REDACTED]; [REDACTED].)

B. Violation of Child Find

The Complaint alleges that BPS has violated federal and state law by failing to adhere to the Child Find requirements by:

1. Systemic failure on behalf of BPS staff to ensure a student's prompt referral to a planning and placement team where the child is suspected of having a disability, and/or student's progress in school has been considered unsatisfactory or marginal as required by 20 U.S.C. §1412(a)(3)(B), 34 CFR §300.11, C.G.S. §10-76d(a)(1), and Conn. Agencies Reg. §10-76d-7(c) (e.g. [REDACTED].)
2. Systemic failure to accept and process a referral from a student's guardian to determine the student's eligibility for special education and related services in accordance with 20 U.S.C. §1414(a)(B), 34 CFR §300.301(b), C.G.S. §10-76d(a)(1) and Conn. Agencies Reg. § 10-76d-7 (a)(3) (e.g. [REDACTED].)

II. Facts Upon Which Complaint is Based

On October 24, 2013, CCA filed a complaint for BPS's failure to adhere to its obligations under child find laws and regulations. (See Systemic Complaint C14-0243). The State Department of Education ("SDE") investigated the allegations raised in that complaint and required BPS to take remedial steps to comply with federal and state "Child Find" laws and regulations. Although BPS has taken some steps to remedy these serious concerns, a pattern of systemic failure continues to adversely impact students with disabilities in Bridgeport. As a result of Systemic Complaint C14-0243, Capitol Region Education Council ("CREC") completed a comprehensive audit in August 2014 which uncovered significant systemic failures in the identification of eligible students and provision of specialized education services to students with disabilities in Bridgeport. The CREC Audit outlined a series of robust recommendations that were designed to take place over a three-year period, many of which were low-cost or no cost solutions (See CCA Exhibit 1). BPS has admittedly failed to implement these recommendations¹.

The results of the CREC Audit, coupled with ongoing systemic failures raised by those aggrieved in this complaint, gives jurisdiction to the Connecticut State Department of Education (SDE), in accordance with 34 CFR § 300.151, to continue monitoring BPS's compliance with federal and state statutes and regulations. We request that SDE investigate these claims, make individual and systemic findings, and provide adequate individual and systemic relief to include the monitoring that is required to ensure BPS's compliance with federal and state law.

¹ Please see "Center for Children's Advocacy's Resolution Attempts" section on page 17.

A. Widespread Failures in Provision of Special Education Services

The CREC Audit revealed serious failures in the provision of special education services to Bridgeport students in violation of 20 U.S.C.A. §1400 et. seq.; Conn. Gen. Stat. §10-76d; and Conn. Agencies Regs. 10-76d-13, **specifically**:

1. Procedural violations of IDEA largely caused by inefficient and ineffective organization and systems and resulting in denial of FAPE;
2. Substantive violations of IDEA such as failure to provide IEP services and resulting in a denial of FAPE; and
3. Poor allocation of resources which impact the quality of in-district programming resulting in a denial of FAPE.

Procedural violations of IDEA:

The CREC Audit also outlined organizational failures that resulted in BPS violating procedural mandates of IDEA mandates. The Audit notes:

“... findings showed that special education processes are not effective and efficient, nor are they adhered to with fidelity as evidenced by timelines not consistently met, services not provided per the IEP and inconsistent practices for monitoring of student IEPs and performance programs. Discrepancies in processes for identification, collaboration, and intervention services differed across the 16 schools, with varying degrees of effectiveness. Annual reviews were not consistently held in compliance with timeline requirements and staff does not consistently maintain, update and revise student information in the special education data system.”²

Substantive Violations of IDEA

The Audit also revealed findings regarding the provision of FAPE to all children who have been found eligible for special education services.³ For example⁴:

- 1) Only 39% of the students whose files were audited were viewed as receiving educational benefit from their special education program and services.

² See MacDonald et.al. *Bridgeport Public Schools Special Education Review*, Capitol Region Education Council (“CREC”) August 2014. P. 3-4.

³ *Id.* at 28.

⁴ *Id.* at 28.

- 2) █████ 58% of the students whose files were audited were not receiving services indicated in their IEPs. This includes: instruction provided by substitute teachers without special education certification, lack of instructional materials, and inadequate assistive technology.
- 3) Another 20% of the files audited revealed that students did not have a current IEP.

These findings mirror allegations of systemic failure discovered pursuant to CCA's legal representation of children and their parents in Bridgeport. During the 2014-15 academic year CCA representation of client provided evidence of the following programmatic deficits:

█████

█████ is a 6-year-old child with Autism Spectrum Disorder who attended Jettie S. Tisdale School and resided █████ in Bridgeport, Connecticut during the 2014-15 academic year. █████'s disability manifests in absent expressive language and significant communication and socialization delays, as evidenced by his most recent psychological evaluation (█████ Ex. 1). He receives specialized instruction under the category of "Autism."

During the 2014-15 school year █████ received services in a classroom which BPS described as "...a highly structured setting with a low student to staff ratio (no more than six students as described in page 2, line 2 of the PPT summary)" (█████ Ex. 2). However, at the time of the annual review⁵ on May 5, 2015, BPS had placed approximately nine students in the classroom. In addition, █████'s mother expressed her concerns regarding █████'s lack of progress in the areas of expressive language and safety in the ASD classroom. During the previous school year █████ ran out of the classroom onto a busy street, and but for the intervention of a fourth-grade student who grabbed him, he would have sustained serious harm or injury. █████ had continued to exhibit the propensity of this dangerous behavior at home since that incident. █████'s mother expressed her concern about this behavior recurring again at school and BPS' failure to take affirmative and preventative steps to avoid exposure to harm. BPS's failure to provide the "highly structured" program described in █████'s IEP as well as its failure to achieve █████'s goals for increasing his ability for expressive language, and failing to ensure █████'s physical safety forced his mother to request a change in placement. BPS denied █████'s parent request for a change in placement (*Id.*).

The PPT recommended Extended School Year Services ("ESY") to █████, which was to run from 7/6/2015 through 7/31/2015 (*Id.*). █████'s mother quickly became alarmed at BPS' negligent treatment of █████ and its failure to implement his IEP. For example, █████ requires assistance with toileting and feeding. For a period of approximately two weeks, BPS failed to use the diapers █████'s mother sent in his school bag. This neglect resulted in █████ arriving home at the end of his school day wearing the same diaper that he was sent to school in, soaked and

⁵ For a large portion of the meeting, the BPS administrative designee fell asleep in front of the team and did not contribute to the process. BPS staff apologized to █████'s mother at the end of the meeting for the conduct displayed by their school leader.

“ballooned up” in his urine. [REDACTED]’s school bus driver informed his mother that BPS failed to cut up his food properly so that he was able to ingest it. BPS’ neglect resulted in [REDACTED] going hungry during his school day. BPS also failed to facilitate the use of an “iPad” (*Id.* at 8). BPS failed to answer repeated calls by [REDACTED]’s mother to inquire about these concerns.

As a result, [REDACTED]’s mother visited his classroom unannounced on or about 7/21/15. When she arrived she observed more than six children in the classroom, and it was designed for older and higher-functioning ASD students (lack of toys, desks in rows, etc.). [REDACTED] was sitting on top of a desk being held by a paraprofessional around his waist. [REDACTED] appeared anxious and frustrated evidenced by his rocking back and forth and hitting both sides of his head and ears with his hands. [REDACTED]’s mother requested to speak with his special education teacher but the BPS paraprofessional told her that the teacher was not available.

BPS’s refusal to respond to her concerns forced her to drive with [REDACTED] to the BPS Central Office to achieve a resolution. There, she was told to return to the ESY site where a BPS administrator would meet with her. At that meeting, BPS admitted to [REDACTED]’s mother their failure to place him in a “highly structured” classroom setting. BPS offered assurances that [REDACTED] would be moved to the classroom described in his May 5, 2015 IEP. BPS also admitted their failure to provide the required assistive technology and training to the parent in order to increase [REDACTED]’s expressive language. The BPS administrator also admitted her team was unaware of this provision in his IEP and could not locate the assistive device. [REDACTED]’s mother requested an “emergency PPT” to ensure compliance with his IEP. BPS denied her request.

[REDACTED]’s experience is representative of the 61% of students reflected in the Audit where BPS has systemically failed to design a program that yields any meaningful educational benefit. His experience is also emblematic of the 58% of students not receiving services indicated in their IEPs.

[REDACTED]

[REDACTED] is a 17-year-old multiply-disabled student who attended Central High School in Bridgeport and resided [REDACTED], in Bridgeport, Connecticut during the 2014-15 academic year. [REDACTED] suffered from neonatal meningitis as an infant, which left him with multiple impairments including absent speech; quadraparesis, which manifests in limited and impaired movement; hydrocephalus with the presence of a shunt; a seizure disorder; and diabetes insipidus. He receives specialized instruction under the category of “Multiple Disabilities.”

Despite the complex nature of his needs, BPS has failed to provide [REDACTED] with the most basic elements or minimally required services in his IEP over most of his school career—specifically in the areas of: speech and language, assistive technology, occupational therapy, physical therapy, and independent skills.

On April 2011, BPS withdrew speech and language services for [REDACTED] due to its observation that he made “little to no progress over the past ten years” ([REDACTED] Exs. 1 and 2). There is no indication that BPS adjusted or modified speech and language services including the use of research based assistive aids and technology *over the span of ten years* to assist [REDACTED] in making educational progress. In December 2014, an augmented communication evaluation conducted by Cooperative Educational Services (“CES”) on behalf of BPS (performed only after [REDACTED]’s parent fervently advocated for the evaluation) noted that: “[REDACTED] has had many years of relying on his gestures and the sequential events of the day to communicate his needs. At this point it would be best practice to initiate systematic and consistent communication training for [REDACTED].” ([REDACTED] Ex. 3). At the time of this recommendation, BPS had failed for three years to provide any individualized communication or speech services to [REDACTED].—an increasingly frustrated- non-verbal adolescent.

Similarly, beginning in 2011, BPS refused [REDACTED] services for occupational therapy and he has only been provided physical therapy for 30 minutes a week since April 2014 despite goals in his IEP to increase hand-over-hand manipulation of objects, among other OT-related service areas. ([REDACTED] Exs. 1 and 4).

[REDACTED] requires one-to-one assistance for executing basic toileting, feeding, and ambulatory needs. Despite documented concerns regarding these areas of functioning, including concerns regarding his safety during daily transportation and mobility around the school, BPS refused his parent’s request for a 1:1 paraprofessional to assist [REDACTED] with these essential tasks at multiple PPTs over the span of two years. ([REDACTED] Exhibit 5). Finally, on May 15, 2015, [REDACTED] the PPT agreed to provide a 1:1 para-professional in response to the parent’s threat to pursue legal action ([REDACTED] Exhibit 6).

[REDACTED] experience is representative of the 61% of students reflected in the Audit where BPS has systemically failed to design a program that yields any meaningful educational benefit. His experience is also illustrative of the 58% of students not receiving services indicated in their IEPs and for whom BPS provides inadequate assistive technology.

[REDACTED]

[REDACTED] is a 14-year-old student who attended Dunbar School and resided [REDACTED] in Bridgeport, Connecticut during the 2014-15 school year. [REDACTED] receives specialized instruction under the classification of “Emotional Disturbance.” During the 2014-15 academic year, [REDACTED] was suspended out of school more than 15 days and subject to almost daily discipline referrals for conduct related to his disability ([REDACTED] Ex. 1). BPS held a Manifestation Determination PPT on January 20, 2015 at which time the team concluded [REDACTED] conduct was a manifestation of his disability and his IEP required a revision to reflect a change in placement to “a small therapeutic class environment” ([REDACTED] Ex. 2). However, as of June 9, 2015, more than 60 school days after this recommendation, BPS failed to take steps to locate an appropriate program for [REDACTED]. ([REDACTED] Ex. 3). Moreover, [REDACTED] continued to be suspended out-of-school for at least an additional eight days between February and May 2015 for

evaluation and a neuropsychological evaluation, due to the unanimous team acknowledgment that [REDACTED] was more impaired than anyone had realized to that point. The team also discussed the absence of important documents in [REDACTED]'s file—no one could locate most of the records from his previous school, including his most recent evaluations.

At an October 20, 2014 PPT, the team reviewed yet another physical incident, which resulted in [REDACTED] being punched in the face. This incident exacerbated his feelings of emotional distress in the school environment. [REDACTED]'s father shared that [REDACTED] felt BPS staff was not protecting him from the constant bullying and harassment he experienced at the hands of his peers. Because of these serious concerns and the delay in obtaining necessary evaluation to address them, [REDACTED]'s father requested a diagnostic placement in a therapeutic setting, which BPS denied⁷ ([REDACTED]. Ex. 4).

[REDACTED] also received “Unsatisfactory” or “No Progress” on the Social/Behavioral Goals of his November 2014 Progress Report. BPS noted the fact that he made “very little progress,” and continued to display “challenging and inconsistent behavior.” ([REDACTED]. Ex. 5).

At a December 4, 2014 PPT, the team reviewed the speech-language and neuropsychological evaluations. The bilingual speech-language evaluation found:

“when the communication environment changes [from a social environment], to reflect a more de-contextualized academic environment, his communication skills are compromised by restricted advance vocabulary; limited knowledge of synonyms/antonyms, higher order language for problem solving, inferring, figurative language, comparing/contrasting, organizing language, and appropriate adolescent conversational skills. When compared to his performance in English, these areas are of difficulty also.” ([REDACTED]. Ex. 6, pg. 5).

Similarly, the English speech-language evaluation reported a “Very Poor” score for the Test of Language Development (Intermediate, 4th Ed.), and a score in the 1st Percentile Rank on the Listening Comprehension Test Adolescent ([REDACTED]. Exhibit 7, pgs. 3-4). In summary, the evaluation concluded, “Results from this evaluation and the bilingual addendum indicate the existence of a significant receptive and expressive language impairment characterized by language organization difficulties.” (*Id.* at pg. 5). Other noted concerns were [REDACTED]'s inability to draw conclusions from implicit information, difficulties with inference, predicting, reasoning, and difficulty communicating transitions and using compound and complex sentences.

The neuropsychological evaluation, also reviewed at this PPT, offered further insight into [REDACTED]'s deficits. He “presented as an anxious youth with difficulty settling himself down both physically and emotionally.” ([REDACTED]. Ex. 8, pg. 3). [REDACTED] exhibited “poor” listening skills, and “inconsistent to poor” attention level. He showed “much difficulty sustaining effort independently without external supports,” and it was noted that “in a classroom setting where he cannot have the

⁷ The parent's request was inaccurately recorded as an “Action Proposed” rather than an “Action Refused”.

undivided attention of the teacher he is most likely off task a significant amount of the time.” (*Id.*) The evaluator further found “it was...exceptionally difficult to keep [REDACTED] on task within subtests, and this affected his performance throughout” (*Id.* at pg. 4). [REDACTED]’s oral comprehension was “reflected poorly” and he “had a difficult time keeping track of multi-step directions” (*Id.* at pg. 5). As a whole, [REDACTED]’s performance on executive functioning measures was “uneven and inconsistent,” which is a “hallmark of executive function and attentional weaknesses” (*Id.* at pg. 6).

Due to BPS’ failure to provide services that addressed these significant and complex deficits, [REDACTED] remained disengaged and excluded from the school community. His psychologist, with whom he had a close connection, noted in the December PPT that he only attended his regular education classes 18% of the time (*Id.* at pg. 11), and even then, failed to complete almost all of the assigned work, which was not tailored to his level of functioning.

In sum, BPS’ actions and omissions with regards to [REDACTED]’s IEP constitute a denial of FAPE in violation of Conn. Gen. Stat. § 10-76d; and Conn. Agencies Regs.10-76d-13.

Poor Allocation of Resources Leading to Poor Quality In-District Programs:

Special education spending in Bridgeport is the lowest in District Reference Group I, the grouping of similar urban school districts which includes Hartford, New Britain, New Haven, New London, Waterbury, and Windham, even though Bridgeport serves the most students of any district in this grouping.⁸ The way in which these already limited resources are utilized has:

“[C]reated problems in compliance with legal mandates, quality of program and services and communication. Organization of special education administrators, staff hiring practices, inconsistently applied and monitored processes, inadequate clerical staff and lack of qualified special education staff in temporary assignments cause resources to be expended ineffectively”.⁹

32 classroom observations across 16 of the district schools by CREC personnel from May to August 2014 revealed some critical concerns, among them:¹⁰

- No specially-designed instruction was noted in the majority of the classroom observations, regardless of setting, except for the ASD classrooms.
- Overall assistive technology was not in evidence.
- Life skills programs offer minimal inclusion.
- Limited co-teaching evidenced.

⁸ CREC Audit at 11.

⁹ *Id.* at 25.

¹⁰ *Id.* at 46.

- No evidence of Positive Behavior Intervention Supports.
- Academic Improvement Module (“AIM”) and Success of Academic Rigor (“SOAR”) classes lacked certified teacher and consistent behavior programs.

The authors of the CREC Audit also found that:

“Self-contained classrooms at Tisdale for example had a large number of students. Teachers reported issues with paraprofessionals, paraprofessional training, as well as paraprofessional accountability. Inappropriately grouped students (i.e. students with intellectual disabilities grouped with students with behavioral disorders).”¹¹

These findings mirror evidence discovered pursuant to CCA’s legal representation of children and their parents in Bridgeport during the 2014-15 academic year which revealed the following programmatic deficits:

AIM Classrooms (High School Self-Contained)

Upon information and belief, the three self-contained classrooms at Bassick High School are extremely under-resourced in staffing. While the teachers attempt as best they can to engage students in the classroom, they have no support should students choose to leave class and wander the hallways. Many of the AIM students struggle especially during the elective periods when they are to integrate with their typical peers, and the majority of the 24 AIM students instead leave the building or roam around during these periods.

BPS did not hire any additional school social workers for Bassick when implementing the AIM program in August 2012. The three social workers assigned to Bassick already had a student population of over 1000 urban, low-income students to work with. Currently, Bassick has a special education population of approximately 250 students, and each social worker must serve over 50 students, including a segment of the 24 intensive-needs AIM students, most of whom have an emotional disability. Due to their caseloads, these social workers are often unable to help AIM students in crisis. Additionally, there is no designated de-escalation space for these students, who need a physical space to refocus themselves so they can return to school work after an incident.

██████

██████ is a 16-year-old student with a Specific Learning Disability, who resided ██████████ in Bridgeport, Connecticut during the 2014-2015 school year. ████████ was enrolled in the Bassick AIM program. By November 2014, ████████ “barely [came] to class and when he [did] come to class he [did] no work at all,” per teacher report (██████ Ex. 1). Despite meetings and

¹¹ *Id.* at 45.

efforts to increase the supervision of [REDACTED] by his teacher and social worker, his attendance and grades only worsened through the fall and winter, leading to his failure of all of his classes. A January 21, 2015 email by his social worker notes "he skips class on a regular basis and wanders around the school" ([REDACTED]. Ex. 2).

At a March 17, 2015 PPT, the team revealed that they still did not have full access to [REDACTED]'s educational file, despite their best efforts to obtain it from his previous school also located in Bridgeport. Undersigned counsel had to provide records to them, including a 2010 Functional Behavioral Assessment and other documents, because the sending school never responded to their repeated requests for [REDACTED]'s records. Because of this poor record-keeping, his records were never properly reviewed or updated throughout the year.

The PPT team also recognized that [REDACTED] was irreconcilably disconnected from the school community, and no longer engaged in social work services. The team recommended an out-of-district therapeutic program for [REDACTED] that could better supervise him and serve his needs.

[REDACTED]

[REDACTED] is a 16-year-old multiply-disabled student who attended Central High School in Bridgeport and resided [REDACTED], Bridgeport, Connecticut during the 2014-2015 academic year. A psychiatrist hired by BPS described [REDACTED] as "an extremely slight prepubescent boy who looks remarkably younger than his stated age" ([REDACTED]. Ex. 1).

[REDACTED] has continually suffered from seizures since infancy which have left him with significant cognitive deficits in all academic and non-academic areas: expressive and receptive speech and language abilities, working memory, executive functioning, and processing abilities ([REDACTED]. Exs. 2 and 3). Additionally, [REDACTED] is diagnosed with ADHD and suffers from such severe dermatitis that he has undergone multiple hospitalizations and emergency medical specialist visits for treatment since preschool. This condition exacerbates his cognitive and emotional issues.

On May 6, 2014, at a PPT at Bridgeport Learning Center ("BLC"), BPS' in-district "therapeutic" school, the team expressed concern about [REDACTED]'s lack of academic progress as demonstrated on annual testing ([REDACTED]. Ex. 4). The BLC team discussed [REDACTED]'s transition to high school, and particularly the importance of a deliberate and planned process for [REDACTED]. The need for [REDACTED] to enter a classroom specializing in students who "internalize" their issues, versus those who "externalize" them, was deemed to be of such critical importance that the PPT noted the necessity of [REDACTED] making multiple visits to the specialized classroom at Central High School (*Id.*). After this meeting, BLC's school psychologist accompanied [REDACTED] and his parents to visit the "internalizing" classroom at Central High School. [REDACTED] had the opportunity to meet with his teacher, discuss the program, and begin to acclimate himself to his new environment.

On June 17, 2014 at his final PPT at BLC, the team recommended "placement in a classroom with specialized instruction to include an integrated core academic plan coupled with an

individualized transition service plan.” The PPT summary noted that parent and student had visited the “AIM” classroom setting in Central and both agreed that the classroom would be appropriate to meet [REDACTED]’s needs ([REDACTED]. Ex. 5).

A few weeks later, [REDACTED]’s mother received a phone call from BPS’ Central Office informing her that, in fact, there was no room for [REDACTED] in the “internalizing” classroom at Central, and that [REDACTED] instead would be registered at Bassick. No information was given to the parent regarding what type of classroom nor the opportunity to visit any class offered to the parent.

No bus showed up to take [REDACTED] to Bassick the first day of the 2014-15 school year so his mother drove him to school and accompanied him to the office to check in. BPS staff told [REDACTED]’s mother that [REDACTED] was not in the system for Bassick and [REDACTED] was registered at Central High School. [REDACTED]’s mother returned to Central again, and was again was told [REDACTED] was not registered for Central. At this point, [REDACTED]’s mother called his teacher from BLC to ask what to do. This teacher had to come to Central to explain to Guidance that [REDACTED] was to be placed in the “internalizing” classroom there. However, because this classroom was now full, BPS instead placed in the “externalizing” class, which was the exact placement deemed inappropriate for [REDACTED] by BLC staff at his placement PPT.

During the 2014-15 school year, [REDACTED] would seek out the quieter “internalizing” classroom whenever possible. Despite the best efforts of [REDACTED]’s special education teacher, related service providers and school psychologist, all admitted that [REDACTED] was unable to make progress on his IEP goals and objectives. Central’s school psychologist noted [REDACTED] appeared to not have the cognitive ability to comprehend the skills sought to be taught nor the attention needed to follow any instruction. She noted that [REDACTED] could not repeat back any instructions given during her service time with him. [REDACTED]’s teacher spoke of how overwhelmed [REDACTED] was in his classroom with such larger boisterous boys. At a June 15, 2015 PPT, only after legal advocacy, did BPS change [REDACTED]’s placement to the “internalizer” classroom, where he was originally recommended to be placed in June 2014 ([REDACTED]. Ex. 6).

Teacher Survey & Parent Brochure

A 2014-15 district-wide survey of SOAR and AIM teachers and paraprofessionals conducted by the Safe Schools, Healthy Students federal grant team found that teachers report “lack of support” as an identified reason for high turnover rates, citing “lack of resources” as well (Survey Ex. 1). Surveys revealed, “Many teachers do not teach social skills on a daily basis, and most do not feel a daily social emotional curriculum is being utilized or implemented in the classroom” (*Id.*). Further, teachers report they have not undergone “any formal crisis intervention planning” and many students transition into their programs without functional behavioral assessments or behavior intervention plans. Finally, about half of the teacher surveys demonstrated concern over “lack of room for a de-escalation area” in order to serve their students’ needs (*Id.* at pg. 2).

Upon information and belief, BPS does not offer teachers any kind of specialized curriculum or structured program for classroom management. It is only now, in August 2015, that BPS is inviting these teachers to “Boys Town” training, three years after the implementation of SOAR and AIM classrooms.

Support staff exhibited similar concerns as teachers. BPS added “therapeutic support facilitators” to classrooms for the 2014-2015 year, though these “TSFs” report “they had a difficult time differentiating between their role and the role of a paraprofessional” (*Id.* at pg. 1). Reportedly, BPS has not provided TSFs or paraprofessionals *any* substantive training within the past few years, despite BPS’ promises to undersigned counsel on numerous occasions that a training program was to be rolled out in response to the Audit findings.

Unfortunately, this reality starkly contrasts with what is presented in the parent brochure. AIM claims to offer “embedded behavioral consultation” and “transition/technical programming,” services that were not afforded to [REDACTED] (Parent Brochure Ex. 1). BPS staff never provided any kind of enhanced programming for [REDACTED] which might have helped him engage in his classroom environment. The “individualized transition service” was never mentioned or offered to [REDACTED]. Though the materials claim that “daily attendance is carefully monitored” and students are “evaluated daily” through this “full alternative academic program,” [REDACTED]’s attendance continued to suffer as the BPS staff working with him did not have sufficient time or resources to focus on his attendance issues. Finally, though the brochure claims that AIM offers “individualized supports in structured settings,” [REDACTED] did not have nearly the support or structure he needed in order to thrive (*Id.*).

SOAR Classrooms (Elementary/Middle-Self-Contained)

The SOAR classrooms, present in several K-8 BPS schools continue to be under-resourced and ineffective for students who present the highest level of need.

An educational consultant, [REDACTED], conducted two observations of classrooms and programs that BPS offers to students with exceptional needs ([REDACTED] Ex. 1).

[REDACTED] observed B.P., a 9-year-old fourth grade student, in a SOAR elementary classroom at Read School in February 2015.¹²

[REDACTED] has been diagnosed with a variety of cognitive and mental health issues, including ADHD, Disruptive Behavior Disorder NOS, and Communication Disorder NOS, amongst others ([REDACTED] Ex. 2, pg. 5). [REDACTED] did very poorly in the regular education setting, resulting in very frequent suspensions and multiple psychiatric hospitalizations. BPS moved [REDACTED] to a self-contained SOAR classroom at Edison School for the 2013-2014 school year, where he remained mostly

¹² [REDACTED] is not included as an individual complainant, but is included as an example of the systemic failing of BPS’ in-district programming.

stable, and then to a SOAR classroom at Read School for the 2014-2015 school year. At Read School, staff again suspended him very frequently (both documented and undocumented), restrained him multiple times, and [REDACTED] had to be hospitalized for psychiatric reasons ([REDACTED]. Ex. 3).

As noted in [REDACTED]'s memo, "The inexperience of the teacher, given the severe and multiple nature of emotional and neurocognitive disabilities, led to a situation in which the child avoided interaction with peers and adults, as well as participation in instructional or social activities." ([REDACTED]. Ex. 1 at pg. 1). Further, no efforts were made to encourage [REDACTED] to join his classmates: "Staff noted that they did not prompt him to participate in lessons or engage with peers because of concerns that his behavior would escalate." (*Id.*). With the intervention of undersigned counsel, BPS moved [REDACTED] to an out-of-district therapeutic environment that is serving his complex needs very well.

[REDACTED] also observed a SOAR middle school classroom at Tisdale School in November 2014 and concluded that this facility was inadequate to serve the needs of its students. [REDACTED] noted that the room was so small that the "space was nearly totally encumbered with classroom furniture"—despite the teacher having requested a relocation to the school principal (*Id.* at pg. 2).

Further, this program relied almost solely upon a "contingency system, with minimal structured approach to development of social skills." There was no indication of a structured curriculum for social-emotional learning. The classroom size restricted the social worker's "ability to successfully engage and educate a child with significant behavioral and emotional issues." (*Id.*)

In summary, what [REDACTED] found most problematic in its omission was:

"a lack of recognition of a need for intensive language development intervention and support for teachers, a comprehensive and competent process for assessing behavior in the light of documented emotional problems (mental illness and trauma), and strategies that reflect an awareness of ways in which information processing deficits are related to and intensify behavior problems (e.g. slow information processing, communication difficulties, working memory problems, etc.)."

Without these necessary assessments, processes, and strategies, BPS students who exhibit emotional and behavioral difficulties may never receive the depth and breadth of service that they truly need—needs that are far more difficult to uncover and address than those outwardly manifested in externalized outbursts and aggression.

ASD Classrooms

BPS has failed to provide legally adequate classrooms and programs that are dedicated to serving students diagnosed with Autism Spectrum Disorder and related developmental disabilities.

One classroom, a pre-K in Blackham School, lacked necessary physical supplies. [REDACTED], a four-year-old student at Blackham, began the academic year in a classroom that had no toys which are required to assist ASD children in pro-social activities, sorting and classification activities, and other important developmental tasks. This classroom also lacked sensory materials, such as smocks for painting, and art materials. Finally, this classroom did not have cots available to use at nap time. The students were forced to nap on the dirty classroom floor, causing [REDACTED] to develop ringworm. [REDACTED]'s mother was so upset by this arrangement that she took to fundraising on Facebook, and secured enough money to buy cots for the children in the classroom.

Despite multiple communications, verbally and in writing, about the state of this classroom, BPS has failed to address the lack of resources in this program. Instead, undersigned counsel and parents have been told that the requested materials were "on order"—though most of the materials never arrived ([REDACTED] Ex. 1).

B. Continued Failure to Implement Child Find

Complainants allege a pattern of failure on behalf of BPS staff to ensure the prompt referral to a planning and placement team for all children who have been suspended repeatedly or whose behavior, attendance, or progress in school is considered unsatisfactory or at a marginal level of acceptance as required by 20 U.S.C. §1412(a)(3)(B); 34 CFR §300.11; C.G.S. §10-76d (a)(1); and Conn. Agencies Reg. §10-76d-7(c).

Complainants allege a pattern of failure to accept and process a referral from a student's guardian to determine the student's eligibility for special education and related services in accordance with 20 U.S.C. §1414(a)(B); 34 CFR §300.301(b); C.G.S. §10-76d (a)(1); and Conn. Agencies Reg. § 10-76d-7(a)(3).

[REDACTED]

[REDACTED] is a 16-year-old student at Warren G. Harding High School in Bridgeport residing [REDACTED], Bridgeport, Connecticut during the 2014-15 academic year. His experience is emblematic of BPS's failure to promptly refer students with a history of academic failures to a PPT even when the parent makes such a request.

[REDACTED]'s June 2014 transcript shows that he failed five courses and obtained a "D" in four other courses ([REDACTED] Ex. 1). A March 14, 2014 "Power School" (student database) entry indicates that BPS mailed a "failing letter" to the parent ([REDACTED] Ex. 2). Further, [REDACTED]'s guardian made a PPT request on February 26, 2013, which was also noted in Power School ([REDACTED] Ex. 3). Despite [REDACTED]'s failure, and the parent's documented request, BPS failed to process this referral and hold a PPT. Efforts to convene a "Manifestation PPT" triggered by [REDACTED]'s discipline referral were finally made on 11/7/14; 11/13/14; and 11/25/14. However, a "Manifestation PPT/Referral PPT" was not ultimately held until 12/11/14, after undersigned counsel had assumed representation of the student's education case.

As a result of SDE's intervention pursuant to Systemic Complaint CC14-0243, BPS initiated remedial steps to comply with Child Find obligations beginning in January 2014; among them was the utilization of "Power School" to identify students who must be referred to PPT. ■■■'s case demonstrates that BPS's attempt at a systematized process has not sufficiently addressed the failure to promptly refer students with a suspected disability to a PPT.

Center for Children's Advocacy's Resolution Attempts

CCA files this also as an organizational complainant as a result of CCA's inability to satisfactorily resolve the issues of complainants and those similarly situated through direct advocacy and collaboration with BPS, and BPS' failure to correct such deficiencies.

CCA first formally addressed the concerns noted in this complaint in April 2013 with then Superintendent Paul Vallas, Executive Director of Specialized Instruction Robert Arnold, and other district personnel. CCA again met with former Superintendent Vallas and Mr. Arnold on May 6, 2013, and outlined CCA's concerns regarding the violation of corresponding state and federal statutes pertaining to the provision of special education services. CCA then drew up an Action Plan which CCA presented to Mr. Arnold, and which he approved on May 23, 2013. Despite this plan, which was not fully implemented, there was no substantial improvement in the provision of services to children with disabilities in Bridgeport.

BPS' failure to resolve these serious violations led to a formal complaint filed in October 2013, Systemic Complaint C14-0243. On the heels of the findings by SDE, CCA continued to meet with BPS administration and raised concerns about the continued need to remedy widespread violations regarding FAPE for students with disabilities. The CREC Audit highlighted and deepened the understanding of these violations, while also providing concrete recommendations to address them. CCA met with BPS administration on at least four occasions between the spring of 2014 and the date of this writing. Despite our efforts pervasive non-compliance remains.

As a result, CCA files this formal complaint in order to obtain relief and remedies on behalf of the complainants and all Bridgeport children with disabilities whose needs are not being met.

III. Requested Remedies

The students, parents, and the Center for Children's Advocacy request that Bridgeport Public Schools be required to:

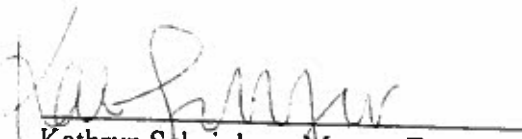
1. Within 30 days, initiate PPTs to identify appropriate compensatory education services and begin to provide those services to each complainant determined eligible for special

- education services, due to denial of FAPE as a result of failure to evaluate and implement appropriate services;
2. Within 30 days, initiate PPTs to identify appropriate compensatory education services and begin to provide those services to each complainant whose IEP was not implemented within an appropriate amount of time;
 3. Within 30 days, initiate PPTs to develop and implement an appropriate IEP to each complainant whose IEP has failed to provide FAPE using whatever means necessary including but not limited to contracting services or placement in a private educational facility;
 4. Within 60 days, provide a corrective action plan to ensure the district is complying with all relevant federal and state laws and regulations regarding the identification and evaluation of students who are suspected by the school or guardian of operating under a disability that adversely impacts the students' education, to include:
 - A. Adopt the three year remedial plan outlined in the CREC Audit.
 - B. Contract with an approved educational expert, as identified by the State Department of Education, to provide training regarding Child Find obligations, including referrals to PPTs and recommendations for evaluations, and determinations of eligibility for special education services. These trainings shall be provided to special education teachers, case managers, evaluation teams, related service providers, school administrators, administrative staff, and all other staff involved in handling referral requests.
 - C. Issue revised policies to school administrators and special education personnel regarding the need to comply with the mandates of corresponding state and federal law regarding identification and referral of students for evaluation of a suspected disability including the requirement to inform parents of such and documenting its efforts in pursuing such obligations.
 - D. Publish the corrective action plan to all parents or guardians of children who attend BPS.
 5. Submit to three years of independent monitoring of the corrective action plan by SDE or other appropriate entity using objective outcome measurements with incremental adherence to compliance during the three year period.
 6. Within 120 days, BPS must contract with an independent educational agency to conduct file reviews for all BPS students who meet the criteria for PPT referral according to Child Find laws and regulations, and who have not been evaluated to determine eligibility for

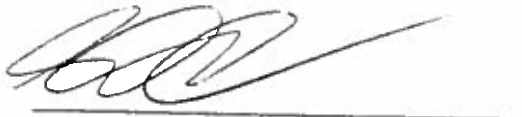
special education services in accordance with Connecticut State Regulation timelines at the time the correction action plan is implemented.

7. Any other such relief as may be deemed appropriate.

Respectfully,



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cc:

Director of Specialized Instruction, Bridgeport Public Schools
Frances Rabinowitz, Superintendent, Bridgeport Public Schools
Dianna Wentzell, Commissioner, Connecticut State Department of Education

INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION
CCA Ex. 1	MacDonald et.al. <i>Bridgeport Public Schools Special Education Review</i> , Capitol Region Education Council ("CREC") August 2014.
█ Ex. 1	BPS Psychological Evaluation dated 4/29/14.
█ Ex. 2	IEP dated 5/5/2015 pages 1-3; 8.
█ Ex. 1	IEP dated 4/27/2011 pages 1-2.
█ Ex. 2	Speech and Language Evaluation dated 4/25/2011.
█ Ex. 3	Cooperative Education Services Augmented Communicative Evaluation dated 12/11/2014.
█ Ex. 4	IEP dated 4/10/2015 pages 1-2; 7.
█ Ex. 5	IEP dated 10/17/2014 pages 1-2.
█ Ex. 6	IEP dated 5/15/2015 pages 1-2.
█ Ex. 1	CT SDE Education Disciplinary Offense Record Entries for academic year 2014-15.
█ Ex. 2	IEP dated 1/20/2015 pages 1-2.
█ Ex. 3	IEP dated 6/9/2015 pages 1-2.
█ Ex. 1	IEP dated 11/29/2012.
█ Ex. 2	IEP dated 12/12/2013.
█ Ex. 3	IEP dated 9/18/2014 page 4.
█ Ex. 4	IEP dated 10/20/2014 page 3.
█ Ex. 5	November 2014 Progress Report.
█ Ex. 6	Bilingual Speech-Language Re-Evaluation pg. 5 dated 11/5/14.
█ Ex. 7	Speech and Language Re-Evaluation pgs. 3-5 dated 12/4/2014.
█ Ex. 8	Neuropsychological evaluation dated 12/1/2014.
█ Ex. 1	E-mail correspondence with classroom teacher dated 11/19/2014.
█ Ex. 2	E-mail from school social worker dated 1/21/2015.
█ Ex. 1	Psychiatric consultation dated 2/28/2012.
█ Ex. 2	WISC-IV integrated tables and graphs reports.
█ Ex. 3	Speech and Language Evaluation Report dated 4/29/2013.
█ Ex. 4	IEP dated 5/6/2015.
█ Ex. 5	IEP dated 6/17/2014.
█ Ex. 6	IEP dated 6/15/2015.
Teacher Survey Ex. 1	Conducted by Safe Schools Healthy Students, disseminated on 6/16/2015.
Parent Brochure Ex. 1	BPS 2014-15 parent brochure.
█ Ex. 1	█ observation of BPS' special education settings dated 3/31/2015.
█ Ex. 2	Psychiatric consultation dated 5/14/13.
█ Ex. 3	Psychiatric evaluation dated April 2015.

█. Ex. 1	Electronic mail dated 12/17/2014.
█. Ex. 1	Transcript dated 11/18/2014.
█. Ex. 2	Power School Entry dated 3/14/2014.
█. Ex. 3	Power School Entry dated 2/26/2013.