



STATE OF CONNECTICUT
STATE DEPARTMENT OF EDUCATION



January 9, 2014

Robert Arnold
Special Education Director
Bridgeport Public Schools
45 Lyon Terrace
Bridgeport, CT 06604

Re: Systemic Complaint
C14-0243

Dear Mr. Arnold:

This office is responding to the systemic complaint filed by the Center for Children's Advocacy against the Bridgeport Public Schools. The complaint was submitted on behalf of 6 named students. The complaint raised claims that the district violated its Child Find obligations under the Individuals with Disabilities Education Act and that the District failed to implement student individualized education programs. The complaint inquiry letter set forth the following issues to be investigated:

Issue 1: Regulations of Connecticut State Agencies (RCSA) § 10-76d-7 requires the prompt referral to a planning and placement team (PPT) of any student who demonstrates unsatisfactory attendance, behavior or academic performance.

Regarding [REDACTED] and [REDACTED] the complaint included the students' 2012-13 report cards. According to the report cards, the students earned Fs in most of their courses and yet were not referred to a PPT in response to this failing academic performance? If not, why not?

Regarding [REDACTED] the complaint included the student's transcript which indicates the student failed 4 courses last school year. The complaint refers to the parent making a referral in December of 2012. What was the outcome of this meeting? Why didn't district procedures result in the student being referred to a PPT?

Regarding [REDACTED] from documentation submitted with the complaint, it appears the student was on homebound tutoring most of the 2012-13 school year due to mental health issues but was not referred to a PPT.

Issue 2: 34 CFR § 300.323(c)(2) provides 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. **Questions:** Regarding [REDACTED] the complaint claims the district failed to provide appropriate services in a timely way to the student, who the district did identify as eligible for special education.

Issue 3: 34 CFR § 300.323(f) provides that when a child transfers to a public agency from another state, the new school, in consultation with the parents, must provide the child with a free appropriate public education including services comparable to those described in the child's IEP from the previously attended school. Regarding [REDACTED] the complaint claims the district failed to provide this transfer student with special education services comparable to those services in [REDACTED] IEP, excluded the student from his instructional program, and denied the student a free appropriate public education during the last year.

The following was reviewed: complaints; regarding [REDACTED], report cards, discipline record, grade 5 Connecticut Mastery Report; regarding [REDACTED] transfer information, report cards/transcript, social history, psychological evaluation, Axis diagnosis, paperwork from planning and placement team meeting held on April 30, 2013; regarding [REDACTED] report card/transcript, *Clinical Letter*, discipline record, emails, paperwork from PPT meeting held on July 17, 2013; regarding [REDACTED] report card, paperwork from PPT meeting held on September 24, 2013; regarding [REDACTED] paperwork from PPT meetings held on January 11, 2013 and May 24, 2013, emails; regarding [REDACTED] portions of Florida education records, suspension notices, psychological re-evaluation, paperwork from PPT meetings held on April 23, 2013 and May 20, 2013; District's response to the complaint inquiry letter; paperwork from PPT meetings (December 2007, April 2008, September 2010, January 2010, February 2011, October 2011, February 2012, September 2012, April 2013 and August 2013) regarding [REDACTED] paperwork from PPT meetings (September 2012, March, 2013, April 2013, May 2013, June 2013) regarding [REDACTED] September 2013 memorandum from [REDACTED] to District principals regarding Child Find with attached letters about parentally placed children and Child Find; district policy "Attendance Monitoring Procedures and Interventions; emails; [REDACTED] power point presentations; and staff attendance for August 2013 professional development.

Findings of Fact:

1. [REDACTED] is 16 years old student attending, for the second time, grade 9 at Harding High School in Bridgeport. During the 2012-13 school year, the student failed four out of five subjects. The student was not referred to a planning and placement team.
2. [REDACTED] is a 16 year old student who attended Harding High School and was hospitalized multiple times over the last 2 years to treat psychiatric conditions. The student attended Unified School District 2 at Riverview School from September of 2012 until mid-December of 2012 when [REDACTED] returned to Bridgeport. [REDACTED] failed multiple courses during the 2012-13 school year. The student was referred to a PPT by [REDACTED] mother on December 18, 2012. However, no PPT met. [REDACTED] was placed on homebound instruction in January of 2013. Evaluations were conducted in March of 2013 to determine [REDACTED] eligibility for special education services. A PPT was convened on April 30, 2013 to review the results of the evaluation. The student was determined to be eligible under IDEA as

Emotionally Disturbed. The team recommended placement of the student in a small structured learning environment.

3. [REDACTED] is an 18 year old student enrolled at Bassick High School in Bridgeport. During the 2012-13 school year, the student failed multiple classes and was not referred to a PPT. Following a referral by the complainants, a PPT was convened in September of 2013 and the team recommended that the student be evaluated to determine [REDACTED] eligibility for special education and related services.
4. [REDACTED] is a 16 year old student enrolled at Harding High School in Bridgeport. The student failed most classes in the 2011-12 school year. The student was placed on homebound instruction for most of the 2012-13 school year due to mental health issues. [REDACTED] failed Spanish and Art. A PPT was not convened until July 2013 following a referral by the complainant.
5. [REDACTED] is 13 years old and attends grade 7 at Luis Munoz Marin School in Bridgeport. [REDACTED] is identified as eligible for special education and related services under the Individuals with Disabilities Education Act eligibility category of Emotional Disturbance. The student attended a special education program at Cooperative Educational Services (CES), a regional education service center during the 2012-13 school year. On January 11, 2013, the student's placement at CES was terminated and the student was placed on homebound tutoring pending identification of a new placement. Homebound started on January 22, 2013 and continued through March 15, 2103. According to the District's accounting, the District owes the student 6 days compensatory education for missed homebound instruction during this time. On or about March 18, 2013 an alternative placement was made at Charles Hayden School Boys and Girls Village. On April 29, 2013, the student's placement at Boys and Girls Village ended. The student was in the Bridgeport Juvenile Detention Center and, according to the meeting summary, "will be going to Riverview." The student was placed in Unified School District 2, Riverview School when [REDACTED] was placed at the Department of Children and Families facility, Albert J. Solnit Children's Center, on May 1, 2013. [REDACTED] remained there until May 31, 2013. DCF convened a PPT on May 24, 2013. The team recommended extended year service and noted [REDACTED] need for clinical day programming. Bridgeport did not convene a timely PPT meeting upon the student's return to the District. The student did not receive ESY services resulting in the District owing the student 22 days of compensatory education.
6. [REDACTED] is 13 years old and identified as eligible for special education and related services under IDEA eligibility category of Intellectual Disability. The student moved to Bridgeport from Florida at the beginning of the 2012-13 school year. Bridgeport convened a PPT meeting on September 18, 2012. The parent was in attendance. The team developed an IEP that provided that student with 12.5 hours a week of specialized instruction in Reading and Mathematics. The parent gave consent to conduct a reevaluation. The team met on April 23, 2013 and again on May 20, 2013. The student was noted to be receiving little or no educational benefit in [REDACTED] regular education with resource room placement and [REDACTED] placement was changed to a self-contained therapeutic classroom for the 2013-14 school year including ESY.

7. Since this complaint was filed, the District, on its own initiative, has commissioned an audit of the District's special education program by CES and convened its executive team in an effort to improve accountability of building level administrators, increase collaboration and develop professional development training

8. The District has a policy regarding attendance that reiterates the state law on truancy. State law, CGS § 10-198a, states that a student is truant when the student has four unexcused absences in any one month or ten unexcused absences from school in any school year. District policy provides that when a student accumulates 2 unexcused absences a month or 5 in a year, the parent is contacted with either a phone call or a letter. Once 4 unexcused absences are accumulated in a month or 10 in a year, a meeting is held with the parent. 6 unexcused absences trigger a home visit. 10 unexcused absences result in a referral to SRBI and 15 unexcused absences result in a "referral to a PPT for truancy." Nowhere in the policy is there a directive to refer the student to a PPT for consideration of special education eligibility.

9. On October 29, 2103, [REDACTED] sent an email to principals, special education personnel and related services providers with the subject line of "Important-Child Find & Referral to PPT". In the email, [REDACTED] acknowledged the recent filing of Child Find complaints and goes on to state:

When a student is having truancy, academic and/or behavioral difficulties, the school's responsibility is to problem-solve and document the success/failure of alternative strategies (SAT/SRBI) within the general education environment in accordance with Connecticut State Guidelines. If these strategies prove unsuccessful over time, a referral to PPT/Special Education may be appropriate..."

Conclusions:

Regarding Individual Students

[REDACTED] – in light of the student's failing grades by the end of the 2012-13 school year, the District should have convened a PPT to determine whether or not the team suspected the student might have a disability. The District did not refer the student to a PPT. It is concluded, the District failed to comply with RCSA §10-76d-7. Corrective action is required.

[REDACTED] it is concluded the District failed to refer the student to a PPT in response to [REDACTED] failing grades in the 2012-13 school year. Given the one year look back period of the complaint resolution process, it is concluded the student should have been referred to a PPT by the end of October 2012. Given that a PPT subsequently ordered evaluations of the student, it is concluded a PPT would have done so if it met in October of 2012. Corrective action is required.

██████████ - It is concluded that, over the last year, the District located and identified ██████████ as required under IDEA Child Find requirements. It is acknowledged that the District should have located the student earlier given ██████████ school performance. However, the complaint resolution process is limited to a one year look back period and for this student, ██████████ did not become the District's responsibility until December of 2012 when ██████████ transferred from USD 2. It is concluded however, that the District appears to have conducted an evaluation of the student without convening a PPT which is a violation of state and special education legal requirements. Nonetheless, the student was evaluated and found eligible for special education and related services. Corrective action is required due to the District's failure to convene a PPT following the December 2012 referral.

██████████ - The District does not contest that it failed to provide educational programming to the ██████████ as recommended by the PPT and by its own accounting, owes the student 22 days of compensatory education.

██████████ - it is concluded the District failed to refer the student to a PPT in response to his inability to attend school due to mental health issues in the 2012-13 school year. Given the one year look back period of the complaint resolution process, it is concluded the student should have been referred to a PPT by the end of October 2012 when ██████████ was placed on homebound instruction. Given that a PPT subsequently ordered evaluations of the student, it is concluded a PPT would have done so if it met in October of 2012. Corrective action is required.

██████████ - No conclusion is reached that the district failed to implement ██████████ Florida IEP upon ██████████ transfer to Bridgeport in September of 2012 as this is beyond the one-year look back period of the complaint resolution process. No violation is found and no corrective action is required.

Regarding Systemic Claims

Child Find is one of the most important responsibilities of a public school district. If educators are not diligent in carrying out their Child Find responsibilities, schools are certain to overlook students in need. Under the IDEA, districts have an affirmative duty to identify, locate, and evaluate all students who need, or are suspected to need, special education and related services. This duty is not dependent on the parent asking for an evaluation. Failing to meet Child Find requirements is a matter of serious concern that can deprive FAPE to a student who should have been identified.

School districts are required to have an effective screening mechanism and procedures in place that will enable them to find such children. The Child Find duty requires referral for an evaluation when the district has reason to suspect a disability and reason to suspect that special education services may be needed to address that disability. Use of SRBI is not a substitute for Child Find procedures.

Meeting Child Find obligations isn't always a clear-cut process for a district. Sometimes children move between different schools or programs within a district, making it hard to initiate and follow through with evaluations. District Child Find systems must ensure that district staff understands how to apply IDEA Child Find requirements consistently and the need to effectively communicate information about students.

It is concluded that, over the last year, the Bridgeport Public Schools systematically violated its Child Find mandate and RCSA §10-76d-7 which requires the prompt referral to a planning and placement team of any student who demonstrates unsatisfactory attendance, behavior or academic performance. The District was asked to submit with its response to the complaint inquiry letter, all District policies and practices that concern how the District meets its Child Find obligations including policies on the monitoring of Bridgeport students' attendance, behavior and performance to ensure referrals are made as required. The district did not provide this investigator with any policies in place regarding monitoring of Bridgeport students' attendance, behavior and performance beyond the one instance discussed above. It is therefore concluded the District has no policies in place to monitor students' behavior and performance to ensure all students with disabilities are located and identified. The District does not have an effective screening mechanism or policies in place to ensure that all students who need or are suspected to need special education and related services are identified, and evaluated.

██████████ October 29, 2013 email to staff regarding Child Find fails to give staff sufficient and accurate guidance and direction in meeting its Child Find obligations. When a student is demonstrating unsatisfactory attendance, behavior or academic performance, the student must be referred promptly to a PPT. That team, including the parent, must review relevant information about how the student is functioning in school, including information provided by the family and if, after that review, the team suspects the student may have a disability that would require special education and related services, the team must design an evaluation of all areas of suspected disability, obtain parental consent and conduct the evaluation. If after the review of student information, the team determines that it does not suspect that the student has a disability and so, does not recommend an initial evaluation, the team must provide the parent with written notice of that determination and the basis for the determination. The referral to a PPT must be made promptly and cannot be delayed while general education interventions are trialed.

Required Corrective Actions:

Individual students Required Corrective Actions

1. ██████████ – in light of the student's failing grades by the end of the 2012-13 school year, the District must convene a PPT to determine whether or not the team suspects the student might have a disability. Paperwork from the meeting must be provided to this office. Further corrective action may follow regarding the student need for compensatory education to make up for the failure to locate and identify this student.

2. [REDACTED] – if the student has been found eligible for special education and related services, the team must convene and consider the student's need for compensatory education to make up for the District's failure to meet its Child Find obligation from October 2012. The paperwork from all PPT meetings held regarding this student after September 2013 must be provided to this office.
3. [REDACTED] – if the student has been found eligible for special education and related services, the team must convene and consider the student's need for compensatory education to make up for the District's failure to meet its Child Find obligation from October 2012. The paperwork from all PPT meetings held regarding this student after September 2013 must be provided to this office.
4. [REDACTED] – the District must determine why a PPT was not convened in response to the December 2012 referral and how an evaluation was done without a PPT designing the evaluation. This office must be provided an explanation.

Systemic Required Corrective Actions

1. The District must develop a corrective action plan that ensures compliance with RCSA §10-76d-7 and Child Find requirements. The proposed plan must be submitted to the Bureau no later than 3 weeks following receipt of this report. The proposed plan must address the development of District policies and practices that establish a system of regular monitoring of District student data -grades, discipline and attendance at a minimum- in order to determine if a student's progress is acceptable or not. A student repeating a grade should be deemed to be demonstrating marginally acceptable academic performance and should be referred to a PPT. The policies must establish District standards for unacceptable academic and behavioral performance, and attendance. Where data demonstrate an unacceptable or marginal level of acceptance in the areas of attendance, academic performance or behavior, the policies must provide for the prompt referral of the student to a planning and placement team. Examples of student information that should be reviewed and responded to include: failing or noticeably declining grades; poor or noticeably declining progress on standardized assessments; negative behaviors that cause the student to stand out from [REDACTED] peers; minimal progress in RTI process; only slight benefits from accommodations in a Section 504 plan; numerous or increasing disciplinary referrals; signs of depression, withdrawal, inattention; increasing absences; a history of being hospitalized; and record of a psychiatric diagnosis. Note that the regulation does not distinguish between excused and unexcused absences; the focus is on attendance. The District will need to plan for what is sure to be an increased number of PPT meetings being convened and, where determined appropriate, evaluations conducted as the District begins to change its practice to be in compliance with Child Find obligations.
2. Once this office reviews the proposed policies, the District will be required to forward to the Bureau documentation that appropriate school staff have received a copy of or otherwise reviewed the

above-referenced policy. It is expected that District staff will require significant training and guidance in implementing the corrective action plan and achieving compliance with Child Find requirements.

3. The District must provide this office with feedback from CES following the CES audit, including copies of written reports. The District must update this office on the status of the District executive team outcomes set forth in its response to the complaint inquiry letter. In the case of District professional development, the District must provide this office with copies of training material and attendance information.

4. The District must review the status of all students who received homebound instruction during the current school year in order to ensure that these students' circumstances have been reviewed by a PPT. This office must be provided the list of students on homebound and the list must include information on whether or not the student have been determined to be disabled and eligible for special education and related services or not and the PPT meetings dates.

I have been asked to monitor the District's compliance with the required corrective actions. If you should have any questions, please do not hesitate to contact me at 860-713-6943.

Sincerely,



Mary Jean Schierberl, Education Consultant
Bureau of Special Education

Cc: Edwin Colon, Esq. and Kathryn Scheinberg Meyer, Esq., Center for Children's Advocacy