



July 24, 2012

Dr. Gene Harris
Columbus City School District
270 East State Street
Columbus, OH 43215

RE: CP 0075-2012; Letter of Findings

Dear Dr. Harris;

After reviewing the information regarding the complaint concerning various students with disabilities (hereinafter "students with disabilities") and various students who are suspected of having disabilities (hereinafter the "students" or "the students suspected of having disabilities") by Kimberly Brooks Tandy Esq., Executive Director, and Angela Chang, Attorney, Children's Law Center of Kentucky (hereinafter "the attorneys") who filed the complaint against Columbus City School District (hereinafter "CCSD"), the Office for Exceptional Children has made the following findings:

ISSUE 1

Whether CCSD complied with the requirements of OAC § 3301-51-03 (A) (Child Find) and the Individuals with Disabilities Education Improvement Act of 2004 (hereinafter "IDEA") and its implementing regulation at 34 C.F.R. §300.111 (Child Find). The attorneys allege that Columbus City School District failed to ensure that various students who are suspected of having disabilities who are residing in the Franklin County Correctional Center II, Jackson Pike Facility (hereinafter "FCCC II"), regardless of the severity of their disabilities were identified, located and evaluated.

The attorneys allege that Columbus City School District failed to meet the district's obligation regarding child find and failed to have child find policies and procedures that address students with suspected disabilities who are detained in FCCC II. The attorneys allege that the students suspected of having disabilities who are residing in the FCCC II often have histories of academic and behavioral challenges and that Columbus City School District failed to evaluate the students suspected of having disabilities while they were detained in FCCC II.

Although the attorneys allege a history of violations of child find, dating from the 2010 school year and ongoing, per the requirements of the IDEA at 34 C.F.R. §300.153, the complaint will be limited to one year prior to the date that the complaint was received by the Ohio Department of Education, Office for Exceptional Children. Since the complaint was received in this office on April 4, 2012, the timeframe of the complaint investigation will be from April 4, 2011 through the date of the receipt of the complaint in this office.

FACTS:

1. Both the attorneys who filed this complaint and CCSD provided information regarding this complaint;
2. Both the attorneys who filed this complaint and CCSD are hereby informed that this office will be making the findings of fact and issuing a letter of findings based on the

- timeframe from April 4, 2011 through the date of the receipt of the complaint in this office per the requirements of the IDEA;
3. In addition, pursuant to this complaint investigation, the consultant assigned to this complaint also obtained information from Focused Learning Academy of Southwest Columbus (hereinafter "the community school"), FCCC II, Hilliard City School District, the Correctional Center Reception Center, the Madison Correctional Institution, the Ohio Department of Rehabilitation and Correction, the Ohio Central School System and the Ohio Department of Youth Services;
 4. The consultant assigned to this complaint has also corresponded with the administrative staff of FCCC II in order to obtain information relevant to the complaint and to make them aware of the obligations related to identifying, locating and evaluating students with suspected disabilities who are residing within FCCC II;
 5. The attorneys who filed this complaint described it as an individual and systemic complaint (which was captioned by the attorneys as an individual and "class administrative complaint") against the community school and/or CCSD;
 6. After the complaint was received in this office, it was separated into six complaints which consisted of four individual complaints and two systemic complaints;
 7. Two of the individual complaints were against CCSD and two individual complaints were against the community school, the remaining two complaints were assigned as follows: a systemic complaint against CCSD and a systemic complaint against the community school;
 8. All of the individual complaints were regarding the same two individual students;
 9. The attorneys who filed the complaint provided some identifying information regarding those two students; however they did not provide any identifying information regarding the students who may be part of the systemic complaints other than to state that those students were similarly situated as the two individual students;
 10. Due to the nature of how the allegations were raised, prior to issuing the letter of allegations and the letter of findings, an investigation had to be conducted to determine where the students with disabilities and the students who are suspected of having disabilities in the above captioned complaint were residing and which district or entity was responsible for ensuring that the students with suspected disabilities was evaluated under the IDEA if a disability was suspected;
 11. Although the formal written complaint makes references to actions that involve alleged violations by CCSD and/or the community school, both CCSD and the community school are separate entities;
 12. As part of the complaint investigation, it has been determined that CCSD is a school district located in Columbus, Ohio that serves a student population of over 50,000 students which has no jurisdiction or sponsorship of the community school;
 13. As part of the complaint investigation, it has been determined that the community school operates under Chapter 3314 of the Ohio Revised Code and has no jurisdiction over CCSD;
 14. As part of the complaint investigation, the consultant assigned to this complaint contacted the Ohio Department of Youth Services (hereinafter "DYS") to determine if CCSD provides or ensures the provision of services to students with suspected disabilities and students with disabilities who are the responsibility of CCSD as the district of residence during the time period when these juvenile offenders are detained under the authority of DYS as the district of service;

15. The information that was obtained showed that DYS stated that CCSD staff had worked with DYS staff to provide services to the aforementioned students which included ensuring that students that were suspected of having a disability were evaluated in accordance with the requirements of the IDEA;
16. As part of the complaint investigation, some facts about one of the juvenile arrestees were established;
 - a. One of the students (hereinafter "K.B.") was born on _____ and has attended several different schools during his academic career;
 - b. K.B. has a history of being involved in the juvenile justice system due to the offenses that he has committed;
 - c. Although K.B. has reported academic and behavioral difficulties, he was previously evaluated by CCSD in 2007 and determined not to be eligible;
 - d. There was no information obtained that showed that the parent disputed the determination nor did she file due process to dispute the determination;
17. Although the above referenced information was provided by both the attorneys for the student and CCSD, the consideration as to whether there was a violation regarding the 2007 evaluation is outside of the timeframe for the complaint which was discussed in the facts and findings for CP-0074-2012 which addressed the individual complaint regarding K.B.;
18. CCSD had indicated their willingness to evaluate K.B. to determine eligibility for special education services under IDEA after this complaint was filed;
19. Prior to CCSD obtaining consent to evaluate and securing a space in which K.B. could be evaluated at FCCC II, K.B. was sent to the Correctional Center Reception Center on May 4, 2012 where he stayed for three days;
20. On May 7, 2012, K.B. was sent to the Madison Correctional Institution which is under the authority of the Ohio Department of Rehabilitation and Correction;
21. After being sent to the Madison Correctional Institution, K.B. was enrolled in the Ohio Central School System which is also under the authority of the Ohio Department of Rehabilitation and Correction;
22. During a telephone interview with the superintendent of the Ohio Central School System conducted by the consultant assigned to this complaint, the concerns of the attorneys for K.B. were shared;
23. In response to the concerns that were shared regarding K.B., the superintendent informed this office that she would have the staff interview the K.B. again to see if he was in need of evaluation;
24. The superintendent also informed this office that she would ensure that a review of information from the staff and others occurred in order to determine if K.B. was in need of evaluation under the IDEA;
25. The superintendent also informed this office that the parent, K.B. or a staff member or any other individual acting on behalf of K.B. could request an evaluation of the student under the IDEA;
26. As part of this investigation this office obtained information that showed that there were individual students who were residing in FCCC II who had not reached the age of 22;
27. If these individual students had been suspected of having disabilities, there would have been an obligation to evaluate the students;
28. A review of the evidence obtained through the investigation showed that with respect to some of these individuals no parent, individual or entity acting on behalf of these

- individuals had requested that CCSD conduct an evaluation under the IDEA to determine eligibility for special education services;
29. A review of the evidence obtained through the investigation showed that these individuals were regular education students while residing in the district of residence;
 30. These students are hereinafter referred to as Student F, Student G, Student H, Student I, Student J, and Student K;
 31. A review of the information that was obtained regarding these students showed that they had been determined to be regular education students prior to being detained in FCCC II;
 32. As part of the investigation this office obtained information that showed that six of the individuals were determined to be students with disabilities who had been previously evaluated under the IDEA and determined eligible for special education services;
 33. A review of the evidence obtained through the investigation showed that these six individuals had IEPs and were owed services;
 34. One of these students (hereinafter "L.D.") with disabilities returned to FCCC II as of June 2012 and had been enrolled in the community school;
 35. The community school has accepted responsibility for providing services to L.D.;
 36. The community school has been in contact with the Deputy Chief of FCCC II to arrange these services for L.D.;
 37. L.D.'s services and the community school's obligations to provide those services will be addressed under the facts and findings for CP-0078-2012;
 38. CCSD has acknowledged, in writing to this office, that it is their responsibility to provide services for the remaining five individuals who have IEPs who are residing in FCCC II;
 39. These five students with disabilities had been enrolled in CCSD;
 40. These five students are hereinafter captioned as Student A, Student B, Student C, Student D and Student E;
 41. CCSD has acknowledged their responsibility to provide services for these students with disabilities which will be addressed under the facts and findings for Issue 2;
 42. There was no evidence obtained through this investigation to support that, during the relevant time period of this complaint, any individual or entity acting on behalf of Student F, Student G, Student H, Student I, Student J, and Student K had requested an evaluation of these students to determine eligibility under the IDEA;
 43. There was no evidence obtained through this investigation to support that, during the relevant time period of this complaint, Student F, Student G, Student H, Student I, Student J, and Student K had requested an evaluation to determine eligibility under the IDEA;
 44. CCSD has acknowledged their responsibility to comply with the applicable requirements of IDEA and the Operating Standards with regards to students with disabilities since FCCC II is located within the boundaries of the district;
 45. CCSD has provided documentation of their correspondence with FCCC II in order to arrange access to providing services to these students; and
 46. CCSD has acknowledged their responsibility to comply with the applicable child find obligations with respect to students with suspected disabilities residing within FCCC II when such students are in need of evaluation.

FINDINGS:

School districts are required by both the IDEA and the *Operating Standards for Ohio's Schools Serving Children with Disabilities* to have child find policies and procedures that ensure that all children with disabilities, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located and evaluated.

A review of the evidence that was obtained through the complaint investigation showed that CCSD did not possess any information to support that any individual or entity acting on behalf of Student F, Student G, Student H, Student I, Student J, and Student K had requested an evaluation of these students to determine eligibility under the IDEA.

A review of the evidence that was obtained through the complaint investigation showed that CCSD did not possess any information to support that Student F, Student G, Student H, Student I, Student J, and Student K had requested an evaluation to determine eligibility under the IDEA.

A review of the evidence that was obtained through the complaint investigation showed that Student F, Student G, Student H, Student I, Student J, and Student K had been determined to be regular education students prior to their detainment in FCCC II.

School districts other than the school district of residence are responsible for serving a child with a disability who is living in its school district, even though the school district is not the district of residence. If any of the aforementioned students had been suspected of having a disability, CCSD would have had an obligation to evaluate the student and provide services to the student, if the student had been determined eligible under the IDEA. The child's school district of residence retains responsibility for ensuring that FAPE is made available to the child.

Based on a review of the evidence that was obtained through this investigation, CCSD is not in violation of OAC § 3301-51-03 (A) (Child Find) and the IDEA and its implementing regulation at 34 C.F.R. §300.111 (Child Find) with respect to this issue.

CORRECTIVE ACTION: None required.

ISSUE 2:

Whether CCSD complied with the requirements of the OAC 3301-51-01(A) (2) (a) (School district of residence), OAC 3301-51-01(A) (3) (b) (School district other than school district of residence) and IDEA and its implementing regulation at 34 C.F.R. §300.323 (When IEPs must be in effect) during the 2011-2012 school year.

The attorneys allege that the CCSD failed to ensure that the IEPs of the students with disabilities were implemented when the students with disabilities were residing in FCCC II.

The attorneys allege that CCSD failed to ensure that the students with disabilities were provided with the services specified in their IEPs during the timeframe that the students with disabilities were detained in FCCC II.

The attorneys allege that CCSD failed to work together with the FCCC II staff to ensure that services were provided to the students with disabilities in conformity with the requirements of the Operating Standards and the IDEA.

The attorneys allege that students with disabilities up to the age of 22 are over-represented at the FCCC II and are denied access to education. The attorneys allege that students with disabilities up to the age of 22 are entitled to receive special education services consistent with the requirements of federal and state law and CCSD has failed to ensure that these students receives such services.

Although the attorneys allege a history of violations of the IDEA and the Operating Standards with respect to the implementation of the IEP and the provision of services, dating from the 2010 school year and ongoing, per the requirements of the IDEA at 34 C.F.R. §300.153, the complaint will be limited to one year prior to the date that the complaint was received by the Ohio Department of Education, Office for Exceptional Children.

Since the complaint was received in this office on April 4, 2012, the timeframe of the complaint investigation will be from April 4, 2011 through the date of the receipt of the complaint in this office.

FACTS:

1. Both the attorneys who filed this complaint and CCSD provided information regarding this complaint;
2. Both the attorneys who filed this complaint and CCSD are hereby informed that this office will be making the findings of fact and issuing a letter of findings based on the timeframe from April 4, 2011 through the date of the receipt of the complaint in this office per the requirements of the IDEA;
3. In addition, pursuant to this complaint investigation, the consultant assigned to this complaint also obtained information from the community school, FCCC II, Hilliard City School District, the Correctional Center Reception Center, the Madison Correctional Institution, the Ohio Department of Rehabilitation and Correction, the Ohio Central School System and the Ohio Department of Youth Services;
4. The consultant assigned to this complaint has also corresponded with the administrative staff of FCCC II in order to obtain information relevant to the complaint and to make them aware of the obligations related to providing services to students with disabilities who are residing within FCCC II;
5. The attorneys who filed the complaint provided some identifying information regarding L.D. and K.B.; however they did not provide any identifying information regarding the students who may be part of the systemic complaints other than to state that those students were similarly situated as the two individual students;
6. The consultant assigned to this complaint obtained information about students with disabilities who may be similarly situated as L.D. and K.B by contacting the staff at FCCC II as well as by contacting others;
7. The attorneys who filed this complaint did not provide specific facts about the over-representation of students with disabilities residing in FCCC II;
8. The attorneys who filed this complaint provided some research and survey information about the percentage of students with disabilities within the public school system compared to the percentage of students with disabilities within FCCC II;

9. The attorneys who filed this complaint also provided some research and survey information about the nature, severity and types of disabilities that are common to students with disabilities who are detained within correctional facilities;
10. Although this information did not assist in establishing whether such a percentage had any bearing on the alleged violations; it was helpful in obtaining information as to whether students with disabilities were, in fact, residing in FCCC II;
11. Although the information did not include specific facts about the students with disabilities, the information regarding the nature, severity and types of disabilities of students with disabilities who are detained in correctional facilities was helpful when attempting to obtain information about the students who are residing in FCCC II;
12. As discussed under the facts for Issue1, CCSD has acknowledged in writing that they have an obligation to serve students with disabilities who are residing in FCCC II since the facility is located in the boundaries of the district;
13. Student A, Student B , Student C, Student D and Student E were students that were previously enrolled in CCSD who have been identified as students with disabilities who are owed services pursuant to their IEPs;
14. There was no evidence obtained through this investigation that demonstrated that the students had been withdrawn from CCSD;
15. In order to resolve the issues detailed in this complaint, CCSD has agreed to provide services to these students with disabilities;
16. CCSD has also agreed to work with FCCC II to develop a process and a procedure to ensure that students with disabilities who are residing in FCCC II are provided services in accordance with the IDEA and the Operating Standards;
17. CCSD has also agreed to comply with their child find obligation as it applies to the students with suspected disabilities who are in need of evaluation during the time period that they are residing in FCCC II;
18. CCSD provided documentation to support that they have corresponded with the FCCC II staff regarding having access to the students so that they can receive services;
19. CCSD also requested assistance from this office in order to ensure that FCCC II is made aware of the district's obligation to comply with the IDEA and the Operating Standards with respect to these students with disabilities and students with suspected disabilities;
20. CCSD also requested assistance to ensure that FCCC II staff was made aware that CCSD has an obligation to provide services to students with disabilities who are living in its school district, even though CCSD, in some cases, is not the district of residence;
21. CCSD informed this office that they would have arranged to provide services to these students at an earlier date, if they had been made aware that they were residing in FCCC II;
22. The consultant assigned to investigate this complaint contacted FCCC II staff to address this issue;
23. By letter of June 20, 2012, Chief Deputy Mark Barrett indicated the willingness of his staff to work with the district, the community school and this office in order to develop a process to address the needs of the aforementioned students;
24. Chief Deputy Barrett voiced concerns about providing access and space for those services and addressing both the students' needs and the facility's needs to ensure the security of the individuals involved;
25. Chief Deputy Barrett agreed to meet with consultant(s) from this office at a mutually agreed upon date, place and time to address this matter;

26. By separate e-mails of July 19, 2012 to the district and community school, Chief Deputy Mark Barrett indicated that he would work with the district and the community school to address the requirements necessary to provide access to services for these students; and
27. By letter of July 19, 2012, CCSD outlined their willingness to provide these services and to work FCCC II to ensure that the required services are provided.

FINDINGS:

After the complaint was filed, this office contacted CCSD to make the district aware of the complaint and to obtain information regarding whether there were students with disabilities who had IEPs who were residing in FCCC II and were in need of services.

The consultant also contacted FCCC II to obtain information about these students. CCSD was then informed of these students as well as the community school and information about the students was obtained.

The consultant assigned to the complaint also had to verify whether the students were already being served by another school district, another provider or another educational entity which would have relieved CCSD of the obligation to serve these nonresident students with disabilities. The evidence that was obtained through the investigation showed that these students with disabilities were owed services although CCSD had not been informed that the students were residing in FCCC II until they were notified by this office.

The evidence that was obtained through the investigation showed that the last known district of residence for these students with disabilities was CCSD. As soon as CCSD was made aware of these students with disabilities, CCSD agreed to provide services to these students.

CCSD also requested assistance from this office to obtain access to providing services to these students at FCCC II. At the time that this complaint was filed, there was no space at FCCC II to provide the required services to these students.

As of the date of this letter of findings, CCSD has provided documentation to support that they are working with FCCC II to address requirements related to providing services to these students. CCSD has agreed, in writing, to address these issues and FCCC II, has agreed in writing, to work with CCSD to address these issues.

The evidence that was obtained through the investigation did not support that there were any other students with disabilities that were identified as being in need of services who were nonresidents. If such students were identified as being in need of services, CCSD would have been obligated to serve those students. Therefore, CCSD is not in violation of OAC 3301-51-01(A) (3) (b) (School district other than school district of residence) with respect to this issue.

Student A, Student B, Student C, Student D and Student E were students who have been identified as students with disabilities who are owed services pursuant to their IEPs. CCSD has acknowledged their responsibility as the district of residence to provide services to these students.

Prior to this letter of findings being issued, CCSD proposed remedies to resolve these deficiencies. The remedies consisted of contacting FCCC II to arrange space within the facility to serve the students and assigning an intervention specialist to provide those services. This office acknowledges the district's willingness to work towards providing appropriate services to these students.

The district is in violation of OAC 3301-51-01(A) (2) (a) (School district of residence) and the IDEA and its implementing regulation at 34 C.F.R. §300.323 (When IEPs must be in effect) with respect to this issue.

CORRECTIVE ACTION:

1. CCSD will forward documentation verifying that the services for these students have been initiated by **August 31, 2012**.
2. The documentation required by Point 1, will include who is providing the services, where those services are being provided as well as the amount of the services that are being provided.
3. In order to ensure that FCCC II is made aware of the district's obligation to comply with IDEA and the Operating Standards with regards to the students with disabilities and suspected disabilities who reside in FCCC II, this office will provide FCCC II with a redacted copy of the letter of findings within two weeks of its issuance.
4. A consultant from this office will contact FCCC II, and arrange a meeting at a mutually agreed date, time and place to discuss the letter of findings with the administrative staff at FCCC II by **September 28, 2012**.
5. CCSD will forward a copy of the agreement that outlines the services to be provided at FCCC II that specifies where in FCCC II that those services will be provided as well as addressing other matters such as materials and resources needed to ensure the provision of services. As discussed with both agencies, CCSD has an agreement with the Juvenile Detention Center to provide educational services to students with disabilities who are housed there, so that agreement may serve as a basis for such an agreement with FCCC II. The agreement should address how CCSD will be notified by FCCC II that students who are currently housed in FCCC II are in need of services.
6. The copy of the agreement is due in this office within the same timeframe that it is agreed to by the parties.
7. This office anticipates that such an agreement will be forwarded to this office no later than **September 28, 2012**.
8. After two weeks of services have been provided to the students, and information has been obtained regarding the students' present levels of performance, CCSD will convene the students' respective IEP teams, to address whether compensatory education services are required to address the time when the students were not being provided services pursuant to the students' IEPs. This office recognizes the difficulties involved in convening IEP teams for students who are detained in correctional facilities; CCSD could use alternate means of meeting participation such as telephone conferences.
9. The students' revised IEPs are due in this office no later than **October 30, 2012**.
10. CCSD will forward copies of the students' IEP progress reports for one quarter of progress which will be due in this office no later than **November 30, 2012**.
11. If Student A, Student B, Student C, Student D or Student E leaves FCCC II, this office is to be notified in writing that the student has left the facility.

12. Documentation verifying the provision of such services is due in this office by **December 19, 2012.**
13. CCSD is to forward a monthly list of any new students with disabilities who are in need of services that enter FCCC II other than those already identified as Students A through E. Those lists will be due in this office on the following dates: **September 19, 2012, October 19, 2012, November 19, 2012 and December 19, 2012.**
14. CCSD will also inform this office of any services provided to those new students with disabilities, if those students are identified as being provided services from another district of residence or provider, CCSD will provide information to support that CCSD is not required to provide services to those nonresidents. If CCSD requires assistance obtaining that information, they may contact the consultant assigned to this complaint.
15. CCSD will also forward documentation which includes copies of any requests for evaluations of any students suspected of having disabilities who are housed in FCCC II as well as the results of those requests. The documentation is due in this office by **December 19, 2012.**
16. A consultant from this office will arrange an on-site visit at a mutually agreed date and time to review the educational records of the aforementioned students with disabilities who are being served at FCCC II which will occur no later than **December 19, 2012.**

We appreciate your cooperation in the resolution of the complaint investigation.

Please refer to the above referenced complaint number when corresponding with this office and address all correspondence to the attention of Shirley Crabtree.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy Stoica". The signature is stylized and somewhat cursive.

Wendy Stoica, Assistant Director
Office for Exceptional Children

cc: Kimberly Brooks Tandy, Esquire, Complainant
Angela Chang, Esquire, Complainant
Wanda Lillis, Esquire, Attorney for the District
Amy Dennis, Director of Special Education
Sheila Saunders, Special education Supervisor
Rochelle Rensch, Educational Consultant