



STATE OF CONNECTICUT
STATE DEPARTMENT OF EDUCATION



July 22, 2013

Anita Russell
Director of Special Services, Pre-K-12
Glastonbury Public Schools
Gideon Wells School
1029 Neipsic Road
Glastonbury, CT 06033

Vanessa Taragowski, Director
ACES
350 State Street
North Haven, CT, 06473

Jennifer Laviano, Esq.
Law Offices of Jennifer Laviano
76 Route 37 South
Sherman, CT 06784

Re: [REDACTED]
C13-0496

Dear Ms. Russell, Ms. Taragowski and Attorney Laviano:

This office is responding to the complaint filed by Attorney Jennifer Laviano with this office on May 21, 2013 against the Glastonbury Public Schools on behalf of the above-referenced student. The complaint inquiry letter set forth the issue to be investigated as follows:

Issue: RCSA § 10-76d-12 and 34 CFR §§ 300.322 and 300-501 provide that each board of education shall take steps to ensure that parents are afforded the opportunity to participate in each meeting to develop, review or revise the individualized education program for their child. All state statutes concerning education, apply to the operation of ACES, a regional educational service center.

The following was reviewed: the complaint; email correspondence; April 3, 2012 and June 6, 2012 letters from Anita Russell to the parents with attachment; CREC *Ecological Assessment*; letter from Andrew Batchelder to the parents dated February 25, 2013; letter from the parents to Anita Russell dated March 5, 2013; paperwork from planning and placement team meeting held on April 4, 2013; district's response to the parents' March 5, 2013 letter and paperwork from PPT meeting held on April 4, 2013; 2010 psychological evaluation; 2012 psychological evaluation; medical information from 2010; letter to Anita Russell from Drs. Michael Powers and Kristen D'Eramo dated June 2, 2011; response to complaint inquiry letter from the district and ACES; and Attorney Laviano's response to the district's response to the complaint inquiry letter.

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Rec'd 7/24/13

Findings of Fact:

1. The student is 7 years old and resides in Glastonbury with her family. She is identified as eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) eligibility category of Other Health Impairment. She attends River Street Autism Program at Coltsville, a program operated by the Capitol Region Education Council (CREC). CREC is a regional educational service center (RESC) in operation in the Hartford area. Such regional educational service centers are authorized under state law where four or more boards of education submit to the state board of education a plan for the purpose of cooperative action to provide programs and services. A RESC is operated and managed by a board composed of at least one member from each of the participating boards of education. All state statutes concerning education apply to the operation of a RESC. Area Cooperative Educational Services (ACES) is a RESC that operates in the New Haven area. ACES operates magnet schools and several special education programs. ACES' special education programs do not accept parent referrals. Parents interested in the special education programs offered by ACES may only visit the programs if their local education agency refers the family.
2. [REDACTED] obtained an independent educational evaluation in preparation of the student's annual/triennial review which was scheduled on February 6, 2013. An earlier evaluation by the same evaluator had identified the ACES program as a potentially appropriate placement. [REDACTED] requested a referral to ACES from the district on December 22, 2012 in order to be able to visit the ACES program. The parents were interested in gathering information to help them determine whether or not the ACES program would be an appropriate placement for the student. The district denied the parents' request. According to the district's response to the complaint inquiry letter, it considered the request but decided to deny the request after reviewing the student's IEP, progress, present levels of performance and ongoing health issues and concluding the student was making appropriate progress. The district stated it does not have a practice of "writing letters of referral to RESCs or Approved Special Education Programs simply to grant parents or guardians access to an onsite visit."
3. Subsequently, the parents again asked for the district to take whatever steps were necessary for them to be able to visit the program at ACES, making clear, the request was for an opportunity to visit, not a request that the team consider changing the student's placement from CREC to ACES. The student's PPT met for a triennial/annual review of February 6, 2013. [REDACTED] noted she did not feel she could properly consider placement options without seeing the program at ACES.

Conclusions:

There is nothing in the law that prohibits the district from facilitating the parents having an opportunity to visit a special education program, public or private. Recently promulgated state regulations, RCSA § 10-76d-17(11), recognize that in order for parents to participate meaningfully

in planning and placement team meetings for their children, parents must be afforded an opportunity to visit private special education programs and observe on a reasonable basis. Pursuant to this regulation, private special education programs must have policies and procedures in place that permit visits to the program by parents of enrolled and prospective students.

Such policies and procedures should take into consideration the need to balance the families' need to gain first-hand knowledge of a program with the program's need to maintain an appropriate educational environment and manage staff time. So, while it is reasonable to limit the length of a visit and the number of programs to be visited, it is not reasonable to categorically refuse to allow parents to visit a program. While ACES is not a private special education program, it does not make sense to this investigator that a private special education program is required to allow visits by prospective parents but a public education program is not.

The parents are interested in gathering information about whether or not a special education program provided by ACES might be appropriate for their daughter. The ACES response to the complaint did not provide this investigator with a reason why it does not allow parent visits or how a parent would gather information about its programs. The district's response didn't explain why it would not facilitate the visit except that the response made clear the district's position is that it is providing the student an appropriate program at CREC and that ACES, for various reasons, would not be an appropriate placement for the student.

It is unclear to this investigator if the district offered to connect the parents with staff from ACES so that the parents could ask questions and otherwise gain information about the program. Unfortunately, it appears that no attempt has been made to address the parents' desire to find out about the ACES program. Neither the district nor ACES submitted any written relevant policy to this office despite being given an opportunity to do so. If a parent asked to visit a special education program operated in their school district, the district would cooperate with the parent and arrange for the visit within reasonable limits. Programs operated by RESCs are public school programs. No valid reason has been put forward to this investigator to deny these parents an opportunity to visit the special education program operated by ACES. It does not appear that the parents have inundated the district with requests to visit multiple special education programs. This request was made while the team is conducting the student's annual and triennial review, which is the time for the PPT to review the student's needs and placement and a parent may need information about other available programs in order to meaningfully participate in the PPT as placement decisions are made.

1. For these reasons, it is concluded the refusal of the district to facilitate a visit to the ACES program by the parents is inconsistent with RCSA § 10-76d-12 and 34 CFR §§ 300.322 and 300.501. Accordingly, the district is required to take steps necessary to facilitate a visit by the parents to the ACES program. The district and ACES may place reasonable limits and conditions on the visit but otherwise must work with the parent to make the visit happen in a timely fashion. This office must be advised of the date the visit is scheduled.

2. No conclusion is reached that the district has retaliating against the family. The district stated in the response to the inquiry letter that it does not have a practice of writing letters to RESCs to allow parent visits. So, while the complaint claims the district does have such a practice, this investigator will credit the district's representation.

If you have any questions, feel free to call if you have any questions at 860-713-6943.

Sincerely,



Mary Jean Schierberl
Education Consultant