



U.S. Department of Justice

*United States Attorney
District of Connecticut*

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June 12, 2020

Via Electronic and United States Mail

Mr. Michael Emmett
Superintendent of Schools
Wethersfield Public Schools
127 Hartford Avenue
Wethersfield, CT 06109

**Re: Closure of Investigation of Wethersfield Public Schools
DJ # 204-14-235**

Dear Superintendent Emmett:

As you know, this office recently was made aware of allegations that the Wethersfield Public Schools were 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 Wethersfield Public Schools. Following these informal inquiries, the Wethersfield 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 resolution to this matter.

The allegations shared with this office were as follows. The complainants' child, who has Type 1 diabetes, attends Highcrest Elementary School, part of the Wethersfield Public School district. In April of 2019, a pediatric endocrinologist prescribed a continuous glucose monitor for the complainants' child. Since that time, the complainants' child has been using the continuous glucose monitor to measure her blood glucose levels. The monitor transmits a message to a receiver or smartphone/tablet application, which sounds an alarm if the child's levels go dangerously high or low. The complainants claim that they requested that the school nurse at Highcrest Elementary School monitor the transmission alarms from their child's continuous glucose monitor through a smartphone, tablet, or other compatible receiver. They further claim that the school district informed the complainants that such monitoring of their

child's blood glucose levels through the continuous glucose monitor was "not necessary or feasible."

Currently, the burden is allegedly on the complainants' young child to report blood glucose readings to her teacher who is then instructed to contact the school nurse if the levels are too high or too low. The complainants allege that there is no specified protocol if the complainants' child is in crisis while in a specialty class, with a substitute teacher, or at lunch. The complainants claim that they have therefore been forced to monitor their child's blood glucose levels with their compatible personal electronic devices while they are at work.

As mentioned above, all parties would like to bring this matter to a resolution. We understand that the Wethersfield 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 Wethersfield Public School district shall continue to 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 Wethersfield Public Schools, or be subjected to discrimination by the Wethersfield Public Schools. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a)
2. Consistent with the requirements of the ADA, the Wethersfield 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 Wethersfield Public Schools can demonstrate that making the modifications would fundamentally alter the nature of the Wethersfield Public Schools' services, programs, or activities. 28 C.F.R. § 35.130(b)(7)(i).
3. Consistent with the requirements of the ADA, the Wethersfield 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 Wethersfield Public School district shall take the following actions within 90 days of the date of this letter:
 - a. The Wethersfield 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 Wethersfield Public School district shall continue to 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 Wethersfield Public School district shall modify its policies, practices and/or procedures to ensure that school nurses and other appropriate trained staff members 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 Wethersfield 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 Wethersfield 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 Wethersfield Public School district require parents of children with Type 1 diabetes to provide such equipment for use by school personnel.
- e. The Wethersfield 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 Wethersfield 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 Wethersfield 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 Wethersfield 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 Wethersfield Public School district does not admit to having violated the ADA, regulations promulgated thereunder, or any other law. We also understand that the Wethersfield 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 Wethersfield Public School district in taking voluntary actions to resolve this matter.

Very truly yours,

JOHN H. DURHAM
UNITED STATES ATTORNEY

A handwritten signature in black ink, appearing to read "Jessica H. Soufer", with a stylized flourish at the end.

JESSICA H. SOUFER
ASSISTANT U.S. ATTORNEY

Cc: Leander Dolphin, Esq., Shipman & Goodwin, LLP