



U.S. Department of Justice

*United States Attorney
District of Connecticut*

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June 18, 2020

Via Electronic and United States Mail

Dr. Tamu Lucero
Superintendent
Stamford Public Schools
888 Washington Boulevard
Stamford, CT 06901

**Re: Americans with Disabilities Act Investigation of Stamford Public Schools
DJ# 204-14-236**

Dear Superintendent Lucero:

As you know, this office recently was made aware of allegations that the Stamford Public School district was not operating in compliance with Title II of the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12131, *et seq.*, and the Department of Justice’s implementing regulation, 28 C.F.R. Part 35. Upon receipt of these allegations, this office made informal inquiries about the allegations to counsel for the Stamford Public Schools. Following these informal inquiries, the Stamford Public Schools provided all requested information to our office in an effort to resolve this matter expeditiously. This office appreciates the cooperation of the school district and its counsel in taking swift action to coordinate a voluntary resolution to this matter.

The allegations shared with this office were as follows. The complainants’ child attends an elementary school within the Stamford Public Schools. The complainant’s child has been diagnosed with Type 1 diabetes and is under the care of a pediatric endocrinologist. The child’s pediatric endocrinologist prescribed a continuous glucose monitor for the child in order to monitor her blood glucose levels. The continuous glucose monitor prescribed by the pediatric endocrinologist is the Dexcom G6, which is approved by the federal Food and Drug Administration to be used without follow up “finger stick” blood testing. When the child’s blood glucose level is too high or too low, the Dexcom G6 transmits an alarm from the device to a wireless receiver, such as a smartphone or tablet. The complainants notified the school district that their child’s treating pediatric endocrinologist prescribed the Dexcom G6 continuous

glucose monitor for their child and requested that school personnel monitor the alarm transmissions from the Dexcom G6 while the child is in school or at school-sponsored activities to ensure that their child's blood glucose does not go too high or too low, which would be dangerous to their child's health.

In response to this request, the school district consulted the City of Stamford's Department of Public Health. The Director of Public Health informed the School Superintendent in writing that it was her position that continuous glucose monitors are not always accurate and may require a follow up "finger stick" blood glucose reading. In the letter, the Director of Public Health deemed the monitoring of the Dexcom G6 and the associated administration of medications a nursing activity that could not be delegated to a classroom teacher. The Director of Public Health further opined that the proposed order of the child's pediatric endocrinologist, as described to her, would be in violation of a state law that barred the delegation of nursing activities. Finally, the Director of Public Health indicated that employees of the Stamford Public Schools, including school nurses, could not monitor the alarm transmissions from a continuous glucose monitor, such as the Dexcom G6, because City of Stamford employees may only enter clinical findings into software owned and approved by the City of Stamford. The Stamford Public Schools therefore would not permit the complainants' child to use her prescribed continuous glucose monitor in school and at school-sponsored activities and would not permit school personnel to monitor the alarms from the device.

As mentioned above, all parties would like to bring this matter to a voluntary resolution. We understand that the Stamford Public School district has voluntarily taken steps and/or intends to take steps to resolve this matter, including the following:

1. Consistent with the requirements of the ADA, the Stamford Public School district will ensure that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the Stamford Public School district, or be subjected to discrimination by the Stamford Public School district. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a)
2. Consistent with the requirements of the ADA, the Stamford Public School district shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Stamford Public School district can demonstrate that making the modifications would fundamentally alter the nature of the Stamford Public School district's services, programs, or activities. 28 C.F.R. § 35.130(b)(7)(i).
3. Consistent with the requirements of the ADA, the Stamford Public School district shall not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the ADA. 28 C.F.R. § 35.130(f).

4. Consistent with the requirements of the ADA, the Stamford Public School district shall take the following actions by the 10th school day of the 2020-2021 school year:
 - a. The Stamford Public School district shall modify its policies, practices and/or procedures to permit the use of continuous blood glucose monitors by children diagnosed with Type 1 diabetes who are prescribed such devices by a physician or an advanced practice provider.
 - b. As long as a child with Type 1 diabetes is using a continuous glucose monitor approved by the Food and Drug Administration for use without finger stick verification, the Stamford Public School district shall not require that a child undergo finger stick verification of blood glucose readings from a continuous glucose monitor on a routine basis. Finger stick testing of a child using a continuous glucose monitor so approved by the Food and Drug Administration shall only be conducted (1) as ordered by the child's physician or advanced practice provider, (2) if it appears that the continuous glucose monitor is malfunctioning, or (3) in an urgent medical situation.
 - c. The Stamford Public School district shall modify its policies, practices and/or procedures to ensure that school nurses and/or other appropriate trained staff members, such as administrators, classroom teachers, and/or paraeducators, monitor blood glucose alerts transmitted by the continuous glucose monitor of a child with Type 1 diabetes to a dedicated receiver, tablet/smartphone application, or other appropriate technology during the school day and during school-sponsored activities.
 - d. The Stamford Public School district shall purchase or use existing equipment owned by the school district to monitor blood glucose alerts transmitted from continuous glucose monitors of children with Type 1 diabetes to dedicated receivers, smartphone/tablet applications, or other appropriate technology on such equipment. The Stamford Public School district shall not charge a surcharge to parents of children with Type 1 diabetes for the purchase of such equipment, nor shall the Stamford Public School district require parents of children with Type 1 diabetes to provide such equipment for use by school personnel.
 - e. The Stamford Public School district shall, using a trainer approved by the U.S. Attorney's Office for the District of Connecticut, train nurses, and other appropriate personnel as necessary (i.e. administrators, specific classroom teachers and paraeducators), regarding Type 1

diabetes, the use of continuous glucose monitors, appropriate monitoring of information transmitted by continuous glucose monitors to a dedicated receiver, tablet/smartphone application, or other appropriate technology, and the administration of glucagon.

- f. The Stamford Public School district shall, using a trainer approved by the U.S. Attorney's Office for the District of Connecticut, train its school nursing staff and administrators regarding the requirements of Title II of the ADA.

Once the Stamford Public School district provides us with a detailed description in writing of its compliance with the above steps and a list of the dates, times, and attendees for all required trainings, we will consider this matter resolved. We will take no further action on this matter unless we become aware of new information suggesting that the Stamford Public School district is not complying with the terms outlined above or is otherwise not complying with its obligations under federal law.

By undertaking the steps described above, we understand that the Stamford Public School district does not admit to having violated the ADA, regulations promulgated thereunder, or any other law. We also understand that the Stamford Public School district does not admit to the accuracy or truthfulness of the allegations set forth above.

We thank you for your expeditious response to our inquiries and appreciate the cooperation of the Stamford Public School district in taking voluntary actions to resolve this matter.

Very truly yours,

JOHN H. DURHAM
UNITED STATES ATTORNEY

JESSICA H. SOUFER
ASSISTANT U.S. ATTORNEY

Cc: Amy LiVolsi, Esq., Assistant Corporation Counsel, City of Stamford
Kathryn Emmett, Esq., Corporation Counsel, City of Stamford