



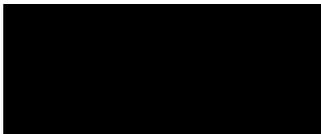
STATE OF CONNECTICUT
STATE DEPARTMENT OF EDUCATION



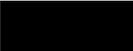
March 31, 2015

Clare Kennedy
Executive Director for Special Education
Hartford Public Schools
960 Main Street, 8th Floor
Hartford, CT 06103

James Pappas
Compliance Director
Hartford Public Schools
960 Main Street, 8th Floor
Hartford, CT 06103



Re: Systemic Complaint
Complaint No. 15-0011

Dear Mrs. Kennedy, Mr. Pappas and 

The Bureau of Special Education (BSE) is responding to the systemic complaint filed with the Connecticut State Department of Education (CSDE), Bureau of Special Education (BSE)  (the Complainant) on behalf of Hartford Public School (the District) students attending Capital Preparatory Magnet School in Hartford and West Middle Academy School during the 2013-14 school year. The complaint was submitted to the BSE in June of 2014. Bureau staff met with the Complainant on June 12, 2014, in order to discuss her concerns and the clarify complaint issues. The Complainant alleged that the District failed to provide students attending these schools with special education and related services that conformed to students' Individualized Education Programs (IEPs) as required by the Individuals with Disabilities Education Act (IDEA) and state special education law and that a particular student named in the complaint did not receive math instruction as set forth in her IEP.

The complaint inquiry letter set forth the issue to be investigated as follows:

Issue: 34 CFR § 300.323(c)(2) requires each board of education to provide in a timely way special education and related services that conform to the student's individualized education program. **Questions:** The Complainant claims that students attending grades 7, 8 and 9 at Capital Preparatory Magnet School (Capital Prep) did not receive special education and related services as set forth in their IEPs from July 8, 2013 through September 2013. Specifically, the Complainant claims that Capital Prep allowed for special education and related services to be delivered only in the general education classroom

setting even where the IEP specified that the delivery site was in a resource room. During the summer of 2013, did students attending Capital Prep in grades 7, 8 and 9 receive special education and related services in conformity with their IEPs? Did Capital Prep have adequate numbers of certified special education staff to fully implement student IEPs? Did Capital Prep have a resource room available to staff to deliver services to students?

The Complainant's claims regarding students attending West Middle Academy concerned events occurring beyond the complaint resolution process one-year look back period and, for that reason, these claims were not investigated. The District and the Complainant have been previously informed of this situation .

Due to the scope of the complainant's allegations, the timeline for the complaint investigation was extended as allowed pursuant to federal regulations. The investigation included a site visit to the school by BSE staff during which student education records were reviewed. Staff interviews were conducted on October 29, 2014, November 5, 2014, and November 21, 2014. In addition to interviewing both general and special education teachers, BSE staff interviewed the school's two student deans, Christopher Fulton, and Richard Berganski.

The following documents were reviewed in the preparation of this report: daily school schedule; [REDACTED] schedule; [REDACTED] 2013-14 schedule; [REDACTED] 2013-14 schedule; 2013-14 summary of student hours and services; grade 6, 7 and 8 student IEPs in place during the 2013-14 school year, including progress reports; e-mails exchanged between the District and the Complainant; list of students enrolled in grades 7, 8, and 9 during the summer of 2013 who were eligible to receive special education and the student's IEPs in place during that time; and Harford's response to the complaint inquiry letter.

Findings of Fact:

1. Capital Preparatory Magnet School is an interdistrict magnet school operated by Hartford Public Schools. It has been in operation since 2006. Capital Prep offers grades prekindergarten through 12. The school is in session for approximately 200 days over 40 weeks. The school year is divided into 5 marking periods. The school day runs from 8:20 am to 4:00 pm. The 2013-14 school year began on July 8, 2013, and ended on May 29, 2014. The first marking period ran from July 8, 2013, through August 9, 2013, and was followed by a two-week break. The second marking period began on August 26, 2013, and ended on October 25, 2013.
2. The Complainant, [REDACTED] was employed as a special education teacher at Capital Prep from July 8, 2013, until December 2013, when she transferred from Capital Prep to another school in the District. In the complaint, the Complainant claims that students attending grades 7, 8 and 9 at Capital Prep did not receive special education and related services as set forth in their IEPs during the first marking period of the 2013-14 school year. There were approximately 10 students in each of these three grades receiving specialized instruction pursuant to an IEP. Additionally, the Complainant claimed in the complaint that Capital Prep administration allowed for special education and related services to be delivered only in the general education classroom setting even where the IEP specified that the delivery site was in a resource room.
3. Capital Prep offers an orientation in April for parents of students who have been admitted to the school through the school choice lottery held in March. Because many school systems do not operate in the summer, Capital Prep often will not receive a student's education records until two months into the school year in September when many school districts start school. This is a problematic situation that results in school staff being unaware of a student's special education status at the start of the Capital Prep school year, which in turn, means students do not receive specialized instruction.

4. At the start of the 2013-14 school year, three special education teachers were on staff at Capital Prep: [REDACTED] assigned to the elementary level; the Complainant, [REDACTED] assigned to the middle grades; and [REDACTED] assigned to the upper level. The school experienced an increase in enrollment and was understaffed in terms of special education instructors according to Mr. Christopher Fulton, Robert Beganski, Deans of Students. On July 25, 2013, Mr. Fulton, e-mailed pupil services staff stating: "Tomorrow we will meet in the 214 conference room to look at the IEP's [sic] for grades 6-12. The purpose will be to identify who can provide services for SPED students. Please be at the meeting at 115 [sic]." In response to this situation, administration shifted staff in an effort to meet the needs of special education students. The school assigned the Complainant to work with students in grades 7 and 8, and [REDACTED] became responsible for grade 9 and 10 students. The school began a search to hire an additional teacher.
5. On July 30, 2013, in an effort to prepare for her new assignment to grade 7, Ms. [REDACTED] e-mailed Mr. Beganski, Dean of Students, and Mr. Fulton asking for copies of grade 7 schedules including teacher names so that she could "create a schedule ... and begin service hours immediately." She was given this information she requested. On August 6, 2013, Mr. Fulton forwarded to Ms. [REDACTED] several e-mails from different grade 6, 7, and 8 general education teachers. In these e-mails, the teachers shared their weekly lesson plans so that the student's IEPs could be met.
6. Ms. [REDACTED] found it difficult to provide the required hours of IEP services for students. In an August 8, 2013, e-mail to Mr. Beganski, Ms. [REDACTED] stated she had students on her caseload that require 6-8 hours of service time and that given the conflicting nature of grade 6 and 7 schedules, she is not able to meet service hours as she "can't be in two places at one time."
7. Ms. [REDACTED] reports she did not deliver instruction to a single student outside of the general education setting during the relevant time period. However, other communications submitted by Ms. [REDACTED] establishes that she did deliver services outside of the general education setting. For example, in an e-mail Ms. [REDACTED] states: "We had no resource room. So what I ended up doing was giving up my planning and lunch times and pulled students into my office or library spaces."
8. The investigators reviewed documents that showed that special education teachers received lesson plans from some of their regular education colleagues during the relevant time period. Through staff interviews and review of student IEPs, the investigators were able to substantiate that students received some special education support. However, the staff members were not able to verify delivery of specialized instruction in full during the relevant time period.
9. A fourth teacher [REDACTED] was re-hired as a special education teacher on September 20, 2013, which addressed the staffing needs. Currently, the school has six special education teachers on staff; two at each level.
10. The school does not have a space designated as a resource classroom. However, despite the school's embrace of the inclusion model, specialized instruction is delivered outside of the general education classroom on occasion. Staff use available spaces including open conference rooms, offices or empty classrooms to deliver instruction on a one-to-one basis or in a small group. None of the staff interviewed reported that students could not be pulled out of the general education setting for instruction. Both Mr. Berganski and Mr. Fulton told the investigators that staff were allowed to deliver special education instruction to students out of the general education setting. As proof of her assertion that staff were prohibited from pulling out students, Ms. [REDACTED] points to an e-mail she received from Mr. Beganski in which he stated he did not want students removed

from class on Fridays unless the class is a special. The e-mail in fact shows only that Mr. Beganski did not favor Friday pull-out time from core academic classes.

11. A review of student IEPs in effect during the relevant time period revealed that very few provided for specialized instruction to be delivered in a resource room exclusively. Rather, the IEPs provided for the services to be delivered either in the general education setting or in either the general education setting or a resource room.

12. A review of student report cards and IEP progress reports indicates the students in grades 7, 8 and 9 made satisfactory progress during the 2013-14 school year.

13. For the current school year, the school is staffed by six special education teachers, two at each of the levels. Current staff report that IEP services are being delivered, that program modifications and accommodations are implemented, and that staff meet weekly to discuss students and jointly plan. Most of the special education teachers reported that they deliver instruction for the most part in the general education setting.

14. The investigation was not able to corroborate the Complainant's claim that [REDACTED] was not provided with math instruction as set forth in her IEP. The student's IEP required .5 hours per week of special education services in the area of mathematics. The IEP lists as the site location, the regular classroom and the resource room with a note "pullout as needed to target instruction." The student repeated grade 6 math while in grade 7. Interviews indicated that staff recalled the student received math instruction as set forth in her IEP. Sometimes she worked on a computer program at a computer and at least half the time, she participated in the class.

Conclusions:

Claims made in the complaint concerned a very short period of time; five weeks at the beginning of the 2013-14 school year and these concerns were raised with the BSE nearly a year later in June of 2014. The investigation was narrow in its scope and focused on the delivery of specialized instruction to students in grades 7, 8, and 9 during these five weeks. Delivery of related services was not part of the investigation. While the focus was on service delivery during the beginning of the 2013-14 school year, the investigators did review the school's service delivery at the time of the site visit.

1. During the relevant time period, the Complainant was responsible for implementing the IEPs for students in grades 7 and 8 and she reports she did not meet her obligations. This admission that the Complainant didn't deliver all of the student's IEPs service hours is taken as true. However, the investigators determined the Complainant did deliver some services to students for whom she was responsible. Further, the investigators determined that [REDACTED] who was responsible for providing specialized instruction to students in grade 9, did deliver services to students as set forth in the students' IEPs.

2. Given the fact that the school was understaffed at the beginning of the 2013-14 school year, and in light of Ms. [REDACTED]'s admission that she did not deliver IEP services in full, it is concluded that specialized instruction hours, as set forth in the IEPs for the students in grades 7, 8, and 9, were not delivered in full during the relevant time period in violation of the IDEA. The investigators were not able to determine with specificity how many hours of specialized instruction were not provided to particular students during the first five weeks of the 2013-14 school year. It is concluded students impacted by this failure to deliver all of their services nonetheless

benefitted from their education and made satisfactory progress on their IEP goals and objective. Thus, while it is concluded the school failed to implement specialized instruction hours in full for the first five weeks of school, no conclusion is reached that students were denied a free appropriate public education.

3. Pursuant to federal regulations under IDEA, when students transfer from one district to another, the new district must take reasonable steps to promptly obtain student records from the district in which the student was previously enrolled. The district where the student was previously enrolled, must take reasonable steps to promptly respond to the new district's request. It is concluded the District is not in compliance with this requirement. Corrective action is required: see below.

4. Insofar as the Complainant claims services were not delivered in a resource room as required by an IEP, it is concluded that special education instruction was in fact provided to students outside of the general education setting. There is no requirement that a specific room must be designated as a resource room. No violation is found that the school failed to adhere to IEP site delivery directions and no corrective action is required.

5. Regarding [REDACTED] [REDACTED] it is concluded there is insufficient information to support the Complainant's claim that she did not receive services as set forth in her IEP. No violation is found and no corrective action is required.

Required Corrective Action:

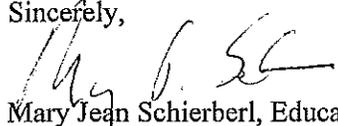
The District and the school must ensure that the school has student records before the July start of the school year. Having this information will allow the school to have on adequate staffing levels at the start of the year so that special education services can be in place from the beginning of the school year. This office must be informed of the District and the school's plan to ensure compliance with this requirement not later than April 15, 2015.

Recommendations:

1. The District should ensure that the school designate spaces within the school to be used exclusively as a resource room for the delivery of specialized instruction.
2. The District should ensure that planning and placement teams refrain from using two site locations (e.g., "regular classroom" and "resource/related service room") for any one special education service listed in the grid on page 11 of the IEP document.

I will be monitoring the District's compliance with the required corrective action. If you have any questions, feel free to contact me at 860 713-6943.

Sincerely,


Mary Jean Schierberl, Education Consultant
Bureau of Special Education

Cc: Beth Schiavino-Narvaez, Ed.D., Superintendent, Hartford Public Schools
Steve Perry, Ph.D., Principal, Capital Preparatory Magnet School