



STATE OF CONNECTICUT  
STATE DEPARTMENT OF EDUCATION



May 28, 2010

*Via electronic mail*

Dr. Ellen J. Stoltz  
Senior Director for Special Education Services  
Hartford Public Schools  
960 Main Street  
Hartford, CT 06103

Dr. Wayne Alexander  
Director  
2550 Main Street Academy  
2550 Main Street  
Hartford, CT

Re: 2550 Main Street Academy  
Complaint No. 10-0306

Dear Drs. Stoltz and Alexander:

The Bureau of Special Education is responding to the systemic complaint officially filed with the Bureau of Special Education on February 2, 2010 by Attorneys Hannah Benton and Maria Morelli-Wolfe (the Complainants) on behalf of all students with disabilities enrolled in the 2550 Main Street Academy (2550), a school within the Hartford Public School District (the District) during the 2009-2010 school year. Due to the scope of the complaint's allegations, the need for extensive review of documents, multiple site visits and personnel interviews, the timeline for the complaint investigation was extended as allowed pursuant to federal regulation. No supporting documents were submitted by the Complainants with the complaint. Site visits were conducted as part of the investigation on March 16, 2010, March 17, 2010, March 18, 2010, March 23, 2010, April 6, 2010 and April 8, 2010. During the site visit portion of the complaint investigation, the investigators reviewed relevant portions of the education record of thirty-three students: twenty high school students and thirteen middle school students. Additionally, the investigators toured the facility, interviewed Wayne Alexander (the Director), Dennis Wehrly (the Dean of Students), Eileen Hargreaves (the special education supervisor for the middle school), eleven selected school staff including teachers and related services providers, observed classes and reviewed 2550's policies and procedures. At the request of the investigators, school staff called the home of each student to invite the parents to come to the school and meet with the investigators; one grandparent met with an investigator. Additionally, the investigators met separately with the Complainants and the District Senior Director for Special Education during the course of the investigation. Four education consultants from the Bureau of Special Education participated in various aspects of the investigation. The relevant period of review for this complaint investigation was the 2009-2010 school year.

In the complaint and during a meeting with the Complainants held on February 17, 2010, the Complainants alleged that the District has failed to provide the students at 2550 with a free, appropriate public education (FAPE) as required by the Individuals with Disabilities Education Act (IDEA). The complaint inquiry letter set forth the claims as follows:

- 2550 serves 70 students of whom all, or nearly all, are eligible to receive special education and related services; however, until October 8, 2009, 2550 had only one teacher certified to provide special education instruction;
- Some students were sent to 2550 from out of district placements without first convening a planning and placement team (PPT) meeting;
- The teachers at 2550 did not have access to the students' IEPs (individualized education programs) or baseline reading scores until October at the earliest;
- Reevaluations for many of the students at 2550 were not completed in a timely way as required by their IEPs;
- Due to the lack of current evaluations, special education teachers and access to IEPs, the students' present levels of academic achievement and functional performance have not been consistently addressed through differentiated instruction;
- As of the end of December 2009, and due to a lack of trained staff, instructional materials and working computers and software, students have not been provided with appropriate instruction in reading;
- Appropriate transition services are not being provided to eligible students; 2550 does not provide any instruction in vocational or community living skills;
- 2550 does not provide teaching staff with sufficient collaboration time; this impacts the delivery of FAPE;
- 2550 teaching staff have been categorically told that one to one support for students may not be requested even if they believe a student requires such support to receive educational benefit;
- Related services are problematic: speech and language services are available on only one day per week and sensory diet interventions are not possible due to lack of an appropriate space;
- Appropriate medication management has not been consistent: certain students have either missed medication or have not been provided with their medication at the proper times;
- 2550 does not provide access to non-disabled peers and therefore may not be the least restrictive environment appropriate for some of the students;
- Transportation to 2550 has not always been provided in accordance with students' IEPs;
- The building in which the academy is situated is not appropriate for the student population: the building also houses other public programs all of which share a common entrance and lobby; the building also shares a busy parking lot with a neighboring building;
- 2550 does not provide the therapeutic structured environment as required by many of the students' IEPs: students wander in and out of classrooms which are chaotic and noisy; there is no school-wide behavior management program and inappropriate behaviors are not consistently addressed; a time-out room is not being used appropriately and little effort is made to return students from the time-out room back to their classroom;
- 2550 does not provide sufficient hours of instruction; in addition, 2550 does not have physical education facilities: the students are bussed across town to a Boys and Girls Club which is time-consuming and reduces the number of instructional hours;
- 2550 has a high rate of suspensions and students are sent home before the end of the normal school day; some of these incidents have not been properly recorded as suspensions; in addition, the presence of a police officer is inconsistent with the notion that 2550 is a therapeutic environment and has led to several arrests.

In its response to the complaint, the District represented that it would be closing the middle school and had begun the process of holding PPT meetings to plan for the return of individual middle school students either to their home schools or placement in out of District schools.

Findings of Fact:

1. 2550 Main Academy is a public school program operated by the District for District students in grades 6 through 12 who have been identified with emotional disturbance. The program is not operated out of an existing public school but is situated in a public, three story building. The middle school occupies the first floor and the high school occupies the second floor. There is no gymnasium, traditional cafeteria, laboratory space (for science classes), athletic fields or recreational facilities within the building. The middle school has no space for behavior management such as a timeout room. The building itself, including classrooms, halls and offices, does not provide an aesthetically pleasing or inviting environment; many walls are bare and the maintenance and cleanliness is unsatisfactory. Staffing at 2550 has fluctuated over the year with several staff leaving the school in the fall of 2009 and new staff starting at the school as recently as February 2010. There are five part-time teachers that provide tutoring and classroom support. The Director started at the school in mid-September, replacing the initial director who was transferred out of the program in October of 2009. The current Director reports that he has no input regarding the choice of instructional or related services personnel assigned to 2550. While some of the staff came from the District's previous program for students with emotional disturbance, others were given positions at 2550 after being laid off from their previous teaching positions within the District; many of these teachers did not have experience working with this type of student population before coming to 2550.
2. There is a high level of turnover within the student body. In addition, many of the students attending 2550 have been suspended out of school for several days. From September through February, fifteen individual students were suspended out of school for ten days or more. The reasons for suspensions were primarily disruptive behavior, fighting between students, and students assaulting teachers. Program staff filed unusual incident report forms with the District's central office between seven and fifteen times per month from October 2009 through February 2010. Unusual incident reports are filed when a staff member is injured as the result of an assault by a student.
3. The complaint investigation did not substantiate many of the complaint allegations:
  - Students sent to 2550 from out of district placements did have a PPT meeting prior to placement;
  - Teachers at 2550 do have access to student IEPs and to baseline reading scores;
  - Most reevaluations were completed in a timely way as required by students' IEPs;
  - Teaching staff do have sufficient collaboration time and use the time appropriately;
  - Staff have not been categorically told that one to one support for students may not be requested even if they believe a student requires such support to receive educational benefit;
  - Related services are provided to the students in accordance with their IEPs;
  - Speech and language services are being provided to students in compliance with their IEPs;

- Of the student files that were reviewed, no student had an IEP that included occupational therapy;
- Medication delivery is appropriately managed at 2550;
- Students are provided transportation to 2550 in accordance with their IEPs; approximately fifty students have individualized education programs (IEP) that provide special transportation; the remaining students either walk to the program or are provided with bus vouchers and take public transportation.
- There are no non-disabled peers attending 2550. However, of the IEPs reviewed, almost all IEPs included a PPT recommendation that the student be placed in a small, structured therapeutic environment; accordingly, this investigation did *not* include a review of each IEP for individual appropriateness and does not include a determination as to whether 2550 is the least restrictive environment for each student.

**Findings of Fact Specific to the Middle School:**

4. At the start of the school year, the middle school had one and one-half full time special education teachers. At the time of the site visit, there was one full time special education teacher. During the investigation, there were approximately nineteen students enrolled at the middle school level, down from an enrollment of approximately thirty. Additionally, the middle school program has music, art and gym teachers, a speech and language pathologist, a social worker, a special education supervisor/administrator, reading, science, math and English teachers, and two mental health clinicians (which is a strength of the program). A therapeutic relationship was observed between the clinicians and students. The middle school program has one paraprofessional. Most staff has received limited to no training in working with students with emotional disturbance and has minimal (if any) experience working with students identified as eligible for special education as a result of having an emotional disturbance. It is noted that all teaching personnel at 2550 have received training in physical management. During one classroom observation, the teacher was alone with the students in the class. As a result, the teacher was not able to deliver individualized interventions or instruction or intervene when students' behavior became disruptive.

5. According to the schedule submitted by the District, at the time of the site visit the middle school program began at 8:00 a.m. with a forty minute period for breakfast and social skills followed by a twenty-five minute morning meeting period. Teachers can and do use the breakfast and social skills time to collaborate. Four, forty minute academic periods followed until lunch at 11:50. At 12:25 the students attended group therapy for forty-five minutes. This time is also available for teachers to collaborate. At 1:10 until dismissal at 2:30, the students attended physical education at an offsite location or an enrichment class in math, science or English. Teachers meet as a group every Tuesday afternoon.

6. During the classroom observations, there was no differentiated instruction observed and no evidence that alternative curricular materials were available.

7. As of mid-May, five students were enrolled in the middle school. Based on a review of the attendance records, about half the students attended school regularly during the first half of March.

8. The middle school program uses a point sheet that targets seven behavior areas: respect, class activity, directions, behavior, participation, preparation, and transition. The point sheets are used to determine a Friday reward. The middle school program is not implementing a program-wide behavior management system. The middle school does not have a timeout room. The program relies on disciplinary exclusions (suspensions) and crisis intervention, including deployment of security guards and police, in order to manage students' behavior.

9. The students did not have working computers until March of 2010; therefore, the students were unable to use any reading software for instruction.

10. During the class observations, the students' behavior was very disruptive. Students left and entered classrooms at will. In one class, a student left the room, returned and excitedly reported on a fight, including an assault on an administrator that was occurring outside the classroom, and then left the classroom again. A student who was not a member of the class came in and sharpened her pencil and left. During the class observations and staff interviews, students and staff wandered in and out of classrooms. From the classrooms, loud shouting and noise could be heard from the hallways and other rooms. During one class observation, the door knob to the class was regularly being turned by someone trying to get into the room which was extremely disruptive. From the classroom, loud shouting and noise could be heard from outside the classroom.

11. The student file review revealed, in general, that student files were well maintained and that student IEPs included adequate statements of students' present levels of performance.

**Findings of Fact Specific to the High School:**

12. During the investigation, there were approximately fifty students enrolled at the high school level. At the start of the school year, the high school had one special education teacher. A second special education teacher was added in October. At the time of the investigation, the high school was staffed by music, art and gym teachers; a speech and language pathologist; a social worker; math, reading, English and social studies teachers; computer technology and science teachers; two guidance counselors; a school psychologist; one mental health clinician; a security guard and two paraprofessionals.

13. According to the schedule submitted by the District, at the time of the site visits the high school program began at 8:15 with breakfast followed by home room/1<sup>st</sup> period at 8:40. Thereafter, periods ran until 12:30 when it was lunch followed by two periods in the afternoon until dismissal at 2:20-2:30. There is adequate time for teachers to collaborate.

14. A review of attendance records for the first half of March 2010 demonstrates that students do not, for the most part, attend school. According to staff interviews, program staff follows up when a student is not in school by calling the home and, in certain cases, going to the home. Staff also reported that "kids disappear" and "a lot of kids end up with the Department of Corrections". Students are also not in school because the students have been disciplined and given out of school suspensions.



15. The students did not have access to working computers until December of the school year.
16. During class observations, students walked in and out of the classrooms. Much of the teachers' attention was directed toward attempting to keep students in their classrooms. From the classrooms, loud shouting and noise could be heard from the hallways and other rooms.
17. The student file review revealed, in general, inadequate statements of students' present levels of performance and inadequate transition planning. Appropriate transition services are not being provided to eligible students; 2550 does not provide any instruction in vocational or community living skills. The program's operational schedule does not provide for vocational education although students have been administered at least one interest assessment and some students have visited local community colleges. However, most of the high school IEPs at 2550 do not contain appropriate post school outcome goal statements nor do all IEPs contain at least two transition goals with appropriate objectives.

### **Conclusions:**

1. Based on the material reviewed in connection with this investigation, some of the students enrolled in the program exhibit seriously disruptive behaviors. All of the students have an IEP that calls for placement in a small, therapeutic setting that provides structure and support. RCSA § 10-76d-1(a)(3) mandates that students be provided an education that conforms with the student's IEP. The District is in violation of this requirement. 2550 is not a structured, therapeutic setting. The environment is not disciplined, safe or conducive to learning. There is no school wide behavior management system. Staffing and supervision are not adequate to prevent, with reasonable assurance, harm by the students to self or others and no provision has been made for the appropriate monitoring and review of the students' emotional and behavioral status. The combination of some seriously disruptive students, inadequate staffing, and lack of behavior management systems results in an environment that is noisy, volatile, and dangerous to students and staff alike; the provision of FAPE in such an environment is problematic at best. The District began operation at 2550 without the necessary systems, staff and space in place and since that time has had the burden of attempting to put program systems in place while operating the new program, a nearly impossible task. The students attending 2550 require an education program that has an abundance of teaching and therapeutic staff with expertise in serving students who have emotional disturbance as well as significant academic needs. Specifically, all instructional, administrative and related service personnel require extensive training regarding working effectively with students with emotional disturbance. In addition, a school wide behavior management system, in which all staff have been trained, is essential if students are to derive benefit from their special education and make progress in the general education curriculum. A successful, school wide behavior management system will also allow personnel to put their time and energy into teaching rather than crisis management as currently appears to be how staff spends most of their time.
2. 34 C.F.R. § 300.320(b) provides that beginning not later than the first IEP to be in effect when the student turns 16, or younger if deemed appropriate by the PPT, and updated annually, the IEP must include appropriate measureable post secondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living

skills and the transition services (including courses of study) needed to assist the student in reaching those goals. The District is in violation of these requirements. The IEPs do not include appropriate post school outcome goal statements or measureable post secondary goals nor do the IEPs include transition services to assist the students in reaching transition goals. Corrective action is required.

3. The majority of students enrolled in the high school program do not attend the program regularly. There are several factors that contribute to this including the facts that some students do not have parents who are involved in their lives and must deal with serious, ongoing issues outside the school, and some students engage in criminal activity and are referred to detention and/or state correctional facilities. In addition, the program's overreliance on suspension as a means to manage behavior results in extensive student absence: a student cannot benefit from his or her educational program if he or she does not attend the program regularly. 2550 must have a plan in place that addresses the attendance issue including a plan to decrease program reliance on out of school suspension. It is noted that 2550 program offers a limited curriculum consisting of basic academic courses. While it is undeniable that the 2550 students require such emphasis on academic subjects (many of these students also have learning disabilities as well as academic skills that fall at the elementary school level), they should also have access to high interest elective courses such as technology, theater arts, music, art, family and consumer science, and the sports programs that are usually available to typical middle and high school students in Connecticut. (It is also noted that 34 C.F.R. Section 300.17 includes in its definition of FAPE, special education and related services that "...Include an appropriate preschool, elementary school, or secondary school education in the State involved..." 2550 students are not receiving an appropriate secondary school education.) The provision of such electives may lead to improved rates of attendance as well as provide 2550 students with real world connections. While a few of the 2550 students are participating in athletics, they must be transported to other school facilities where sports programs are available. Most of the students have not taken advantage of this; while these students may have other reasons for not participating, the need to be transported off site is undoubtedly a discouraging factor.

4. The facility where this program operates is inadequate. Section 504 regulations require covered entities to operate each program or activity located in an existing facility in such a way that the programs and activities, when viewed in their entirety, are readily accessible to and usable by individuals with disabilities pursuant to 28 C.F.R. § 35.150(a) and 34 C.F.R. § 104.22(a). With respect to existing facilities, school systems should provide for access to persons with disabilities at schools dispersed throughout their service area so that students with disabilities can attend school at locations comparable in convenience to those available to students without disabilities. School Districts do not have to make all of their existing classroom buildings accessible to students with disabilities, provided that all programs offered in inaccessible classroom buildings are also available at other accessible schools in the District and that the accessible schools are comparable in convenience to those available to students without disabilities. Where schools offering different curricula or instruction techniques are available, the range of choice provided to students with disabilities must be comparable to that offered to students without disabilities. As previously noted, the 2550 building was not built to house a school; it lacks a gymnasium or any space for outdoor sports, a cafeteria where meals are prepared, classrooms with science laboratories, classrooms appropriate for various elective courses, and space for extra-curricular activities. In addition, the building has a busy parking lot it shares with a church and houses adult-serving agencies which are

not compatible with this student body. The site is totally inappropriate for a therapeutic school. While Connecticut's Complaint Resolution Process does not cover allegations of Section 504 violations (such complaints may be addressed through the federal Office for Civil Rights within the United States Department of Education), it is concluded that the deficiencies of the 2550 building are such that they impinge on both the ability of the 2550 program to provide a free appropriate public education (FAPE) to the students and on the students' ability to derive benefit from their special education and related services. In addition, Connecticut General Statutes Section 10-220 requires each local board of education to provide, as part of their duties, to "...all the children of the school district as nearly equal advantages as may be practicable...appropriate supplies, materials, equipment, staffing, facilities and technology...proper maintenance of facilities, and...a safe school setting..." The 2550 program is in violation of this statute.

5. Conn. Gen. Stat. § 10-16 provides that each school district shall provide in each school year no less than one hundred and eighty days of actual school sessions and nine hundred hours of actual school work. The high school program at 2550 operates from 8:40 until 2:20-2:30 for a total of five hours and fifty minutes. Bulkeley High School operates its lower school from 8:15 until 3:25 and its upper school from 7:45 until 2:30 for a total of seven hours and ten minutes. There is no therapeutic reason for this lack of parity between the District's high school programs.

**Required Corrective Actions:**

The 2550 program cannot continue to operate as it is currently configured or at its present location. The District recognizes this, has admitted that the middle school program at 2550 is not successful, and has already taken the appropriate steps to discontinue the middle school program at 2550; no new students have been enrolled in the program since February 2010. Students who were enrolled in the middle school program this year have had PPT meetings and the teams have recommended implementing the students' programs in private, out of district special education programs or in some cases, in the students' home school. Currently, there are no more than 5 middle school students enrolled at 2550. The District also plans to meet with representatives of private special education programs that operate successful school programs for students with emotional disturbance to explore the feasibility of an experienced program developing and providing a therapeutic program to District middle school students. Further, the District has represented that it will not continue to operate the high school program from the present site: instead, the District is planning to relocate the high school program for the 2010-2011 school year in a building that provides facilities comparable to other District high school buildings and would include a cafeteria, space for physical education, science laboratories, and adequate office space for related services. The following additional corrective actions are required:

1. Assuming that the District intends to operate a self-contained program for high school students with emotional disturbance, then on or before June 18, 2010, the District and Complainants are to agree upon a private consultant, agency or Regional Education Service Center (the Consultant) to provide ongoing and continuous technical assistance to the District regarding the design, development and implementation of a small, structured therapeutic program for high school students with emotional disturbance. This may also include programming for middle school students with emotional disturbance should the District decide to develop a self contained program for middle school students



with emotional disturbance. On or before June 18, 2010, the District shall report to the Bureau of Special Education as to the identity of the Consultant chosen. If the District and Complainants are unable to agree upon the Consultant, then on or before June 18, 2010, they are to provide the Bureau with the names under consideration and the Bureau shall choose such Consultant. The Consultant's fees shall be paid by the District.

2. The District shall, with the assistance of the Consultant, locate the program in an appropriate facility that offers the same structural and safety features as those provided in District high school facilities for typical high school students including a gymnasium, cafeteria, science laboratories, and appropriate facilities for elective courses and extra-curricular activities. This program shall also include the following:

- Prior to the program opening, training for *all* instructional, related service and administrative staff regarding instruction, transition planning, behavior interventions and crisis management appropriate for students with emotional disturbance and learning disabilities;
- A school wide behavioral management system that includes policies and procedures to address student discipline and attendance; consideration should be given to implementation of PBS or other such behavior management system;
- A curriculum that meets the individual educational and therapeutic needs of all students in the program including basic academic subjects, academic remediation as needed, appropriate transition services that includes preparation for post-secondary education and provision of training for job preparedness including job shadowing and internship opportunities, electives and extra-curricular activities, and the therapeutic components necessary to assist these students to derive benefit from their special education and make progress in the general education curriculum;
- Appropriate implementation of each student's IEP;
- A school day comparable to other District high schools with consideration given to an extended school day as needed; and
- Direct input by the Director of 2550 regarding the staff hired for the program.

3. Beginning August 1, 2010, the Consultant engaged to assist the District shall provide written monthly reports to the Bureau regarding the design, development and implementation of the revised 2550 program. If disagreements regarding the program development arise and the District and Complainants are unable to reach agreement, then the Consultant shall inform the Bureau; the Bureau will resolve such disputes. Oversight by the Bureau shall include, in addition to reviewing the Consultant's monthly reports, site visits, interviews of District and site personnel and review of IEPs and other educational records as the Bureau deems necessary. Oversight shall continue until the Bureau is satisfied that the program is successfully providing all required program elements as set forth in Corrective Action No. 2, above, or the conclusion of the 2010-2011 school year, whichever shall first occur.

4. Should the District determine that they will not undertake to operate a self-contained program for high school students with emotional disturbance (or middle school students), then they shall report this decision to the Bureau before the start of the standard 2010-2011 school year and provide to the Bureau for review a report regarding each of the students who were enrolled at 2550 as of the close of the 2009-2010 school year and their current program and placement.

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We have been asked to serve as the Bureau's liaison to the District for the purpose of monitoring the implementation of the required corrective actions. If you have any questions, please contact Mary Jean Schierberl at 860-713-6943 or Gail Mangs at 860-713-6938.

Sincerely,



Mary Jean Schierberl, Education Consultant  
Bureau of Special Education



Gail K. Mangs, Education Consultant  
Bureau of Special Education

cc: Attorneys Benton and Morrelli-Wolfe  
Anne Louise Thompson, Bureau Chief  
File