



Greater Hartford Legal Aid

**TRANSMITTED VIA EMAIL AND MAIL**

March 1, 2016

Attn: Gail Mangs  
State Department of Education  
Bureau of Special Education  
P.O. Box 2219, Room 359  
Hartford, CT 06145  
Gail.mangs@ct.gov

**COMPLAINT**

Dear Ms. Mangs:

Greater Hartford Legal Aid ("GHLA") is a non-profit law firm whose attorneys advocate for equal justice for poor people, work with clients to promote social justice, and use the law to address the effects and root causes of poverty. The Center for Children's Advocacy ("CCA") is a non-profit legal advocacy organization in Connecticut whose mission is to promote and protect the legal rights and interests of poor children who are dependent upon the judicial, child welfare, health and mental health, education, and juvenile justice systems for their care. GHLA and CCA file this state complaint as organizational complainants on behalf of all students with disabilities<sup>1</sup> who have been expelled and subsequently enrolled in the New Visions program during the 2014-15 and 2015-16 school year. See §§ 34 C.F.R. 300.151(a)(1) and 300.153(a) (state complaints may be filed by an organization).

**Introduction**

New Visions is a self-contained, alternative education program administered by the Hartford Public Schools ("HPS") and overseen by Superintendent Dr. Beth Shiavino-Narvaez ("Dr. Narvaez"). New Visions is located at 250 Wethersfield Avenue, on the campus of Bulkeley High School, Hartford, Connecticut. HPS created New Visions after dissolving the Hartford Alternative Learning Opportunities ("HALO") program.

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<sup>1</sup> GHLA's and CCA's clients, and other students with disabilities placed at New Visions, have a right to a free and appropriate public education under federal and state education laws and implementing regulations. See §§ 34 C.F.R. 300.151 (a) (1) and 300.153 (a), the denial of which may be the basis for the filing of individual and systemic complaints.

Greater Hartford Legal Aid, Inc.

999 Asylum Avenue, 3Fl. Hartford, CT 06105-2465 • Tel: 860. 541. 5000 • Fax: 860. 541.5050 • [www.ghla.org](http://www.ghla.org)



With rare exceptions, New Visions is the sole provider of educational services to expelled students in Hartford. About 53 students were enrolled in the New Visions program as of last November, 2015, with approximately half enrolled in the morning session and half in the afternoon session. Each session is 2.5 hours long. Upon information and belief, as many as a quarter to a third of the students at New Visions are eligible for special education services under the identification of "emotional disturbance," "other health impairment," or "learning disabled." Many more with a history of unacceptable educational and behavioral achievement may be unidentified.<sup>2</sup>

New Visions' stated rationale is this:

The main goal and expectation of the New Visions Program for expelled students is that they are well prepared to return to their home school, graduate from high school, and are ready for college. The program must be student centered. It should take into account each student's academic needs, looked at through the lenses of the particular grade and courses aligned to the theme and unique requirements of the home school. The program should also contain a high quality counselling component that not only helps students reflect and learn from the mistakes of the past, but also places emphasis on future planning and visioning. (New Visions Program for Expelled students [as of June 5, 2014], attached).

The New Visions operating model, which is predicated upon the home school maintaining responsibility for the education of its expelled student, has completely failed to provide FAPE to its special education students. The sending school is responsible for creating, delivering, picking up, and grading the expelled student's work each week, in accordance with the student's Individual Educational Plan ("IEP") and the school's curriculum guidelines. The home school is responsible for creating and sending out report cards and progress reports. New Visions staff is responsible for instruction and

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<sup>2</sup> The facts asserted herein are based upon clients' accounts of their actual experiences, the clients' educational records, attorney observations at PPT meetings, and two observations of the program in November, 2015, by Andrea (Penny) Spencer, Ph.D. Dr. Spencer was, until June, 2015, Dean of the Pace University School of Education in New York City. Prior to her five year tenure at Pace, she served as an Associate Dean at the Bank Street College in New York, where she advised graduate students in their supervised fieldwork placements, taught special education courses and provided professional development to general education and special education teachers in elementary and middle schools in New York City school districts. Prior to joining the Bank Street faculty, she supervised multiple special and alternative day and residential education programs for students with developmental disabilities, neurological impairments and social-emotional and behavioral disorders in Connecticut, Maine and Massachusetts. She earned a MED in Special Education from the University of Maine and a Ph.D. in Special Education from the University of Connecticut.

helping the student complete the delivered school work, reviewing it for completeness, and then preparing it for pick-up by the sending school. New Visions maintains individual logs of work coming in and going out. Upon information and belief, a large number of home schools assign expelled special education students on-line work. Students with learning disabilities, attentional issues, and a history of school failures will find a steady diet of on-line work particularly disengaging and difficult to benefit from. When a student has no assignments from the sending school, New Visions may provide packets for the student to complete. These packets are not created to fulfill the student's goals and objectives, nor the home schools' curriculum. Some home schools do not send work regularly. Some home schools do not provide feedback or grades or quarterly progress reports to New Visions teachers, students, or the parents. Instruction is not individualized, and upon information and belief, the instruction received by special education students is not provided directly by special education staff. Progress is not monitored adequately, and program review PPTs are not convened by the home school or New Visions when it is obvious a student is failing to make expected progress.

GHLA and CCA contend that the HPS has systematically and pervasively denied and continue to deny expelled special education students their rights under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §1400 *et seq.*, Section 504 of the Rehabilitation Act of 1973 ("Section 504"), 29 U.S.C. § 794, Title II of the Americans with Disabilities Act of 1990 ("Title II"), 42 U.S.C. §12131 *et seq.*, and Conn. Gen. Stat. §10-233c by failing to provide special education and related services in such a way as to confer on the class meaningful educational benefit.

This letter serves to outline these violations and to ask for an investigation, review and remedies designed to correct, as set forth in this Complaint, each and every violation found.

**I. Failure to Ensure Expelled Special Education Students are Placed in an Alternative Setting in Accordance with the Law**

HPS regularly expels special education students and unilaterally places them in the alternative school New Visions outside of the PPT process, and without parental input, in violation of 34 C.F.R. § 300.531. Since the inception of New Visions as an alternative placement for students who are expelled from its schools, HPS circumvents the legally mandated PPT process to determine appropriate placements by directing parents and/or students to attend New Visions without discussion, parental input or team consensus.<sup>3</sup> The undersigned counsel have represented several students who were notified only by phone or letter of their placement at New Visions after a formal expulsion had commenced with no PPT having been held. This process has led to

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<sup>3</sup> See email from Jonathan Swann, HPS' Chief School Improvement Officer, to all principals dated 10/22/2014, forwarded to Attorney Halm in response to CCA's expressed concerns about this practice.

numerous students, including the clients referenced herein, being denied educational opportunity for weeks and months at a time, a *de facto* denial of FAPE.

**a. Students denied legally required placement meetings**

**1. ██████████**

██████████ is a sixteen year old special education student identified under the category of OHI-ADD/ADHD who is diagnosed with ADHD, combined type, and Oppositional Defiant Disorder. He is the son of ██████████, who consents to the submission of this complaint on his behalf. ██████████ has a history of behavioral problems in school. For example, ██████████ was suspended out of school for 45 days during the 2013-2014 school year and 25 days for the 2014-2015 school year. He entered the HPHS Nursing Academy for the 2013-2014 school year for ninth grade, repeated ninth grade at the HPHS Academy of Engineering and Green Technology the 2014-2015 school year, and is currently at New Visions for the 2015-2016 school year. ██████████ still has yet to earn high school credits. Having previously been identified as eligible for special education services, ██████████ had two psychological evaluations and one psychiatric evaluation during the 2013-2014 school year. On May 9, 2014 a psychiatric evaluation was conducted on ██████████ by Dr. Eric Cohen. Dr. Cohen's impressions of ██████████ include hyperactivity, inattention, distractibility, and poor impulse control. (Cohen psychiatric evaluation). Dr. Cohen's recommendations include medication treatment of ADHD and a trial of antidepressant medication deferred in the hope that his mood will improve if ADHD symptoms are effectively addressed. (Cohen psychiatric eval).

At the June 3, 2014 PPT meeting regarding program review, review or revise IEP, and a manifestation determination, ██████████ was entitled to a 35 hour school week with 27.5 hours per week of special education. (6/3/14 meeting, pp. 1, 11). ██████████ had received ten days of out of school suspension for taking a teacher's phone on 5/22/14. (Power School document, p. 8). The team determined that the behavior was not a manifestation of his disability. (6/3/14 meeting, p. 2). At the February 13, 2015 manifestation determination PPT, the team determined that ██████████ was entitled to a 35.83 hour school week with 32.5 hours per week of special education. (2/13/15 meeting, pp. 1, 11). This IEP increased ██████████'s special education hours by one hour per day from the IEP in June 2014. The team determined that his five days of out of school suspension for (throwing food at a staff member/trespassing) on 1/23/15 was not a manifestation of his disability. (Power School document, pp. 5-6; 2/13/15 meeting, p. 2). ██████████ did not attend but gave permission for the PPT to take place. (2/13/15 meeting, p. 2).

On February 19, 2015, the school issued ██████████ a ten day out of school suspension following an incident where he was found to have a kitchen knife and a small amount of marijuana in his backpack. (Power School document, p. 5, 14-20; 3/4/15 meeting, p. 2). At the March 4, 2015 PPT meeting regarding a manifestation determination, the team recommended expulsion from HPHS Academy of Engineering and Green Technology.

(3/4/15 meeting, p. 2). The team once again determined that [REDACTED]'s behavior regarding the 2/19/15 incident was not a manifestation of [REDACTED]'s disability. (*Id.*) Neither [REDACTED] nor his father was present at the meeting. (3/4/15 meeting, pp. 1-2).

On April 7, 2015 HPS conducted an expulsion hearing, with neither [REDACTED] nor his father in attendance. At the conclusion of the hearing, HPS expelled [REDACTED] for one calendar year. At this time, although HPS should have immediately convened a PPT to determine [REDACTED]'s new placement during his expulsion period, no such PPT was convened. Ms. [REDACTED] was not aware that [REDACTED] was entitled to an education when expelled, therefore, [REDACTED] went without any schooling until undersigned counsel became involved in his case and advised them of [REDACTED] rights. CCA began representing Ms. [REDACTED] on behalf of [REDACTED] in August 2015.

2. [REDACTED]

[REDACTED] is a sixteen year old special education student identified under the category of "intellectual disability." She is the daughter of [REDACTED], who consents to the submission of this complaint on her behalf. [REDACTED] attended the Culinary Arts Academy ("CAA") for the 9<sup>th</sup> grade until March 5, 2015 when she was expelled from CAA for fighting. HPS did not convene or hold a PPT subsequent to March 5, 2015 to determine her placement during her pendency of the expulsion period. HPS advised her outside of the PPT process that she must attend the New Visions School, and [REDACTED] registered [REDACTED] at New Visions on or about April 21, 2015. CCA began representing Ms. [REDACTED] on behalf of [REDACTED] in June 2015.

## II. Failure to Confer Meaningful Educational Benefit

HPS has failed to provide children enrolled in New Visions with a free appropriate public education ("FAPE")<sup>4</sup> by failing to provide appropriate and sufficient special education and related services to confer meaningful educational benefit as required by IDEA. Students with disabilities who are expelled are at extremely high risk for dropping out of school, and need thoughtful, enhanced levels of support to complete school and graduate. Despite this undisputed need, HPS has furnished New Visions students with either intermittent to no services at all, or with inadequate levels of special education services and related services such as assistive technology, appropriate social work,

<sup>4</sup> See 20 U.S.C. §§ 1412 (a) (1) (A) and 1415 (k) (1) (C). Specifically, federal regulations provide that "A child with a disability who is removed from the child's current placement . . . must . . . [c]ontinue to receive educational services . . . so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP." (Emphasis added) 20 C.F.R. § 300.530 (d) (1).

counseling, and transitional services. When provided, special education and related services appear unrelated to the students' individual needs, and without regard for whether the student needs a different type of service or therapy, different setting or different frequency of service. Meaningful progress monitoring is not done. Indeed, meaningful educational progress itself is probably impossible given the split responsibilities of New Visions and the sending schools and the absence of an engaging educational and social program.

Moreover, in accordance with Regs. Conn. State Agencies §10-76d-3, a special education student's school year cannot be any less than that provided to general education students unless expressly authorized by the PPT. Special education students, including the clients described herein, are routinely placed in New Visions by HPS outside of the PPT process, which significantly reduces the number of education hours they receive in comparison to their general education peers.

**a. Failure to Provide Appropriate Educational Services**

**Lack of certified, consistent special education teachers**

New Visions has had great difficulty recruiting and keeping certified special education staff. Gaps between such teachers, repeated absences, long medical leaves, and frequent turn-over negatively affect the students' instruction. In mid-November, 2015, the program had one special education teacher. Last year, it had one special education teacher who by mid-year was, unfortunately, consistently out sick. After she left, there appeared to be no special education teacher, and many students missed service hours. Much later in the spring, two short term substitutes were hired, but not always for both sessions. They did not stay beyond the end of the 2014-2015 school year. Presently, the special education teacher hired in the fall of 2015 has been out on long-term medical leave since approximately early December 2015. The current substitute teacher providing special education services has completed the coursework for special education certification, but has *no* certification other than a Durational Shortage Area Permit ("DSAP") certification from the time he taught art. This situation violates IDEA, state regulation, and is more evidence of HPS past, supposedly ended practice of using long-term substitutes for special education instruction. While the litany of HPS' failure to address this systemic issue is beyond the scope of this Complaint, the State Department of Education, in a letter to the undersigned CCA attorney dated November 5, 2015, indicated that HPS had instituted appropriate procedures to "ensure that all students receive special education services according to their IEP's" when a special education teacher is absent for an extended period of time.<sup>5</sup> In fact, on November 16, 2015, HPS Executive Director of Compliance Eduardo V. Genao generated an e-mail to

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<sup>5</sup> Letter from Mary Jean Schierbel, State Department of Education Bureau of Special Education to Jay Sicklick dated November 5, 2015.

district associate superintendents, special education directors and staffing specialists outlining the very procedures HPS personnel should undertake when a special education teacher is absent for an extended period of time.<sup>6</sup> There is no indication that either administrative staff at New Visions or HPS central administration adhered to any procedures to ensure IEP compliance for identified special education students at the school. In sum, HPS' failure to address the lack of a long-term substitute special education teacher at New Visions resulted in a school-wide denial of FAPE to identified special education students at the school since its inception.<sup>7</sup>

### **Failure to provide individualized instruction**

Despite emotional, attentional, and learning disabilities that may require a high level of engaging and multi-model instruction, special education instruction at New Visions tends to be either online or pencil and paper work, with the special education teacher assisting. The New Visions model does not allow New Visions teachers any flexibility to create original lesson plans. Each student receives different work from his own home school. The model of sending home school assignments to New Visions purports to maintain a connection between home school and student, but in fact, students receive no formal or informal feedback. Grades are not given by New Visions teachers, and grades are not sent back to New Visions from the home school. There is, in fact, no real relationship yet New Visions teachers are prevented from designing engaging learning experiences due to the requirement that each student be working on completely different assignments. There can by definition be no group work, no collaborative projects, and no ongoing dialogue with peers. The New Visions staff admit that many students dislike the on-line programs (e.g. Plato), and the only alternative is pencil and paper work. Regular education instruction from the math and language arts teachers may or may not be aligned to the student's home school curriculum.

Bi-weekly Student Assistance Team meetings are held at New Visions, but nothing in the files of any of the four students discussed herein suggests any development of strategies to improve engagement in the learning process, to address behavioral

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<sup>6</sup> E-mail from Eduardo Genao dated November 16, 2015 indicates that e-mail recipients are instructed to review the following lists for "staff who have multiple absences to support principals in delivering the services outlines in the IEP's of the students served by these staff members." The list included:

- Redistributing the caseload to other special education staff within the building
- Changing the schedule of existing staff
- Working with OTM to obtain special education substitutes
- Paying existing special education staff to provide compensatory time

<sup>7</sup> The long-term absence of special education teachers at HPS is the subject of a long-standing Complaint filed by CCA in 2011. On March 1, 2016, CCA formally requested the Bureau of Special Education to formally re-open this Complaint as a result of the New Visions absence and another long-term absence in an HPS secondary school.

problems, or to help them understand and address their strengths and weaknesses, all of which were clear challenges.

Students do not receive classwork from their sending schools on a consistent basis. Even when they do receive work, they receive minimal oversight, instruction, direction on their special education curriculum from the on-site certified staff. Parents have expressed concern about their students having to complete packets created by New Visions when the sending school has failed, sometimes for weeks at a time, to provide coursework aligned to the general curriculum of the home school. Logs kept by New Visions document the erratic delivery work by certain high schools in particular, for example, Bulkeley High School.

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### **No progress monitoring**

Special education students' progress toward mastering their goals and objectives at New Visions is not monitored and reported. This is a clear violation of IDEA<sup>8</sup> and an egregious failure to account for the quality of special education instruction. Last fall, the special education teacher at New Visions admitted he did not know how or who was monitoring his students' progress, and assumed it was someone at the home school. However, the home schools do not send grades or corrected work back to New Visions. Parents are sent neither report cards nor quarterly progress reports. Parents are thereby denied the opportunity to participate in their child's education. Thus, the existing model prevents New Visions teachers, parents, and students from having enough information to know when to ask for a program review to address academic and behavioral struggles. And even if staff clearly knows there is a problem, PPTs are not convened to address the deficiencies in progress.

### **b. Failure to Provide Appropriate Related Services**

Upon information and belief, all or most students at New Visions attend weekly boys or girls groups, but there is no evidence of data collection or monitoring of progress on behavioral goals and objectives. Upon information and belief, there is no systematic evidence based instruction and practice in social skills despite the fact that most of the New Visions students, both those who receive special education and those who do not, have been involved in serious behavioral incidents in and out of school. Many have also encountered violence in their lives that requires a trauma screen for necessary behavioral supports.

Upon information and belief, New Visions does not have a systematic way to review behavioral intervention plans ("BIP"), update BIP's based on the discipline that got the students to New Visions and make sure that appropriate behavioral supports are in

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<sup>8</sup> 34 C.F.R. § 300.324



place. In general, there is a general lack of appropriate behavioral supports outside of the social worker and the school's Director.

Upon information and belief, New Visions does not have a thoughtfully developed appropriate array of transition services. A counselor there can speak to students about career opportunities, but this would fail to meet the needs of most if not all special education students at New Visions, especially given likely academic delays and behavioral problems. The career opportunities promised in the New Visions "Rationale" statement do not exist. See Rationale Statement appended to this Complaint.

III. Special education students who were denied FAPE

a. [REDACTED]

[REDACTED] is the son of [REDACTED], who consents to the submission of this complaint on his behalf. [REDACTED]'s case will be described in detail because it exemplifies the disconnect between what is required by FAPE and what is provided by the home school model. It also shows the inability of New Visions to appropriately identify and respond to [REDACTED]'s academic needs.

[REDACTED] was first identified as eligible for special education due to a learning disability in approximately 5<sup>th</sup> grade in New York. His family moved to East Hartford, Connecticut in early Fall, 2014. [REDACTED] attended East Hartford High School ("EHHS") briefly before being expelled from EHHS for one calendar year, from November 12, 2014 through November 12, 2015, for possession of a small amount of marijuana. At a November 2014 manifestation PPT in East Hartford, the PPT quickly created an IEP. In early November, 2014, his family moved to Hartford. On November 25, 2014, HPS adopted East Hartford's expulsion decision at an expulsion hearing. [REDACTED] enrolled in New Visions on December 2, 2014, and started on December 5.

Despite a January 1, 2015 directive from HPS Central Office that intake PPTs be convened within 10 days, [REDACTED]'s PPT was not scheduled. His parent, [REDACTED], informed the undersigned that as of January 12, 2015, Bulkeley had not sent any work to New Visions for him, and no PPT had been convened. At her request, a PPT was held on February 6, 2015. At that time, Hartford had not obtained [REDACTED]'s records from New York. East Hartford had scant information. PPT recommendations included a credit audit, Lexile testing, psychological and achievement testing, 20 hours of compensatory tutoring due to not convening a PPT to develop an appropriate IEP within 10 days of his arrival at new Visions and to no work being provided by Bulkeley, and a re-writing of the East Hartford IEP goals and objectives to make them measurable. The minutes note that [REDACTED] complained that the on-line Plato courses assigned to him were very difficult for him to understand and complete on his own. The team agreed to re-meet March 5, 2015.

At the March 5, 2015 meeting, the New Visions special education teacher was not present, having been intermittently but increasingly, out sick. Special education teacher Patricia Vallero from Bulkeley High School, who was not his assigned special education teacher there, was present. Goals and objectives had not yet been revised. Achievement testing had not been completed, and the tutoring request had not been submitted. The team agreed to re-meet.

The PPT re-met on March 19, 2015. The New Visions special education teacher was absent again, though [REDACTED] assigned Bulkeley special education teacher was present. It was reported that a certified special education substitute teacher was now coming in the afternoons, and that New Visions hoped to hire a long-term substitute from a STEM school. The staff noted that [REDACTED] was easily distracted by other students, his phone, and the ability to easily access various music websites on the computers<sup>9</sup>. It further reported that work from Bulkeley was not getting done, and he was failing two on-line Plato courses. The present levels of academic performance for this PPT continued to be from June, 2014 and stated, vaguely, that he was at a "9<sup>th</sup> grade reading level."

At a May 19, 2015 annual review PPT, achievement and psychological testing information was finally available for discussion, although it appeared that the psychologist, Berta Vernege, had not actually written her report, and she could not provide any hard copies for the team members. The hard copy was provided to Attorney Cochrane by email on May 26, 2015, but is incomplete. For example, Ms. Vernege specifically mentioned the variability in his subtests scores, yet fails to provide those scores. Of note, she wrote that [REDACTED]'s working memory score is "borderline", a manifestation of his weak ability to sustain attention concentrate, and exert mental control. Nevertheless, her recommendations focused almost exclusively on [REDACTED] failure to motivate him. Thus, [REDACTED]'s actual learning needs were virtually dismissed out of hand, and individualized instruction was not provided.

His goals and objectives remained the same as before, and continued to be not measurable<sup>10</sup>. While the teachers continued to note that [REDACTED] had excellent attendance and was polite, he was routinely distracted by other students, his phone, and the computer. Despite this, no suggestions about how to modify his learning environment or encourage better focus were proffered. According to Ms. Vernege, [REDACTED] knew he was smart but just did not feel like putting in the effort. He frequently did not

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<sup>9</sup> New Visions reported it is unable to block access to these sites because of Central Office technology policy.

<sup>10</sup> E.g. Goal #1: [REDACTED] will demonstrate an improvement in comprehension skills necessary to read for information and understanding". The first of three objectives is "Given a passage, article, or other reading material [REDACTED] will demonstrate understanding by answering comprehension question 3 out of 5 times" as measured by quizzes and work samples. As written, progress cannot be measured.

finish assignments, but when given close support, was successful in completing them correctly. This is consistent with his cognitive test scores. Despite extensive documentation of the Plato program and other work not being completed, no further PPTs were convened until the transition PPT on November 6, 2015.

The 2015-16 school years started on August 25, 2015, but staff from Bulkeley did not drop off work until September 25, 2015. New Visions filled in the gap by providing him with packets were not aligned to either his home school curriculum or his IEP.

Shortly after his expulsion period ended, his family moved to Manchester. [REDACTED] enrolled in Manchester High School with only 5.5 credits, having earned none during his year at New Visions. Upon information and belief, at no time during [REDACTED]'s year at New Visions did his parent receive any report cards or IEP progress reports, in contravention of IDEA. Ms. [REDACTED] has been continuously appalled at how her son can regularly attend school for an entire year and not be making any progress whatsoever. She found it particularly galling at the review of the psychological evaluation to be told that the main problem is [REDACTED]'s lack of internal motivation.

The transition PPT just prior to the end of his expulsion violated IDEA in several ways, specifically by not having his home school special education teacher available, and by not providing accurate information about his present performance. Another special education teacher who did not instruct [REDACTED] attended in his place. She looked up [REDACTED]'s credits, report cards, and progress reports on PowerSchool during the meeting. She found nothing whatsoever – no grades, no earned credits, and no progress reports. Mr. McBride, the New Visions special education teacher assigned to [REDACTED], said he did not do any progress monitoring as that was the responsibility of the sending school. New Visions staff said Bulkeley High staff did not report back on what grades [REDACTED] may have earned on his work. In short, it is fair to say that [REDACTED]'s year at New Visions was a complete waste of everyone's time and energy, because he gained nothing.

b. [REDACTED]

[REDACTED] is the son of [REDACTED], who consents to the submission of this complaint on his behalf. [REDACTED] is a 17 year old, 9<sup>th</sup> grade student who will complete a full year of expulsion on February 26, 2015. Expelled from the Hartford Public High School Law and Government Academy for fighting last year, he did not start attending New Visions until the start of the 2015-2016 school years due to a period of incarceration and fears for his safety.

[REDACTED] was identified as eligible for special education when he was about six years old, and has been variously labelled as "intellectually disabled" or "learning disabled." His most significant learning problems lie in the areas of language, working memory, and perceptual reasoning. His most recent PPT/IEP from January 22, 2016 state but two or

three reading and math achievement test scores from, , September, 2014. The documents reflect reading and writing abilities in the 3<sup>rd</sup> to 4<sup>th</sup> grade level. A copy of this testing was not provided upon request last year, and is presumed lost. Since September, 2014, the statement of present levels of academic achievement has not changed one iota. His current goals and objectives, which call for one year's growth, are, therefore, not reasonably calculated to provide educational benefit. Moreover, they are in and of themselves unmeasurable. Per a transcript from November 25, 2015, [REDACTED] has earned 3.25 credits since he started high school.

With reading and math skills at roughly a mid-elementary level, he is functionally illiterate. His current transition goals are geared toward finding employment in an area of his choice. Goal #4, which requires him to begin discerning what field he would like to work in, has not even been introduced. A Brigance Transition Skills Inventory reportedly done in September 2014 is missing from his records. At age 17, in the 9<sup>th</sup> grade, and barely literate, [REDACTED] is at extremely high risk for dropping out of school, and suffering employment and other challenges during his adulthood.

[REDACTED] has had generally consistent attendance and good behavior while at New Visions. He is seen to work hard and generally tries to stay focused. He struggles with even rudimentary instructions and skills. His writing exhibits severe deficiencies. However, he has also had some behavioral problems, including assaulting another student. Of note, his past school record shows that he is socially engaged but has regular peer conflicts, some involving aggression. [REDACTED] has also been the victim of a violent crime in his neighborhood. He and his parents have regularly expressed concern for his safety. Notwithstanding this, his behavior goals have routinely addressed routine compliance with school rules and attendance. Nothing in his IEP addresses his obvious need to develop stronger, more productive interpersonal skills, how to handle frustration, and how to understand his own educational needs and work toward enhancing his abilities to work with others. No social work reports or records are present in his school files. No adequate documentation that his transition goals have been fulfilled exists, and his first transition goal has not even been introduced.

At no time while he attended New Visions has [REDACTED]'s parent received report cards or quarterly progress reports. His special education teachers at New Visions, one of whom has been out sick for a lengthy period, did not receive any reports back from the home school. Therefore, no adjustments could be made to the work [REDACTED] was given to complete. His latest IEP from January 22, 2016 shows satisfactory progress in reading and math goals. This "satisfactory" performance is highly likely to be disproved once accurate assessments are performed and his transcript is updated.

c. [REDACTED]<sup>11</sup>

On September 2, 2015 the New Visions team conducted a PPT meeting to determine placement and to revise or review [REDACTED]'s IEP. The school based team, acting without the agreement of a parent, recommended updating page 11 "to reflect current placement at New Visions." The team revised [REDACTED]'s IEP to reflect the provision of a 12.5 hour school week with 12.5 hours per week of special education, and confirming his placement at New Visions (9/2/15 meeting, pp. 1, 2, 11). This IEP revision resulted in a decrease of 23.33 hours of school hours per week, and a decrease of 20 hours per week of special education for [REDACTED]. Despite this drastic and illegal reduction in service hours, the team refused [REDACTED]'s request for compensatory education and a change of placement due to HPS' assertion indicating that New Visions could meet [REDACTED]'s needs (9/2/15 meeting, p. 2).

[REDACTED]'s IEP also stated that he would participate in general education "whenever possible" and would spend zero hours with nondisabled peers, a clear violation of the mandate to educate identified students in the least restrictive environment possible (9/2/15 meeting, p. 11).

[REDACTED]'s IEP stated that Jordan has a "multi-sensory learning style" and includes "multi-sensory approach" as a program accommodation. In addition, [REDACTED] should have "hands-on projects." (9/2/15 meeting, p. 11). The learning at New Visions is self-guided through worksheets with occasional instructional support and does not include a "multi-sensory approach" to learning or access to "hands-on projects."

In addition, [REDACTED]'s IEP listed distractibility as a concern (9/2/15 meeting, p. 5). The psychological evaluation conducted by Dr. Colleen Dreyfus on February 4, 2014 also states that [REDACTED] is extremely reactive to environmental stimuli. The level of chaos and lack of management which has been observed at New Visions would be inappropriate for anyone with issues around distractibility, like [REDACTED], and would impede his progress toward meeting his IEP goals.

There is no indication that New Visions provided any services related to [REDACTED] transition planning. [REDACTED]'s IEP states that he should be "enrolled in college prep courses and will participate in career awareness/exploration classes." (9/2/15 meeting, p. 6). [REDACTED] has not received these or any other services to help prepare him for his transition from high school while at New Visions.

d. [REDACTED]<sup>12</sup>

After [REDACTED] enrolled at New Visions in April 2015, her IEP was never appropriately updated to reflect the program provided at New Visions. [REDACTED]'s IEP reflected her

<sup>11</sup> For [REDACTED]'s prior educational history, please refer to Section I a. 1 of this complaint.

<sup>12</sup> For [REDACTED]'s prior educational history, please refer to Section I a. 2 of this complaint.

special education identification as "specific learning disabilities" until a PPT changed it to "intellectual disability" (6/5/15 meeting, p. 1), despite the fact that she had made little academic progress for quite some time. For example, Scholastic Reading Inventory testing administered in September 2014 indicated that [REDACTED] was reading on a second grade level despite being in the 9th grade. (6/5/15 meeting, p. 4). She also had a history of behavioral problems in school. In the June 15, 2015 PPT document, she is described as defiant, non-compliant, easy to anger and habitually tardy (6/5/15 meeting, p. 5).

Moreover, [REDACTED]'s placement at New Visions violated her June 5, 2015 and June 15, 2015 IEPs. These IEPs stated that [REDACTED] had a total school week of 37.5 hours with six hours per week of special education instruction and 31.5 hours with non-disabled peers. New Visions provides only 12.5 hours of instruction each week. (p. 11) and in fact provided no direct special education instruction to [REDACTED] while she attended New Visions. While at New Visions, [REDACTED] received packets of work from her special education teacher at her home school which Irma worked on independently to the best of her ability. No special education teacher oversaw her work or served as a resource for her. No teacher interacted with her while at New Visions, let alone provided her with direct instruction. The only special education teacher [REDACTED] had contact with while at New Visions was the home school teacher and most communication was conducted via text message with the home school teacher, who queried whether or not she had received her work and what her progress on the work.

[REDACTED]'s placement at New Visions also violated her June 18, 2015 IEP because it could not provide her with the accommodations that her IEP required. [REDACTED] required a "highly structured class," a "reduction of auditory stimulation," and an environment that will "minimize distractions" in order to make progress in the general education curriculum. (6/18/15 PPT minutes, p. 8). [REDACTED]'s June 5, 2015 IEP also listed "immediate feedback" as an accommodation (p. 8), but as [REDACTED] stated at the June 18, 2015 PPT meeting, no one at New Visions was checking in with her regarding her work.

Dr. Spencer noted that students who have been expelled have serious behavioral and/or emotional issues that led to placement in a highly exclusionary and limited program with few of the resources found in most public education settings. This is a problem for most students, but is particularly unacceptable for students with special needs. She questioned whether information in students' psychological assessments or IEPs was available to the regular education teachers. Little to no attempt to implement needed accommodations is evident. She found that while the overall climate appeared reasonably positive and the Director's attempts to implement positive behavioral intervention strategies commendable, the program is designed simply as a holding period. She concluded that New Visions was not designed to produce positive change in behavior, engaging and interesting social and academic learning experiences, and the skills needed to make a return to the home school more successful.

Upon observation, Dr. Spencer noted that the classrooms have little organization and programmatic structure. In two separate classroom observations, Dr. Spencer noted that there was little, if any coordination of learning and that the teachers spent the bulk of the time working with individual students, but did not engage all students during a class period. Students were observed playing games, listening to music and participating in non-academic activities. There were no observations of behavioral interventions for students who misbehaved and the sole corrective action consisted of calling the program director and security guard. Personnel commented that there is little opportunity for teachers to teach – students resisted particular assignments and that on-line learning, used significantly at New Visions, was unhelpful for those students who wanted individual attention and assistance.<sup>13</sup>

### Summary

Late in 2014, CCA attorneys discussed special education concerns with HPS, which resulted, among other things, in the directive that PPT meetings be convened promptly upon a student's enrollment in New Visions. In March, 2015, GHLA attorneys met with HPS' special education directors to discuss ongoing concerns about the provision of special education services at New Visions, in particular, the lack of consistent special education teacher availability and poorly drafted, implemented, and measured IEPs. Very little has changed over the past year. It is abundantly clear that the failure to follow

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<sup>13</sup> One of Dr. Spencer's observations took place on February 4, 2015. In one description, she noted:

One boy sat at a computer, but did not appear to be engaged with any task. A second sat at one side of the room and did not interact with the lesson or any apparent assignment. A third boy walked around the room, talking loudly, then left the room. The girls were generally attentive, although giggling at various points in the lesson, when distracted by the boys. One boy left the room. Another knocked at the door and was allowed in by another student. One boy joined the girls at the table. During the observation period, the teacher worked quietly with the two girls, but made only one or two attempts to redirect the boys. One boy remained isolated and did not respond or engage with anything throughout the period.

In an interview with a certified teacher at New Visions, Dr. Spencer noted:

An interview with the [teacher] (also certified) confirms the impression that there is essentially no opportunity for teachers to teach. Students resist writing assignments and have virtually no access to literature. Some students are given work on-line, but don't like this format and want additional attention and assistance. While some schools have a common model of expeditionary learning, others do not, so there is no common curriculum upon which to base instruction. The ... teacher estimates that many students need 1:1 and that [the student's] written work is approximately at third grade level.

basic special education procedures as set forth in federal law, and the poor delivery of special education services at New Visions is the result of the highest levels of HPS administration not devoting sufficient energy, interest, and resources in these students. Many neighboring districts have far better, long-standing day-long alternative education programs for their expelled students, programs which give their at-risk students a much better chance of successfully returning to their home school and getting a high school degree.

The undersigned want to be clear that we have found New Visions directors and staff, and assigned special education directors from HPS Central Office, to be caring and hard-working. There is no doubt they are doing the best they can within an under-resourced, dysfunctional, ill-conceived program. A succession of superintendents has virtually ignored this type of alternative school program, most recently hoping to improve it by having sending schools (home schools) maintain responsibility for their expelled students. This latest strategy has created a massive disconnect between programs, and will continue to do so if the State Department of Education does not force it to assume full responsibility for the successful education of expelled students with disabilities.

At this time, the students, parents and the undersigned respectfully request the following:

1. An investigation into HPS' violation of the rights of New Visions special education students as guaranteed by federal and state law;
2. Within 14 days identify any special education students at New Visions placed there for disciplinary reasons in the absence of a PPT meeting, and immediately convene a PPT meeting with parental participation to define and determine an alternative placement.
3. A written report of findings within 60 days;
4. The implementation of an appropriate remedy before the start of the 2016-2017 school year, to include, at the minimum:
  - a. The employment of an outside consultant to conduct an investigation into the existing New Visions program, its strengths and weaknesses, and recommendations for the development of a program which will provide FAPE to expelled students. This must include social and emotional programming, creation of functional behavioral assessments and BIP's, and transition services;



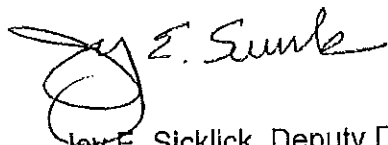
- b. Through PPT meetings, expedited reviews of the Individualized Education Programs ("IEP") of all current New Visions students to ensure that they are designed to confer meaningful educational benefit, and that service delivery is occurring;
  - c. Per PPT review of the IEPs, placement of all current New Visions students in appropriate educational programs;
  - d. Compensatory educational services for all students enrolled at New Visions during the 2014-2015 and 2015-2016 school year to be determined by PPT; including but not limited to the students referred to in this Complaint;
  - e. Continued SDE oversight through an independent monitor, to ensure that the IEPs of New Visions students are implemented appropriately through the 2016-17 and 2017-18 school years, including on-site observations of educational programs and record monitoring; and
5. Any other such relief as may be deemed by the State Department of Education and its experts therein to be appropriate, for the individual complainants and/or system-wide.

The undersigned would be happy to provide copies of any educational records referred to in this Complaint concerning the named students, and answer any other questions you may have. Thank you in advance for your attention to this matter.

Sincerely,

*Lynn Cochran (by JES)*

Lynn B. Cochran  
Greater Hartford Legal Aid, Inc.  
999 Asylum Ave., 3<sup>rd</sup> Fl.  
Hartford, CT 06105  
Attorney for [REDACTED] and [REDACTED]  
lcochrane@ghla.org



Jay E. Sicklick, Deputy Director  
Marisa Halm, Director Team Child Juvenile Justice Project  
Center for Children's Advocacy, Inc.  
UConn School of Law  
65 Elizabeth Street  
Hartford, CT 06105  
(860) 570-5327  
Attorneys for [REDACTED] and [REDACTED]  
Emails: [jsicklick@kidscounsel.org](mailto:jsicklick@kidscounsel.org), [mhalm@kidscounsel.org](mailto:mhalm@kidscounsel.org)

cc: Dr. Beth Shiavino- Narvaez, Superintendent, Hartford Public Schools;  
Deborah Sullivan, Executive Director for Special Education Services, Hartford  
Public Schools

Dr. Sandra Donah, Special Education Director and Director of Compliance,  
Hartford Public Schools

Richard F. Wareing, Chair, Hartford Board of Education

Allan B. Taylor, Chair, State Board of Education

Melinda Kaufmann, Asst. Corporation Counsel, for Hartford Public Schools

Encl. New Visions Program for Expelled Students 2014-2015 Statement of Rationale  
and Program Component

**HARTFORD PUBLIC SCHOOLS**  
**NEW VISIONS PROGRAM FOR EXPELLED STUDENTS 2014-2015**  
(as of June 5, 2014)

**RATIONALE:**

The main goal and expectation of the New Visions Program for expelled students is that they are well prepared to return to their home school, graduate from high school, and are ready for college. The program must be student centered. It should take into account each student's academic needs, looked at through the lenses of the particular grade and courses aligned to the theme and unique requirements of the home school. The program should also contain a high quality counseling component that not only helps students reflect and learn from the mistakes of the past, but also places special emphasis on future planning and visioning.

**PROGRAM COMPONENTS**

**ACADEMIC:**

- One-to-one or small group instruction each school day during the expulsion period
- Content, materials, and assessments for lessons provided by the home school
- Highly effective certified math, English, and Special Education teachers provide the instruction using a blended learning model
- Instruction takes place at the New Visions Program location (currently at the building located at the corner of Wethersfield and Wawarme avenues in Hartford).
- Assessments graded and entered in Performance Plus by home school teachers
- New Visions teachers communicate with parents re: student attendance, effort and progress via phone, email, and/or Parent Portal
- The Office Assistant reports student attendance daily to home school
- Official progress reports and report cards produced and sent to parents by the home school
- If the student is deficient in his/her reading skills, teaching support will be primarily focused on reading and writing

**SOCIAL SUPPORT:**

- A highly effective certified full time social worker and school counselor provide quality support and future planning in collaboration with CBO's (i.e. The Village)
- Support session with student, family, home-school staff at entry to New Visions and at return to home school
- Group (i.e. advisory), individual, and family guidance sessions
- Social Worker and School Counselor establish and maintain effective communication with families and home school counseling/social work staff
- Social worker and counselor will provide students with opportunities to explore college and career options via field and online experiences, job shadowing and possible internship opportunities