

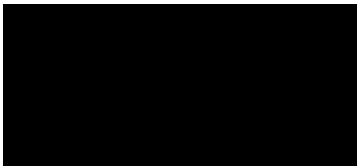



STATE OF CONNECTICUT
STATE DEPARTMENT OF EDUCATION

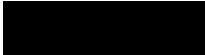




September 12, 2014

Mary Forde
Special Education Services Director
Greenwich Public Schools
Havermeyer Building
Greenwich, CT 06830



Re: 
Complaint No. 15-0005

Dear Ms. Forde and 

I am responding to the complaint  filed with this office against the Greenwich Public Schools on behalf of  the above-referenced student. The complaint inquiry letter set forth the issues to be investigated as follows:

Issue 1: 34 CFR § 300.111 and RCSA § 10-76d-6 provide that each board of education must ensure that children in need of special education are located, identified and evaluated. RCSA § 10-76d-7 states that each board of education must accept and process referrals from appropriate school personnel, as well as from a child's parents, for the initial evaluation of a child to determine if the child is a child with a disability. A parent cannot be required to submit the standard referral form for a referral for an initial evaluation. The board of education shall accept as a referral a concern expressed in writing from the parent of the child that such child be referred for an initial evaluation. The board shall accept a referral that uses terms that clearly indicate a concern that such child may be a child with a disability and should be evaluated in order to determine a child's eligibility for special education identification and services. The regulation goes on to state that if a child is receiving alternative procedures and programs in general education and the board of education receives a referral for an initial evaluation, such board must accept the referral and convene a PPT meeting and continue the alternative procedures.

Issue 2: RCSA § 10-76d-8(b) provides that a board of education obtain written parental consent for an initial evaluation. RCSA § 10-76d-9 provides that an initial evaluation be conducted to determine if a child is a child with a disability.

Issue 3: RCSA § 10-76d-13(a)(6) requires a district to send the parents a full copy of the individualized education program (IEP) within five days after the planning and placement team (PPT) meeting held to develop, review or revise the IEP. *Days* is defined as meaning school days.

The complaint was placed in abeyance to allow the parent and the district to participate in mediation. The parties were not able to find a mutually agreeable date to mediate and so the complaint investigation

went forward. Given the complexity of the case, the investigation timeline was extended for two weeks to gather more information from the district.

The following documentation was reviewed: complaint; copies of emails exchanged between the parent and district staff; paperwork related to planning and placement team meetings (PPT) held on [REDACTED] [REDACTED] district speech and language screening; district's response to the complaint inquiry letter; copies of emails exchanged between district staff and the parent; paperwork related to the PPT meetings held on [REDACTED] and [REDACTED] student's [REDACTED] report card, transcript and standardized test report; student DRP reports; grade [REDACTED] Connecticut Mastery Test reports; district speech and language screening; district's response to follow-up question; District's Evaluation Handbook; District's RtI guidelines dated [REDACTED] the student's "Green Folder"; and district developmental/social history. This investigator spoke to the parent and to Mrs. Forde by telephone.

Findings of Fact:

1. The student is [REDACTED] and was in [REDACTED] in Greenwich, CT during the [REDACTED] school year. The student was not identified as eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) during the [REDACTED] school year.
2. Regular education interventions, including modified work and daily reading support, were in place during the [REDACTED] school years. [REDACTED] guidance counselor, emailed [REDACTED] on [REDACTED] to update [REDACTED] on "where we are in the initial screening with [REDACTED]" Specifically, [REDACTED] mentioned that the district's speech and language pathologist, [REDACTED] administered a screening tool – *Clinical Evaluation of Language Fundamentals (CELF-4)* - to the student on [REDACTED] and that [REDACTED] would soon be contacted by the social worker to schedule a Developmental Intake. [REDACTED] was not asked to consent to the administration of the CELF-4 or the Developmental Intake and did not provide consent.
3. [REDACTED] emailed [REDACTED] on [REDACTED] to update [REDACTED] on where [REDACTED] was in the Response to Intervention (RtI) process. A copy of the CELF-4 report was attached to the email. [REDACTED] the speech and language pathologist administered 5 subtests (Following Oral Directions, Recalling Sentences, Word Classes, Sentence Assembly, and Semantic Relationships). The report discussed that while the student performed adequately on the test, [REDACTED] English class with the evaluator. According to the website of the CELF-4 publisher (Pearson Education Inc.), the CELF-4 is an individually administered language test that evaluates a student's general language ability to determine if a language disorder is present. The email from [REDACTED] goes on to state the following:

"Our next steps, are to compile our "Green Folder" which holds the screening, work samples, a developmental history, and other documentation. The Planning and Placement Team will be contacted. A meeting will be scheduled, and you will be invited, to lay out the next steps and see if more in depth testing is needed, if it is, that would be the time you sign off the educational testing."

4. On [REDACTED] the school social worker [REDACTED] completed a developmental history questionnaire and parent interview. [REDACTED] signed the questionnaire attesting that [REDACTED] willingly provided the information to assist in education planning for [REDACTED] and that [REDACTED] understood the information may eventually be used as part of an evaluation. The report notes that over the last 3-6 months, [REDACTED] about school and experiences frustration. The report summarizes: "ongoing issues [REDACTED] but has been highlighted more recently. It is beginning to impact [REDACTED] academic and emotional well-being. [REDACTED] is starting to question [REDACTED] more and lack confidence.

5. A PPT meeting was scheduled for Thursday, [REDACTED] after [REDACTED] emailed [REDACTED] principal to express [REDACTED] concern about [REDACTED] reading and writing skills and request an evaluation. It is unclear what became of [REDACTED] efforts to have a PPT scheduled. The meeting notice does not indicate that the purpose of the meeting is to discuss the parent's referral to special education but instead reflects that the meeting was being convened at "parent's request."

6. Prior to the May PPT meeting, and following district practices, a central office administrator reviewed the student's RtI information, what [REDACTED] referred to as the "Green Folder." Mrs. Forde, Special Education Director informed this investigator this review is conducted as a check to ensure that school teams put in place sufficient research based interventions in the general education setting before a student is referred by staff to a PPT. In this situation, it appears the central office reviewer reached the conclusion that no further evaluation of the student was indicated.

7. The PPT team convened as scheduled on [REDACTED]. No one from central office attended the meeting. [REDACTED] shared [REDACTED] concern that the student's reading comprehension was low and "getting worse"; that [REDACTED] 'does not comprehend what is read to [REDACTED] or what [REDACTED] reads." The student's teacher shared that the student was having a "hard time" in English. At that time the student's English instruction and reading instruction was modified. [REDACTED] went over her speech testing. [REDACTED] noted that the student was on the honor roll. The team decided to "put interventions in place in reading class and English class," to "remove all modifications from English class and reading class" and to reconvene to "go over the intervention supports and review [REDACTED] progress. The team agreed that an evaluation is not warranted at this time." [REDACTED] recalls the meeting differently; [REDACTED] did not agree that an initial evaluation was not warranted.

8. The parent was not provided with prior written notice (PWN) that the team refused to conduct an initial evaluation of the student to determine [REDACTED] eligibility for services under IDEA. Instead, the PWN indicated that the team proposed that the student was not eligible for special education based on a communication assessment and the student's report card.

9. A PPT convened Wednesday [REDACTED]. The reason given for the meeting was "other: Progress review." The team discussed the student's progress under RtI and the team's concern about the student's attention. The school psychologist planned to give a screening and develop an intervention for attention. The team decided to wait until next September to see how the interventions work before moving forward with an evaluation of the student to determine special education eligibility. Members of the team noted that the student was having difficulty with his attention during reading and writing. The parents shared that the student had difficulty with anything that has words in it. The parent was not provided with prior written notice that the team refused to conduct an initial evaluation of the student to

determine [redacted] eligibility for services under IDEA. Instead, the PWN indicated that the team proposed that student was not eligible for special education based on intervention data.

10. The parent received the [redacted] PPT meeting paperwork in the mail on [redacted] 6 school days after the PPT meeting. After reviewing the list of team recommendations, [redacted] submitted a correction to [redacted] and asked the recommendations to be revised to include [redacted] corrections. Specifically, the parent's correction stated that the meeting notes missed that [redacted] did not think [redacted] had an issue with attention but that the problem is [redacted] doesn't understand what [redacted] is reading and that may be why teachers see [redacted] losing focus. Finally, [redacted] stated [redacted] position that the notes fail to report that the parent wanted special education testing. The IEP paperwork was not revised in response to the parent's correction nor was [redacted] submission attached to the IEP.

11. The student earned satisfactory grades during the [redacted] school year ([redacted] year-end grades were at the A and B levels) but [redacted] did not take social studies and was given modified work in English. The student's independent DRP level as of September [redacted] [redacted] was at a grade 1-2 level (39) and a grade 4 instructional level (50). On the [redacted] Connecticut Mastery Test [redacted] scored in the *Basic* range in reading and writing.

12. The PPT met on [redacted] and recommended that an initial evaluation of the student be conducted to determine [redacted] eligibility for special education and related services and the parent provided consent.

Conclusions:

1. 34 CFR § 300.111 and RCSA § 10-76d-6 provide that each board of education must ensure that children in need of special education are located, identified and evaluated. RCSA § 10-76d-7 states that each board of education must accept and process referrals for the initial evaluation of a child to determine if the child is a child with a disability from appropriate school personnel, as well as from a child's parents. The regulation goes on to state that if a child is receiving alternative procedures and programs in general education and the board of education receives a referral for an initial evaluation, such board must accept the referral and convene a PPT meeting and continue the alternative procedures.

[redacted] submitted a referral to [redacted] and a PPT was promptly convened. However, rather than following the process [redacted] outlined in her [redacted] email to [redacted] and addressing the student's need for an evaluation, the PPT failed to function as required under IDEA requirements. First, the meeting notice incorrectly states that the reason for meeting was because the parent requested a meeting when, in fact, the reason was to review the parent's referral of [redacted] to special education. In order for parents to be meaningful participants in the PPT process, they must be notified why a team meeting is being convened and, in this matter, the parent was not given that information. Second, the team didn't discuss the need for an initial evaluation. The team did not review the student's RtI data and determine the student's progress was such that the team did not suspect a disability. If the data demonstrated that the student was making appropriate progress, then the PPT would have been on firm ground deciding that a special education evaluation was not needed. Instead, the team delayed conducting an evaluation to allow more time for the RtI process. This conclusion is further supported by the fact that the June PPT meeting notice gives as the reason for the meeting, "other: Progress Review." The PWN provided to the parent failed to meet IDEA requirements; the

notice is confusing and inaccurate. The PWN tells the parent that an evaluation was conducted (communication and report card review) and a determination made by the team that the student was not eligible for special education. In fact, the team made no decision regarding the student's eligibility. The parent was entitled to notice that the PPT refused to conduct an initial evaluation of the student and [REDACTED] was not given such notice.

It also appears that the central office review of the school's RtI activities interfered with the PPT process. As of [REDACTED] it is clear that the parent and school staff suspected that the student had a disability and intended that a PPT convene to decide if an evaluation was warranted. However, instead of promptly convening a PPT meeting, a central office administrator reviewed the student's RtI folder and gave feedback to the school staff which resulted in a change in course; no PPT meeting was scheduled. The PPT finally convened two months after [REDACTED] [REDACTED] email exchange but only because [REDACTED] asked the principal for a meeting. While it is completely within the district's authority to have in place practices whereby general education interventions are monitored and reviewed by administrators, the district must be mindful of how such central office review relates to the PPT process. Planning and placement teams must be promptly convened whenever a referral is made, by staff or by families, and decisions about whether or not an initial evaluation should be conducted are to be made by the PPT, which of course includes the parent.

It is concluded the district violated IDEA requirements by delaying evaluating the student in order to continue RtI activities, by failing to give the parent notice of the purpose of the PPT meetings, and by failing to provide PWN to the parent as required by IDEA. Corrective actions are required, see below.

2. RCSA § 10-76d-8(b) provides that a board of education must obtain written parental consent, in accordance with the provisions of the IDEA, for an initial evaluation. IDEA provides that informed parental consent must be obtained before conducting an initial evaluation to determine if a child qualifies as a child with a disability. Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation, or administering a test or other evaluation that is administered to all children. Further, IDEA 34 CFR § 300.302 provides that the screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

No conclusion is reached as to why the student was given the CELF-4 but it is concluded that the CELF-4 was an evaluation and that informed parental consent was required but not obtained. The district's position that it was a screening is not supported by the facts. This test was not administered to all students in [REDACTED] at the middle school. This test was used selectively with this particular student in order to determine if [REDACTED] had a disability. The test was not used to determine appropriate instructional strategies for curriculum implementation. The CELF-4 report concludes by reporting the student's score on the test. The evaluator offers no recommendations relevant to how to instruct the student. The CELF-4 publishers describe it as a "quick and accurate screener for students who may be at risk for a language disorder." It is concluded the test was given as a screening to determine if the student might be eligible for special education services and that the district did not obtain informed parental consent to conduct the test in violation of requirements. Corrective actions are required; see below.

3. It is concluded the district complied with RCSA § 10-76d-13(a)(6). The parent received the paperwork in the mail 6 days after the meeting which supports a conclusion that the IEP was sent to the parent within the 5 day requirement. No corrective action is required.

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Required Corrective Actions:

1. [REDACTED] special education staff must review its obligation under IDEA and state regulations to promptly process all student referral even where the student is receiving general education interventions. If the student is found eligible for services under IDEA, the student will be entitled to compensatory education to put the student in the place [REDACTED] would be now if the PPT had promptly met and recommended an evaluation. Assuming the PPT would have met at the end of [REDACTED] the team would have developed an individualized education program (IEP) by the end of the year. Instead, any IEP won't be developed until approximately [REDACTED] allowing for the 45 school day timeline for initial evaluations. Accordingly, if the student is found to require special education and related services, the team must consider the impact of a 2 month delay on the student's education and offer the student compensatory services. This investigator must be informed of the team's decision. If the team cannot agree on compensatory services, this investigator must be told and she will make the determination.
2. [REDACTED] special education staff must review its obligation under IDEA to provide parents with adequate notice of the purpose of a planning and placement team meeting and prior written notice of any action proposed or refused by a PPT as set forth in 34 CFR § 300.503. This office must be advised as to when this review occurs and who participates in the review.
3. No student specific corrective action is required to remedy the district's failure to obtain informed parental consent for the evaluation given to the student. The district must review its practices to ensure that staff understands the distinctions and differences between evaluations and screenings under IDEA in terms of obtaining informed parental consent. This office must be advised as to when this review occurs and who participates in the review.
4. The district must respond to the parent's request to amend the [REDACTED] IEP as discussed in Findings of Fact 10 and inform this office of the steps the district takes no later than [REDACTED]

I will be monitoring 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

Cc: Dr. William S. Kersie, Superintendent of Schools, Greenwich Public Schools