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TRANSMITTED VIA EMAIL¹ and FIRST CLASS MAIL

October 3, 2018

Mary Jean Schierberl, Esq.
State Department of Education
Bureau of Special Education
Due Process Unit
P.O. Box 2219, Room 359
Hartford, CT 06145

SYSTEMIC COMPLAINT

RE:



¹ Exhibits will be electronically transmitted with the Systemic Complaint via Dropbox link. A thumb drive will accompany the first class mailed copy of the Systemic Complaint.

Dear Attorney Schierberl:

I, Robin P. Keller, am an attorney for children with special education needs in Connecticut. I am a member of Special Education Equity for Kids of CT (“SEEK”). I am filing this complaint on behalf of the parents and guardians of [REDACTED]

Center for Children’s Advocacy (“CCA”) is a non-profit legal advocacy organization whose mission is to promote and protect the legal rights of Connecticut’s most vulnerable children, including those who are dependent upon the juvenile justice, child welfare, health and mental health care, education, and other systems for their care. CCA files this complaint on behalf of the parents and guardians of [REDACTED]

SEEK is a group of Connecticut attorneys, advocates, and parents focused on positive educational outcomes for children with disabilities.² SEEK’s organizational belief is that an appropriate education is an extension of one’s civil rights, as access to a quality education will result in increased equality of opportunity for all children with disabilities. SEEK files this complaint on behalf of the parents and guardians of [REDACTED]

CCA and SEEK file this complaint as organizational complainants against Norwalk Public Schools (“NPS”) on behalf of students with suspected disabilities who NPS has failed to evaluate and/or identify for special education eligibility and related services through an Individualized Education Plan (“IEP”), and students with IEPs who are denied a free and appropriate public education (“FAPE”). *See* §§34 C.F.R. 300.151(a)(1) and 300.153(a) (state complaints may be filed by an organization).

NPS’ ongoing omissions and commissions constitute violations of the Individuals with Disabilities in Education Act (“IDEA”), §504 of the Rehabilitation Act of 1973, and corresponding state laws and regulations.

I. LEGAL VIOLATIONS

A. VIOLATION OF CHILD FIND

NPS has systemically violated federal and state law Child Find requirements by failing to determine a student’s eligibility for special education and related services in accordance with 20 U.S.C. §1414(a)(B), 34 CFR §§300.301(b) and 300.301(c), Connecticut General Statutes §10-

² Current officers of SEEK are Attorney Meredith Braxton, Attorney Andy Feinstein, Advocate Julie Swanson, and Advocate Gerri Fleming.

76d(a)(1) and Regulations of Connecticut Agencies. § 10-76d-7 (a)(3) [REDACTED]
[REDACTED]

B. DENIAL OF FAPE

NPS has systemically violated federal and state law “FAPE” requirements by its:

1. Failure to reconvene a PPT when a student is making unsatisfactory progress towards his/her goals and objectives, in accordance with 20 U.S.C. §1414(d)(1)(A)(i)(II)(aa)(bb); 34 C.F.R. §300.320 et. seq.; [REDACTED]

[REDACTED] Failure to provide PPT-recommended special education and related 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); 34 C.F.R. §300.320 et. seq.; Conn. Gen. Stat. §10-76d et. seq.; and Regulations of Connecticut Agencies. 10-76d-11 et. seq. [REDACTED]
[REDACTED]

[REDACTED] Failure to timely provide compensatory education hours that NPS acknowledges are owed for IEP services in accordance with 20 U.S.C. §1414(d)(1)(A)(i)(IV)(aa)(bb); and 34 C.F.R. §300.320 et. seq.; Conn. Gen. Stat. §10-76d et. seq.; and Regulations of Connecticut Agencies 10-76d-11 et. seq. [REDACTED]

II. BACKGROUND INFORMATION UPON WHICH COMPLAINT IS BASED

The Norwalk Board of Education (“Board”) has been on notice for many years of NPS’ failure to implement both federal and state statutes and regulations relating to IDEA and FAPE.

From 2009-2015, the Board commissioned the Capitol Region Education Council (“CREC”) three times to conduct special education program reviews. The reviews occurred in 2009, 2012, and 2015.³ Each review provided information to the Board on progress made since the previous review, answered questions related to effective utilization of resources, organizational structures, and processes, and made recommendations to the Board moving forward.

The CREC review of 2015 (“2015 CREC Review”) found:

“...district [NPS] implementation of the recommendations in the 2012 CREC were minimal... that data indicate issues in the areas of special education and 504 compliance, least restrictive environment, staffing, and utilization of resources have become more problematic since the 2012 CREC” (Ex. A, p.7).

³ The 2015 CREC team had six education specialists experienced in program review and special education. Including Margaret MacDonald, Lisa Fiano, Lisa Landry, Andrew Lees, Donna Morelli, and Christine Ruman). A copy of the 2015 CREC Review, *Norwalk Public School, Special Education Review* November 2015, is attached hereto as Ex. A.

NPS continues to systemically violate students' right to FAPE despite reassurances by Yvette Goorevitch, Chief of Specialized Services on June 25, 2018 that the CREC recommendations had been implemented to various degrees.⁴ For example, many of the individual complainants below have the same FAPE violations identified by the 2015 CREC Review with regard to design and implementation of Individualized Education Plans ("IEP"):

"...the quality of the IEPs was poor, the IEPs were not always followed, special education aides were not used effectively and did not have the necessary training, BCBA services were inconsistent, data sheets and specialized curriculum were not apparent and staff training was limited" (Ex. A, p.19).

The results of the 2015 CREC Review, coupled with ongoing systemic violations give jurisdiction to the Connecticut State Department of Education ("SDE"), in accordance with 34 CFR § 300.151, to monitor NPS' 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 NPS' compliance with federal and state law.

III. EVIDENCE OF SYSTEMIC FAILURES EVIDENCED BY INDIVIDUAL COMPLAINANTS

A. VIOLATION OF CHILD FIND

NPS continues to systemically violate student rights by its failure to timely review referrals for determination of a student's eligibility for special education and related services:

█ "A"

█ "A" is a four-year-old student who attends Room to Grow Preschool ("RTG") in Norwalk, Connecticut. Though NPS received █ "A's" special education referral from RTG on November 28, 2017 (█ "A" Ex. 1), NPS failed to hold a PPT to determine eligibility until June 18, 2018. (█ "A" Ex. 2) **This date marked 201 calendar days or 121 school days after receipt of the referral.**

█ "B"

█ "B" is a four-year-old student who attends Room to Grow Preschool ("RTG") in Norwalk, Connecticut. Though NPS received █ "B's" special education referral from RTG on November 28, 2017 (█ "B" Ex.1), NPS failed to hold a PPT to determine eligibility until June 7, 2018. (█ "B" Ex. 2) **This date marked 190 calendar days or 118 school days after receipt of the referral.**

⁴ See Status Report, CREC Recommendations as of June 25, 2018 attached hereto as Ex. B. Of concern, we allege ongoing FAPE violations in several goal areas Chief Goorevitch reported as complete.

█████ “C”

█████ “C” is a four-year-old student who attends Room to Grow Preschool ("RTG") in Norwalk, Connecticut. Though NPS received ██████ “C’s” special education referral from RTG on December 11, 2017 (█████ “C” Ex. 1), NPS failed to hold a PPT to determine eligibility until June 27, 2018. (█████ “C” Ex. 2) **This date marked 198 calendar days or 112 school days after receipt of the referral.**

█████ “D”

█████ “D” is a four-year-old student who attends Room to Grow Preschool ("RTG") in Norwalk, Connecticut. Though NPS received ██████ “D’s” special education referral from RTG on November 28, 2017 (█████ “D” Ex. 1), NPS failed to hold a PPT to determine eligibility until May 23, 2018. (█████ “D” Ex. 2) **This date marked 176 calendar days or 108 school days after receipt of the referral.**

B. DENIAL OF FAPE:

The following allegations are indicative of NPS’ failure to provide FAPE for its identified special education students:

- NPS fails to reconvene PPTs for identified children with behavior issues and/or repeated suspensions;
- NPS fails to implement unique IEPs designed to meet the needs of the child instead of limited “one size fits all” service provisions;
- NPS fails to provide IEP-recommended instructional and special education related services and then fails to provide for compensatory education on a timely basis;
- NPS fails to staff in-district programs “as designed” for delivery of IEP academics and related services;
- NPS fails to implement transition plans for identified students when a change in providers occurs; and
- NPS fails to monitor progress and convene program reviews for identified in-district and out-of-district placed students.

█████ “E”

█████ “E” is a 17-year-old student high school student whose home school is Brien McMahon High School (“BMHS”). NPS has placed ██████ “E” in 10 different schools/programs over the past three

and a half years. NPS has failed to follow up on her progress (or lack of progress) in those placements in a timely manner⁵ and failed to conduct PPT-recommended evaluations of █ "E".

The school district found █ "E" eligible for special education services under Other Health Impaired – ADD/ADHD at the age of six. By the end of seventh grade, █ "E's" grades had declined precipitously, she had numerous unexcused absences, and was suspended for hitting a peer (█ "E" Ex. 1). NPS failed to convene a year-end PPT to review █ "E's" unsatisfactory performance and behavior.

By November of eighth grade,⁶ █ "E" had multiple suspensions, 40 absences, failed six of █ classes, and had not made any progress on her goals and objectives. At the end of the quarter, █ "E" was arrested on assault charges and held at the Bridgeport Detention Center until █ when she was placed by the Department of Children and Families ("DCF")⁷ at Wheeler Clinic School ("Wheeler"). In May the PPT recommended continued placement without any change in services despite multiple red flags.⁸ Following her discharge from Wheeler on █ for absenteeism and noncompliance, █ placement changed four times in six months.⁹ At █ "E's" May 2, 2016 PPT, (█ "E" Ex. 5) the team reviewed abbreviated cognitive and academic evaluations and recommended adaptive rating scales, a speech evaluation and out of district placement. NPS never completed these evaluations.

At the beginning of 10th grade, on September 2, 2016, NPS referred █ "E" to the Charles Hayden School from which she was dismissed five months later for non-compliance and high absenteeism. Despite three previous unsuccessful homebound placements, NPS again placed █ "E" on homebound services without any counseling support.

█ "E" began her third year of high school at Brien McMahon High School ("BMHS"). The school retained Effective School Solutions program ("ESS") to provide counseling services.¹⁰

⁵ After three and half years of high school, █ "E" had earned only 5.5 credits and has cognitively regressed.

⁶ The November 6, 2014 IEP noted that "*Due to numerous absences, █ "E". has not made any progress with current goals and objectives.*" (█ "E" Ex. 2)

⁷ █ "E's" annual IEP review was held on January 29, 2015. (█ "E" Ex. 3) The IEP had no changes, and no recommendations for further evaluations.

⁸ At the May 2015 PPT Wheeler reported "*specific concerns of poor school attendance, work completion and oppositional defiance. When under stress, █ "E" may choose to leave the designated area. Redirection may result in the display of challenging behaviors.*"

⁹ At a PPT held on January 22, 2016, (█ "E" Ex. 4) the team recommended homebound services until another therapeutic day placement was found. However, █ "E" did not receive any homebound services for six weeks. On February 18, 2016, NPS placed █ "E" at High Roads School in Norwalk ("HR-N"). Over the next two months, █ "E" again experienced school refusal and did not attend HR-N. On April 20, 2016 █ "E" was formally discharged from HR-N and placed on homebound instruction. During this time █ "E" missed scheduled tutoring sessions and did not receive any IEP special education services. At the August 4, 2016 PPT, █ "E" was placed at the High Road School In District Classroom for Fall, 2016. █ "E" refused to attend.

¹⁰ ESS was to provide intensive daily group therapy clinical support (45 minutes) and a single 1:1 session each week. NPS failed to revise █ unmet goals or objectives, carried over from the previous two unsuccessful years at the August 29, 2017 PPT (█ "E" Ex. 10).

Two weeks into the school year, ██████ “E” received a ten-day out-of-school suspension (“OSS”) for suspicion of drug use and administrators recommended for her expulsion (█████ “E” Ex. 7).¹¹

Two weeks after her return from OSS, on October 13, 2017, ██████ “E” received another ten-day OSS and recommendation for expulsion for suspicion of drug use and leaving school grounds (█████ “E” Ex. 8).¹² Two weeks after her scheduled return to school on November 8, 2017, ██████ “E” received a ten-day OSS and recommendation for expulsion for an off-campus ██████ ██████ (█████ “E” Ex. 9).¹³

Following ██████ “E’s” third back-to-back 10-day OSS and recommendation for expulsion, A PPT was held on November 21, 2017 at the request of parent (█████ “E” Ex.10). NPS agreed to extensive evaluations and accommodations. The school-based team was to monitor ██████ “E’s” compliance with IEP counseling and attendance recommendations. On December 19th, counsel requested a PPT rather than team meeting be held the following day to review ██████ “E’s” disengagement and suspected increase in drug use. NPS refused to formally hold a PPT rather than team meeting.¹⁴ On December 31, 2017 police arrested ██████ “E” for an off-campus incident. ██████ “E” was transported and detained at the Bridgeport Juvenile Detention Center (“Detention Center”).

At a January 9, 2018 PPT, parent’s counsel requested that NPS place ██████ “E” in a residential setting for diagnostic evaluation. An NPS district administrator “overruled and denied” the request despite the school-based team’s agreement on the residential placement. ██████ “E” remained at the Detention Center (T.V. Ex. 11).¹⁵

A February PPT recommended residential out-of-district placement after review of evaluations recommended at the November PPT (█████ “E” Ex. 12). ██████ “E” remained at the Detention Center, as she had been since December 31, 2017. After several weeks of placement investigation, NPS placed ██████ “E” at the Children’s Center in Hamden. After six months at the Children’s Center, an August 7, 2018 PPT recommended a 2018-2019 school year placement at ACES Whitney North, a therapeutic day placement. ██████ “E” remains currently chronically absent from this placement.

Between September 2015, ██████ “E’s” ninth grade year, and March 2018, ██████ “E’s” twelfth grade year, NPS placed ██████ “E” in ten different settings for the same observed behavior and

¹¹ NPS held a manifestation hearing (“MDR”) and PPT on September 20, 2017, and found the incident was a manifestation of her disability. ██████ “E” was informed she could return on day seven of OSS. The only change in her IEP was an academic lowering of her classes to all “basic” classes (█████ “E” Ex.6)

¹² Correspondence from the assistant principal showed notice and knowledge of behavioral concerns yet NPS failed to convene a PPT to address the concerns (█████ “E” Ex. 8).

¹³ District level administration staff denied the expulsion request noting “it didn’t meet the statute for expellable offenses.”

¹⁴ The Team meeting was never held on December 20th.

¹⁵ Several high school level team members, particularly the mental health coordinator of ESS shared that ██████ “E” needed a residential placement as “she cannot be successful in a mainstream environment”. ESS opined that ██████ “E” was anxious, very depressed and needed a constant 1:1 for guidance and support.

academic struggles noted in 2008. Despite behavior issues, repeated suspensions, chronic absenteeism, and failure to make IEP progress, NPS failed to evaluate ████ “E” or to substantively revise her IEP. It was not until February 2018 when the PPT reviewed evaluations (requested by the parent in November 2017) that the true extent of ████ “E’s” disabilities became apparent. At that time, the PPT changed her eligibility category to “Multiple Disabilities,” due to ████

████ “F”

████ “F” is a fifth-grade special education student at Wolfpit Elementary School identified with autism. In kindergarten, NPS placed ████ “F” in the extended resource self-contained classroom at Fox Run Elementary School. Lunch, recess, and specials were spent with kindergarten general education peers. The classroom had five students, one special education teacher and ████ “F” had a 1:1 paraprofessional.¹⁶

In 2014, NPS conducted a Functional Behavioral Assessment (“FBA”) because of behaviors that were “dangerous to staff and peers in school.” The identified targeted behaviors were aggression, biting, property destruction, and loud vocalizations (████ “F” Ex. 3). In 2015, NPS completed another FBA to target increasing dysregulation including bolting, pica, aggression, clapping hands, making noises, and off task behavior including, getting up from a chair and climbing on furniture (████ Ex. 4). A Board-Certified Behavioral Analyst (“BCBA”) made recommendations based on the FBA for an intensive Applied Behavioral Analysis (“ABA”) program overseen by trained professionals and implemented with fidelity using daily data collection methods for tracking progress.

NPS placed ████ “F” in the new “Learners Excelling and Progressing” (“LEAP”) Program housed at Wolfpit Elementary School for the 2016-2017 school year due to his escalating unsafe behaviors (████ “F” Ex. 5). LEAP has experienced high levels of staff turnover since its inception at the beginning of the 2016-2017 school year to present, affecting service delivery to ████ “F”.

During the 2016-2017 school year, ████ “F” experienced multiple special education teachers, BCBA’s, and ABA therapists. These staff turnovers resulted in inconsistent and undocumented delivery of services. Additionally, NPS did not inform the parent when new staff was assigned to ████ “F” until after the fact or upon a noted increase in dysregulated behavior.

At the start of the 2017-2018 school year, NPS failed to transition ████ “F” to new providers or inform the parent of a change in special education teachers, BCBA, and ABA providers (████ “F” Ex. 6). Once NPS assigned a consistent ABA provider to ████ “F”, his behavior stabilized for the first time in two years. That particular provider was both a special education educator and

¹⁶ 2013 Triennial evaluations included cognitive, achievement, occupational therapy (“O.T.”), speech and language and VB-MAPP (████ “F” Ex. 1). Achievement results were in the 1-2% with the exception of early reading and numerical operations in the below average range; Cognitive, Speech and language, and Adaptive scales scores were all in the range less than “.1 of 1%”. A sensory profile classified ████ “F” as “definite difference” in all categories. VB-MAPP assessed ████ “F” at Level 2 in most areas (████ “F” Ex.2).

registered behavioral technician (“RBT”). [REDACTED] “F” became highly dysregulated resorting to hitting and kicking other paraprofessionals and being aggressive toward other children whenever that preferred provider was not available ([REDACTED] “F” Ex. 7). The December 14, 2017 PPT recommended [REDACTED] “F’s” participation in the general education classroom for a minimum of three hours per day and the support of a “strong” ABA therapist ([REDACTED] “F” Ex. 8). At the end of the school year both the parent and the RBT expected that the RBT would continue to provide services to [REDACTED] “F” during the 2018-2019 school year.

The 2018-2019 school began with NPS informing the parent that there had been a complete turnover of behavioral staff. Central office made the staff changes absent of any transitional training for the new staff. NPS assigned a new BCBA just two days a week to the LEAP program¹⁷ and an ABA therapist with whom [REDACTED] “F” had a previous confrontational relationship to be his 1:1 ABA paraprofessional. [REDACTED] “F’s” behavior regressed with the change in providers and delivery of his services. [REDACTED] “F’s” frustration was so great that [REDACTED]. The first week of school, [REDACTED] “F” [REDACTED] activity from the classroom reemerged. The school-based team unilaterally decided to discontinue [REDACTED] “F’s” participation in the general education classroom due to other students’ reactions related to the enuresis and encopresis and to also discontinue [REDACTED] “F’s” extended presence in the LEAP classroom due to overstimulation. [REDACTED] “F” began 1:1 instruction in a resource room.

At the request of parent’s counsel, a PPT was held on September 20, 2018. Parent’s counsel requested that a safety plan be immediately developed by a BCBA as [REDACTED] “F” and other students continued to be in imminent risk of harm due to his continued escalation. Eight days later, NPS produced a safety plan to the parent. FERPA records requested by parent’s counsel 14 days prior to the PPT were still not available to the parent.¹⁸ The student’s “blue file” (available to staff) brought to the PPT at the request of parent’s counsel, contained only 2013 behavioral, cognitive, and achievement testing. None of the team members present had ever seen or reviewed any 2016 triennial evaluations, with the exception of a speech and language update.

[REDACTED] “G”

[REDACTED] “G” is currently a preschool student with autism who attends Norwalk Early Childhood Center (“NECC”). Birth-to-Three diagnosed [REDACTED] “G” as having autism when she was 26 months of age ([REDACTED] “G” Ex. 1). Birth-to-Three referred [REDACTED] “G” to NPS due to concerns with [REDACTED] “G’s” language skills, behavior, and social skills.¹⁹

¹⁷ The CREC model for the LEAP program calls for a full time classroom BCBA.

¹⁸ FERPA records (without emails) were produced on September 26, 2018 (20 days post request).

¹⁹ NPS’ Interdisciplinary Evaluation Report revealed a disparity between [REDACTED] “G’s” Verbal and Nonverbal Abilities on the DAS-2 ([REDACTED] “G” Ex. 2). The Developmental Assessment of Young Children (DAY-C-2) indicated below average scores in all areas. Her scores on the Vineland Adaptive Behavior Scales-II were predominantly in the Moderately Low range.

NPS’ Speech and language evaluation dated May 3, 2017 revealed scores in the “Significantly Below Average” range on the Preschool Language Scale, indicating weakness in both how much language she understands and how well she

A February 14, 2017 “Annual Review” PPT recommended reading and psychological evaluations for █ “H” due to concerns with his lack of overall progress (█ “H” Ex.1).²⁰ NPS did not receive the reading evaluation until six months later (█ “H” Ex. 2). After inquiring about the evaluation, the parent received the evaluation only after NPS failed to send a copy of the evaluation for three months. NPS failed to send a copy of the evaluation to the parent for another three months after that, and only after parent inquired as to the status of the evaluation (█ “H” Ex. 3). At the PPT held on December 5, 2017, (█ “H” Exhibit 4) the team reviewed Dr. Mayville’s psychoeducational evaluation (█ “H” Exhibit 5). Due to NPS’ failure to request that the reading evaluator attend that PPT, the reading evaluation could not be reviewed until January 30, 2018. The January 30, 2018 PPT, (█ “H” Ex. 6) reviewed the reading evaluation, a full five months after NPS originally received the report (█ “H” Ex. 7).²¹

NPS held a February 20, 2018 PPT to propose NPS goals and objectives (█ “H” Ex. 8). NPS offered two sessions per week of 75 minutes. each versus the Literacy How recommendation of five days per week for a minimum of 90-120 minutes per day NPS did agree to provide █ “H” with 150 hours of compensatory reading services due to the failure to review the reading evaluation in a timely manner, and to consult the district’s language arts curriculum leader to review this plan.

NPS failed to finalize the goals and objectives throughout February, March, and early April of 2018. At the April 20, 2018 PPT, NPS failed to produce input from the language arts curriculum leader directly, despite the February PPT recommendation that she be consulted (█ “H” Ex. 9). Despite the parent continued attempt to collaborate with NPS, █ “H” failed to make meaningful progress following the April 2018 PPT.

Lindamood Bell (“LMD”) evaluated █ “H” on June 4, 2018 (█ “H” Ex. 10), and NPS reviewed the LMD evaluation on June 18, 2018 (█ “H” Ex. 11). The recommendations of LMD for service hours matched the previous evaluation by Ms. Viesselman and exceed NPS’ dyslexia clinic service. Despite the repeated expert recommendation for frequent and intensive reading instruction, NPS continued to limit services to the availability of the dyslexia clinic through the first quarter of the 2018-2019 school year.

NPS sent a letter to the parent regarding compensatory hours owed and the terms under which the hours were to be compensated on June 14, 2018 (█ “H” Ex. 12). █ “H” was to receive eight hours per week for six weeks over the summer to utilize his compensatory education hours. NPS provided 28 of the 150 compensatory hours during the summer. NPS also refused to fund private provider services of any of █ “H’s” 150 compensatory education hours (agreed upon at the February 20, 2018 PPT). NPS’ failure to provide appropriate reading services has resulted in a regression of skills across domains (█ “H” Ex. 13).

²⁰ Dr. Erik Mayville confirmed the diagnosis of Autism Spectrum Disorder. Dr. Mayville participated via telephone and made many specific recommendations including consideration of an alternate school placement. NPS rejected and refused to implement any of Dr. Mayville’s recommendations (█ “H” Ex 6).

²¹ Reading evaluator Kristin Viesselman of Literacy How found █ “H’s” language impairment to be significant. Parent requested NPS implement Ms. Viesselman’s specific recommendations. NPS denied this request. NPS also failed to finalized goals and objectives based on the evaluation.

█ “I”

NPS identified █ “I”, a current fifth grader, as eligible for special education services under the Multiple Disabilities classification. His experience is emblematic of NPS’ failure to provide IEP-required special education related services and then, even when acknowledging this failure, its subsequent failure to provide compensatory education without impacting the time the student spends with non-disabled peers.

NPS evaluated █ “I’s” triennial speech and language abilities in October 2014. The findings indicated overall weakness in vocabulary as well as in expressive and receptive language skills. Dr. Stacy Aronson’s neuropsychological evaluation noted similar language concerns in December of 2015 (█ “I” Ex. 1).

█ “I’s” speech and language re-evaluation, completed in May of 2017, indicated many areas of weakness and severe deficiencies in expressive, receptive, development, and pragmatic areas (█ “I” Ex. 2). The May 2017 IEP for the 2017-2018 school year included academic support and services in the areas of academic instruction, reading instruction, math instruction, PT, OT, speech and language (one hour/week) and social work (█ “I” Ex. 3).

NPS did not inform █ “I’s” parent until April 27, 2018 that █ “I” had not received any speech and language services for the entire academic year to date. They then informed the parent that a speech and language provider had been hired and unilaterally dictated to the parent when the compensatory service hours would be made up prior to the end of the academic year and in the summer. No regard was made to the available time the student had during the academic day to spend with non-disabled peers and make progress in the general education curriculum (█ “I” Ex. 4). Parent requested that █ “I” receive compensatory education services after school to limit the impact on his academic day. This request was denied.

At █ “I’s” “Annual Review” PPT on May 2, 2018, the PPT “[d]iscussed compensatory hours due to █ “I” as a result of not having a speech pathologist (“SLP”) in the school” (█ “I” Ex. 5). NPS would only recommend █ “I” receiving the same level of speech and language services as the previous year despite not having conducted an updated speech and language evaluation to measure the likely regression from not receiving services for eight months. In an email dated June 5, 2018, NPS confirmed that █ “I” missed at least 54 sessions of speech and language services in the 2017-2018 school year (█ “I” Ex. 6).

Dr. Stacey Aronson, neuropsychologist, reevaluated C.F. in May and June of 2018 and found that he had regressed in speech and language skills as compared to the 2015 evaluation (█ “I” Ex. 7). NPS failed to increase the level of speech and language services despite this documented regression.

In order to have █ “I” receive his compensatory hours as quickly as possible, parent requested the ability to hire a private provider and be reimbursed for the cost.

NPS denied this request. To date only 3.5 speech and language compensatory hours have been provided.

█ “J”

█ “J” is a five-year-old NPS student diagnosed with Moderate-to-Severe Autism. He attended the NECC during the 2017-2018 school year.

█ “J’s” November 27, 2017 IEP recommends a 1:1 paraprofessional who is trained as a Registered Behavior Therapist (“RBT”) (█ “J” Ex. 1). █ “J’s” assigned RBT was not consistently present upon █ “J’s” arrival at school due to other assigned transportation responsibilities. NPS failed to provide 2017-2018 IEP-recommended hours (█ “J” Ex. 2) in all of █ “J’s” related service areas:

	Hours Due per IEP	Hours Received	Hours Still Owed
BCBA	141.25	111.25	30
OT	54	42.25	11.75
PT	37	31	6
Speech and language	90	67.5	22.5

█ “J” did not receive the agreed-upon services as per the IEP and did not receive IEP generalized time with non-disabled peers. Instead, █ “J” spent the day in a classroom with 14 students with disabilities and only four general population peers.

NPS continues to be noncompliant in its subsequent failure to provide compensatory education without impacting the time the student spends with non-disabled peers and make progress in the general education curriculum.

█ “K”

█ “K” is a seven-year-old boy with the educational classification of autism. He is also diagnosed with severe apraxia of speech. NPS placed █ “K” in a self-contained class at Rowayton Elementary School.

On November 27, 2017, the parent filed complaint █ with the State Department of Education for NPS’ failure to provide █ “K” an appropriate program (█ “K” Ex. 1).

At the January 29, 2018 PPT, (█ “K” Ex. 2) held prior to the issuance of the SDE decision parent requested increased speech and language services and intensive ESY support.²²

²² The same requests were again denied at subsequent PPTs held on April 27, 2018 (█ “K” Ex. 4), June 13, 2018 (█ “K” Ex. 5), and June 25, 2018 (█ “K” Ex. 6).

The complaint decision dated April 13, 2018, (█████ “K” Ex. 3) held NPS denied FAPE by NPS’ failure to (1) implement the student’s IEP during the ESY; (2) provide the student FAPE (both procedurally and substantially) during the 2017-2018 school year; (3) propose an IEP reasonably calculated to meet the student’s unique needs; (4) provide the Parent with a full and complete copy of the student’s education records within the mandated timeline. The remedy required four separate corrective actions including 100 hours of compensatory services from a provider of the parent’s choosing as well as direction to the PPT team to revise the IEP to include all areas and recommendations outlined in the VB-MAPP (█████ “K” Ex. 7).

NPS has provided compensatory education but continues to deny parental requests for increased speech and language services based on SLP recommendations (█████ “K” Ex. 8).

█████ “L”

█████ “L” is a ██████ Columbus Magnet special education student identified as speech-language impaired. His 2017-2018 school year IEP identified speech and language service as one hour per week of small group/individual instruction by a speech and language pathologist (“SLP”) and 30 minutes per week of Social Work (“SW”) support in a related services room.

In kindergarten and first grade at Columbus Magnet School, ██████ “L” received speech and language services of 30 minutes per week and SW support of 30 minutes per week. In first grade, ██████ “L” began to exhibit signs of frustration and anxiety (█████ “L” Ex. 1). NPS agreed to increase his speech and language services to two 30-minute sessions per week for the 2017-2018 in response to ██████ “L’s” lack of progress (█████ “L” Ex. 2).

NPS did not inform the parent until a parent-teacher conference in December of the 2017-2018 school year that ██████ “L” had not received speech and language services since the beginning of the academic year. NPS told the parent that missed services would be made up during the current academic year (█████ “L” Ex. 3). After waiting one month, parent contacted NPS again requesting information about a plan to make up services. A substitute SLP newly hired by NPS informed the parent in January that she was now providing services. The school principal informed the parent via email that he had no control over related services, stating that because the substitute SLP was in the school only one day per week, she did not have time to service all of the children, but she would have a truncated caseload soon.

Not until April 2, 2018 did NPS formally notify the parent of its violation in servicing ██████ “L’s” IEP. The notification stated that services would be made up before the end of the year (█████ “L” Ex. 4). Stacy Heilenthaler, Asst. Dir. of Specialized Learning and Student Services, sent the parents a letter on April 27, 2018, regarding ██████ “L’s” 41 missed speech and language sessions. The letter outlined how the missed services were to be made up during the school day, *“In addition to ██████ “L’s” regular session, he will receive services on Thursdays and Fridays for six weeks. It is our goal to make up any missed services prior to the end of the school year. If makeup services are not complete by the end of the year, they will be completed in the summer”* (█████ “L” Ex. 5). NPS failed to offer the option of speech and language services being provided outside of the school day so as to not impact ██████ “L’s” IEP time with regular education peers in the generalized setting. NPS completed only seven of the 41 make up speech sessions in the academic year.

[REDACTED]

█ “M”

█ “M” is a four-year-old NPS student diagnosed with autism. █ “M” attended NECC from October 2016 through August 2018.

On July 11, 2016, NPS held an initial PPT for █ “M” with the team recommending speech and language, pre-academic, adaptive, and autism-specific evaluations (█ “M” Ex. 1). NPS failed to review █ “M’s” speech and language evaluation until six months later on January 18, 2017. The PPT recommendation of one hour of speech and language services, had not been provided the previous four months (█ “M” Ex. 2).

NPS denied the parent request to review █ “M’s” educational program at the March 27, 2017 PPT, (█ “M” Ex. 3) stating educational program review would occur in May at █ “M’s” annual review and the current reason for meeting was solely to discuss ESY. NPS informed the parent that NPS would not provide ESY after school transportation to █ “M’s” pre-K accredited school.

█ “M’s” parent requested IEP speech and language service logs for the 2017-2018 school year (█ “M” Ex. 4) which revealed █ “M” did not receive IEP service hours. Parent requested compensatory services for the speech and language hours owed to █ “M” at the September 5, 2018 PPT (█ “M” Ex. 5).

█ “M” did not receive the agreed-upon services as per the IEP and did not receive IEP generalized time with non-disabled peers. Instead, █ “M” spent the day in a classroom with 14 students with disabilities and only four general population peers. NPS continues to be noncompliant in its subsequent failure to provide compensatory education without impacting the time the student spends with non-disabled peers and make progress in the general education curriculum.

█ “N”

█ “N” is a four year-old-student with autism. An Initial PPT recommended placement for █ “N” in a half-day general education/inclusion program four mornings per week, with the only exception for pull-out speech services at NECC (█ “N” Ex. 1). Instead, █ “N” spent the day in a classroom with fourteen students with disabilities and only four general education peers during the 2017-2018 school year.

At PPT on October 17, 2017, parent listed their concerns regarding ██████ “N’s” receptive, expressive, and functional language skills, the need for BCBA and ABA services, and safety concerns (█████ “N” Ex. 2). NPS agreed to conduct a VB-MAPP and review progress at the next meeting. NPS completed the VB-MAPP on October 30, 2017 and showed a baseline score of 86 (level two) and the need for intensive program supports in speech and behavior (█████ “N” Ex. 3). Yale Child Study Center (“Yale”) completed a private evaluation on December 5, 2017 (█████ “N” Ex. 4).²⁵

The PPT reviewed the Yale and VB-MAPP recommendations on December 18, 2017 (█████ “N” Ex. 5). Based on the recommendations in the evaluations and result of VB-MAPP, the parent specifically requested a paraprofessional with ABA training as well as recommended speech and language services. Both requests were denied by NPS. In an amendment to the IEP dated January 12, 2018, NPS increased BCBA services to 30 minutes per day, four days per week (█████ “N” Ex. 6). NPS increased speech and language services to 90 minutes per week at a PPT on February 12, 2018 (█████ “N” Ex. 7).

The PPT on June 11, 2018 (█████ “N” Ex. 8) reviewed the mutually agreed upon SLP evaluation by Wendy Marans (█████ “N” Ex. 9)²⁶ and an updated VB-MAPP completed by the district on May 18, 2018 (█████ “N” Ex. 10). Both showed minimal improvement in ██████ “N’s” speech and language skills. The team acknowledged that this was insufficient progress yet NPS failed to propose a change in goals, services, or program for 2018-19 school year. Given ██████ “N’s” lack of progress in 2017-18 and the refusal of NPS to change service levels in 2018-2019 the parents requested out-of-district placement which was denied.

The parents requested IEP service logs for the 2017-18 school year (█████ “N” Ex. 11). Review of service logs indicated NPS failed to provide seven hours of speech and language services and ten hours of BCBA supports over the course of the school year. NPS repeatedly failed to respond to parent’s correspondence from June 21, 2018 and July 31, 2018 requesting compensatory service hours (█████ “N” Ex. 12).

SUMMARY

As a result of NPS’ continued Child Find and FAPE violations, Robin P. Keller, CCA and SEEK file this formal complaint in order to obtain relief and remedies on behalf of the complainants and all Norwalk children with disabilities whose needs are not being met. The complainants are representative of all Norwalk students who meet the criteria to receive unique specialized

²⁵ Yale made specific recommendations for (1) an intensive educational program with “high quality one on one intervention;” (2) an “intensive behavioral intervention program range from 30-40 hours of treatment per week...”; and (3) ABA programming with direct BCBA supervision, guidance and intervention. Yale also recommended specific targeted Speech and language intervention protocols and intensive direct instructional supports as required for implementation.

²⁶ Specific recommendations for the 2018-2019 included full year, intensive special education programming with the same intensity during summer months as during the school year, small class size of no more than 8-10 students and daily speech therapy for one hour.

instruction according to federal and state laws and regulations. Complainants also represent Norwalk children “who have been suspended repeatedly or whose behavior, attendance, including truant behavior, or progress in school is considered unsatisfactory or at a marginal level of acceptance” (Conn. Gen. Stat. § 10-76d and Conn. Agencies Reg. §10-76d-7(c)).

REQUESTED REMEDIES

- I. The complainants and the undersigned attorneys and advocates request that the State Department of Education order the following individual remedies:
 - A. Within 30 days, initiate PPTs for all complainants NPS has acknowledged are owed compensatory education hours, but to whom they have not yet provided those hours. Compensatory services shall be provided outside of the regular school day by whatever means are necessary, including, but not limited to, contracting private services to each complainant; and
 - B. Within 30 days, initiate PPTs for those complainants to whom NPS failed to timely provide FAPE, in order to revise goals and identify appropriate compensatory education services. Compensatory education services shall be provided outside of the regular school day by whatever means are necessary, including, but not limited to, contracting private services to each complainant.

- II. To the extent that the complainants and undersigned have already identified policies, practices, and procedures that require revision, NPS be so ordered to implement changes immediately. Specifically, NPS be ordered to implement changes to the following policies, practices, and/or procedures within 30 days:
 - A. Begin data collection for use in the review and modification of policies for compliance with Regulations of Conn. State Agencies § 10-76d-6 et al and Child Find requirements and to ensure the monitoring of attendance, grades, and discipline. The Respondents will revise policies to ensure that where data demonstrates an unacceptable or marginal level of acceptance in the areas of attendance, academic performance, or behavior, the Respondents will make a prompt referral of the student to a planning and placement team;
 - B. NPS to conduct file reviews for all NPS 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.

- III. The complainants and the undersigned attorneys and advocates request that the SDE perform an independent program audit of special education practices at NPS to develop a corrective action plan which will include a focused monitoring period of three years by an independent monitor. The purpose of the corrective action plan and the focused monitoring is to ensure NPS' ongoing compliance with federal and state laws and regulations.
 - A. The audit should include:
 1. Review of all NPS special education external and internal published policies;

2. Select interviews of NPS district and school level staff responsible for implementation of special education programming and related services;
3. Minimum audit of 20% of all existing IEPs to examine compliance with state regulations and federal law; and
4. Comparison of case logs of individual service providers against the IEPs on which the provider is listed.

B. The corrective action plan should include:

1. Recommendations for appropriate monitoring and delivery of IEP related services and service providers;
2. Recommendations for timely delivery of compensatory education hours for missed IEP services;
3. Recommendations for review procedures to ensure a student's prompt referral to a planning and placement team ("PPT") (or to reconvene a PPT) where the child is suspected of having a disability (or a disability not identified on an IEP), and/or student's progress in school has been considered unsatisfactory or marginal.
4. Recommendation for changes in centralized record keeping to ensure Child Find and FAPE compliance.
5. Recommendations for training of Principals and Special Services Coordinators outlining the scope of the policies, practices, and procedures being audited by SDE and the immediate corrective actions to be undertaken.

C. Focused monitoring period by the Outside Monitor is requested for a period of two years if NPS has complied with the recommendations of the corrective action plan. The monitor may require ongoing monitoring if compliance with the corrective action plan is incomplete.

Respectfully,



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Steven Adamowski, Superintendent, Norwalk Public Schools.

ATTESTATION

I hereby attest on this date of October 3, 2018 that I have on file all holographic signatures corresponding to any signatures indicated by a conformed signature (/S/) within this e-filed document.



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