

TRANSMITTED VIA FAX AND MAIL

FAX: 860-713-7153

March 15, 2011

State Department of Education
Bureau of Special Education
P.O. Box 2219, Room 359
Hartford, CT 06145

COMPLAINT

Dear Sir or Madam:

Greater Hartford Legal Aid, Inc. (“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 Hartford Public Schools students with disabilities who have been or may be recommended for evaluations for a diverse array of educational needs, but who have not received or would not receive the benefit of the evaluations’ findings in a timely manner. *See* §§34 C.F.R. 300.151(a)(1) and 300.153(a) (state complaints may be filed by an organization).

Upon information and belief, Hartford Public Schools (“HPS”) educates approximately 3000 students who are eligible for special education services under a variety of identifications. In addition to their initial eligibility determination evaluations, many of these students have required and been recommended by their planning and placement teams (“PPT”) for supplemental evaluations to diagnose and recommend services for neuropsychological impairments, particular learning disabilities, behavioral problems, reading disabilities, speech and language deficits, and physical and cognitive impairments which may require assistive technologies, to name a few.

GHLA and CCA contend that the HPS has systematically and pervasively denied these students their rights under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §1400 *et seq.*, 34 C.F.R. §§ 300.303, 300.323 and 300.324, and Regs. Conn. State Agencies §§ 10-76d-9 and 10-76d-11 by continually and systemically failing to provide evaluations recommended by PPTs in a timely manner. The serious, extended delays in executing PPT recommendations for evaluations mean that the findings

and recommendations of the evaluators cannot be appropriately considered by the PPT, cannot be used to provide necessary instructional strategies, and cannot be used to provide necessary related services to the students. This delay denies the class a free, appropriate public education (FAPE) because their IEPs are not designed in a manner which is likely to confer 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. Upon information and belief, the delays detailed below are representative of other HPS students. Although individual relief has been or will be pursued for these children, the district-wide failure to provide timely specialized evaluations persists.

Delays in Neuropsychological Evaluations and Consultations:

While delays persist for a wide range of specialized evaluations, delays in provision of neuropsychological consultations and evaluations have been particularly apparent. Upon information and belief, the HPS employed Dr. Marc Zola (“Dr. Zola”) during the 2009-2010 school year to provide neuropsychological consultations and evaluations. Upon information and belief, Dr. Zola submitted his resignation effective August 31, 2010 and relocated out-of-state, although he remained available for some consultations. Upon information and belief, as of November 2010, the HPS had not yet finalized a contract with another neuropsychologist for evaluations. Upon information and belief, a contract was finalized with Dr. Perry Staltero (“Dr. Staltero”) who began receiving referrals for neuropsychological evaluations from HPS on February 11, 2011. However, significant delays in accessing neuropsychological consultations and evaluations existed even when Dr. Zola was employed by the HPS.

1. CR (DOB [REDACTED]) CR is an [REDACTED] kindergarten student enrolled at [REDACTED] School. He was raised mostly in Puerto Rico, and has a genetic condition consistent with low intellectual functioning. He is eligible for special education under the classification of intellectual disability. On 5/20/10, a PPT convened at [REDACTED] School, his prior school, recommended a Spanish reading evaluation and a neuropsychological evaluation to assist with instructional strategies and to further determine the exact nature of his disabilities. As of October 2010, CR had not passed Level A of the DRAs. On November 15, 2010, the PPT agreed that the reading evaluation could be done in English. To date, neither evaluation has been completed.
2. DA (DOB: [REDACTED]) DA is [REDACTED] second grade student at [REDACTED] school with a very poor working memory and a history of abuse, including repeated head banging. He is eligible for special education under the classification of emotional disturbance. DA is substantially deficient in reading, and has markedly impaired short and long-term memory. He requires a one-to-one adult support (whom he must share with another student) in order to benefit

at all from instruction. A PPT convened on 11/3/2010 recommended a neuropsychological evaluation. The evaluation of DA was just recently completed, but the parents report that Dr. Staltero informed them the report would likely not be available for review by the PPT until the end of the school year. The student continues to make very slow progress despite extensive supports.

3. MA (DOB: [REDACTED]): MA is a second grade student at [REDACTED] School who is eligible for special education under the classification of specific learning disabilities. MA is significantly below grade level in all areas and repeated kindergarten and was promoted by exception from first grade. Throughout MA's educational career, he has exhibited significant attention problems as well as continuing difficulties with impulsivity. These difficulties have been noted to clearly impair his academic performance. A psychiatric consultation conducted on March 18, 2010 recommended a referral to a formal neuropsychological or psychiatric evaluation to determine the root of MA's attention problems and distractibility. Accordingly, his June 2, 2010 PPT recommended that he receive a neuropsychological evaluation to focus on his attentional issues, what teaching strategies would be successful for him, and what type of educational setting MA needs to be successful. To date, the neuropsychological evaluation has not occurred.
4. LV (DOB: [REDACTED]): LV is a second grade student at [REDACTED] Academy who is eligible for special education under the classification of specific learning disabilities. LV was retained in kindergarten and is below grade level in all areas. Along with his brother, LV was described by school staff as the lowest performing student in the class, despite his obvious efforts. Due to LV's persistent difficulties with memory and information retention, on March 4, 2010, his PPT recommended a neuropsychological consultation. To date, the neuropsychological consultation has not occurred. Additionally, LV's PPT recommended a comprehensive reading evaluation on June 7, 2010, which was not completed until December 1, 2010.
5. RV (DOB: [REDACTED]): RV is a second grade student at [REDACTED] Academy who is eligible for special education under the classification of specific learning disabilities. RV was retained in kindergarten. Along with his brother, RV was described by school staff as the lowest performing student in the class, despite his obvious efforts. Due to his continuing difficulties with reading comprehension, reading fluency, and decoding, on March 4, 2010, his PPT recommended a neuropsychological consultation. To date, the neuropsychological consultation has not occurred.
6. WR (DOB: [REDACTED]): WR is a ninth grade HPS student at [REDACTED] who is eligible for special education. WR has been found eligible both under the classification of specific learning disabilities and under the classification of emotional

disturbance. In all areas, WR is significantly below grade level. Due to ongoing concerns about WR's processing deficits, executive functioning, attention deficits, and impulsivity, on October 22, 2009, WR's PPT recommended neuropsychological testing. According to WR's case manager, HPS policy required a neuropsychological consultation before full evaluation. The neuropsychological consultation was not held until March 24, 2010. On that date, Dr. Zola participated in WR's PPT meeting. At that time, Dr. Zola indicated that WR likely had a language-based learning disability, with impaired auditory processing and deficits in expressive language. To program appropriately for WR, Dr. Zola indicated the need to accurately assess both visual and auditory attention, as well as to determine whether WR's attention deficits were caused by ADHD or by depression. Consequently, the PPT recommended a full neuropsychological evaluation which was scheduled to occur in September 2010. However, due to Dr. Zola's resignation, the HPS cancelled the scheduled neuropsychological evaluation. To date, it has not occurred.

7. DR (DOB: [REDACTED]): DR is currently a tenth grade [REDACTED] [REDACTED] who is eligible for special education under the classification of Other Health Impaired. Across all subject areas, DR is below grade level. Due to his continuing struggles with fluency, impulsivity, and executive functioning, on June 14, 2010, his PPT recommended a neuropsychological consultation. To date, it has not occurred. Additionally, his June 14, 2010 PPT recommended a psychiatric evaluation which to date has not occurred. Moreover, on May 20, 2009, his PPT recommended a "certified behavior analysis" after an incident that was determined to be a manifestation of DR's disability. To date, despite further behavioral difficulties resulting in additional suspensions, the certified behavior analysis has not occurred.

Delays in Comprehensive Reading Evaluations:

8. AP (DOB: [REDACTED]): AP is a [REDACTED] fourth grade student at [REDACTED] School who is eligible for special education under the classification of intellectual disability. She has a borderline IQ and a reading disability, and is making minimal if any progress academically, A PPT team recommended a reading evaluation on 3/23/10 to assist with instructional strategies to enhance reading progress. This evaluation has not been completed.
9. CA: (DOB: [REDACTED]) CA is an [REDACTED] fourth grade student at [REDACTED] [REDACTED] who is eligible for special education under the classification of emotional disturbance. CA has been making consistently limited reading progress here and at his prior school, where a reading evaluation was recommended at a 3/18/10 PPT. This reading evaluation was completed during the week of February 21, 2011. A PPT to discuss this evaluation has been

set for March 23, 2011, but will not be convened if the evaluator continues to fail to indicate whether she is available to present her report.

10. As noted above, LV's comprehensive reading evaluation was recommended by his PPT on June 7, 2010, and was not completed until December 1, 2010.

11. As noted above, CR was recommended for a reading evaluation on 5/20/10. It has not been done to date.

Delays in Assistive Technology Evaluations:

12. MM (DOB: [REDACTED]) MM is a [REDACTED] eleventh grade student at [REDACTED]. She is eligible for special education under the classification of Multiple Disabilities. MM has severe cerebral palsy and mental retardation. She is non-verbal and has limited mobility. She has been educated in Hartford Public Schools her entire life. A PPT convened on 11/12/09 recommended an assistive technology evaluation to help enhance limited educational progress and to assist with transition planning to a sheltered work site. To date, this evaluation has not taken place. Moreover, a triennial and annual PPT due during the spring of 2010 were never scheduled. MM continues to rely heavily on a paraprofessional.

Delays in Speech and Language Evaluations:

13. YV (DOB: [REDACTED]): YV is an eighth grade student at [REDACTED] who is eligible for special education under the classification of specific learning disabilities. In all areas, she performs significantly below grade level, with the exception of math calculation and fluency. Due to her history of phonological processing deficits, struggles with reading and other language, on October 7, 2010, her PPT recommended a speech evaluation. To date, it has not occurred. Upon information and belief, because [REDACTED] did not have even a part-time assigned speech and language pathologist, no students at [REDACTED] have received speech and language evaluations in a timely manner this school year.

At this time, we respectfully request the following:

1. An investigation into HPS's violation of the rights of the class of students who have been denied timely evaluations;
2. A written report of findings within 60 days; and

3. The implementation of an appropriate remedy before the end of the 2010-2011 school year, to include, at the minimum:
- a. Expedited evaluations for all students whose evaluations have been pending more than 45 school days;
 - b. Compensatory educational services for all students denied FAPE as a result of delayed evaluations;
 - c. Continued SDE oversight, through an independent monitor, to track HPS' execution of PPT-recommended evaluations in a timely manner, including:
 - 1. The creation and monitoring of a reliable electronic tracking system for recommended evaluations;
 - 2. Implementation of specific strategies for reducing the delay in obtaining recommended evaluations, including, but not limited to, ensuring that HPS has sufficient professional resources to conduct necessary evaluations; and
 - 3. Publication of data to the public indicating the length of time between PPT recommendation and completion of the evaluation, absent any information that would identify individual students.
 - d. Professional development of HPS Central Office and school staff to ensure proper, timely referrals for evaluations, with follow up; and
 - e. Any and all further relief appropriate.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact Lynn Cochrane, GHCLA, at (860) 541-5045, or Hannah Benton, CCA, at (860) 570-5327, ext. 228.

Sincerely,

Lynn Cochrane
Greater Hartford Legal Aid

Hannah Benton
Center for Children's Advocacy

cc: Steven Adamowski, Superintendent, Hartford Public Schools;
Miriam Taylor, Assistant Superintendent for Special Education Services/ Student Support Services, Hartford Public Schools;
Ellen Stoltz, Senior Director for Special Education Services/ Student Support Services, Hartford Public Schools

Encl: Pages 1 and 2 of PPT minutes for the above-referenced students, redacted.