



FOR IMMEDIATE RELEASE

May 19, 2011

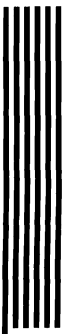


**NEW YORK STATE DEPARTMENT OF EDUCATION
UPHOLDS BTF HANDICAPPED STUDENT COMPLAINTS
FINDS DISTRICT GUILTY OF VIOLATING STATE AND
FEDERAL LAWS AND REGULATION**

After continued unanswered complaints to the School District relating to the services provided to handicapped students, the BTF filed a series of complaints with the NYS Department of Education. After a thorough investigation, the State Education Department found the District had violated State and Federal laws and was ordered to correct the violations. (See enclosed)

"We look forward to working with the District to correct the problems so that our most disadvantaged students are provided with all the services they need," stated BTF President Phil Rumore.

Enclosure: 2
Letter to the Board of Education
NYSED's Written Final Decision



President PHILIP RUMORE



May 13, 2011

BUFFALO TEACHERS
FEDERATION, INC

271 PORTER AVENUE
BUFFALO, N.Y. 14201
(716) 881-5400
FAX (716) 881-6678

Memo To: Dr. James A. Williams, Superintendent
Members, Buffalo Board of Education

From: Philip Rumore, President, BTF 

Re: NYSED Findings of District Violations of Federal and State Laws
Pertaining to Students with Disabilities

The BTF, as you know, has been raising concerns in writing and in conversations with District representatives relating to the District's special education program for some time. As the result of the Districts' lack of action on these issues, we filed a formal complaint with NYSED. You have received copies of same that were sent to you by BTF.

Enclosed, please find a copy of the NYSED findings. In short, the District was found to have violated regulations relating to students with disabilities.

What is most distressing is that the District engaged in practices that for too long have denied our most needy, students with disabilities, the assistance they need. That borders on being immoral.

In addition, it has come to our attention that some administrators have been singling out teachers who had the courage to come forward, putting the interest of our special education students ahead of concerns of reprisals.

Be assured reports of any type of reprisal against any teacher who we asked to provide us with instances of adverse actions directed toward our students with disabilities will be forwarded to NYSED, made public and not go unchallenged. We would expect that your administrators would be directed that they not engage in any retaliatory actions against those teachers who cared enough for special education students to come forward.

Please be advised that although only a few schools and practices were delineated in our complaint, many more schools and District procedures are involved. Indeed as of yesterday, special education students were again disadvantaged due to the lack of substitute teachers. We stand ready to institute a new complaint, should the entire special education program and structure not be addressed and corrected. As a former special education teacher, how anyone who has experience teaching and working with handicapped students could allow this to happen, is beyond me.

Encl. 1
PR:su

RECEIVED MAY 10 2011



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY,
NY 12234

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OFFICE OF P-12 EDUCATION: Office of Special Education
SPECIAL EDUCATION QUALITY ASSURANCE
WESTERN REGIONAL OFFICE
2A Richmond Avenue • Batavia, NY 14020
www.p12.nysed.gov

Telephone: (585) 344-2002 Fax: (585) 344-2422

May 6, 2011

Mr. Philip Rumore
271 Porter Ave.
Buffalo, NY 14201

Dr. James Williams
Superintendent
Buffalo Public Schools
801 City Hall
Buffalo, NY 14202

Dear Mr. Rumore and Dr. Williams:

The New York State Education Department (NYSED) has completed its investigation of the complaint filed by Mr. Rumore on March 9, 2011, alleging Buffalo Public Schools has violated federal and State laws and regulations pertaining to the education of students with disabilities, ages three to twenty-one.

Enclosed is NYSED's written final decision that addresses each allegation in the State complaint; contains findings of fact and conclusions; and, sets forth the reasons for the final decision. Due to the systemic nature of the sustained allegations, the District must take the corrective actions in the enclosed compliance assurance plan to ensure the appropriate future provision of services for all students with disabilities.

If you would like additional information on State complaint procedures, please visit <http://www.p12.nysed.gov/specialed/quality/complaintqa.htm>. If there are any questions regarding NYSED's decision in this matter, please contact me at the telephone number above.

Sincerely,

Regional Associate

Enclosure

c: Jacqueline Bumbalo
Christopher Suriano
Barbara Trunzo
Will Keresztes

State Complaint against: Buffalo Public Schools

Complainant: Mr. Philip Rumore

Received: March 9, 2011

Allegation 1:

Buffalo Public Schools did not provide students with disabilities the programs and services recommended in their individualized education programs (IEPs).

Citation Language

200.6(a)(2) A student with a disability shall be provided the special education specified on the student's IEP to be necessary to meet the student's unique needs.

Statements of Fact:

- Students with disabilities at PS 30, 37, 61, and 66 did not receive the integrated co-teaching (ICT) service recommended in their IEPs when their special education teachers were reassigned to serve as substitutes for absent teachers.
- Students with disabilities at PS 45, 72 and 80 did not receive their ICT services on specific dates when special education teachers were absent and no substitute was provided.
- Students with disabilities at PS 72 did not receive ICT service in accordance with their IEPs. Specifically, ICT in social studies and science were not provided due to insufficient staffing.
- The practice described by the PS 45 Principal for scheduling ICT and the schedule submitted by the District demonstrate inadequate scheduling of staff to fully implement IEP services. At a minimum, the documentation indicates that this practice resulted in two 1st grade students with disabilities not receiving the ICT service recommended in their IEPs.

Conclusions and Reasons:

This Office finds that the administrative practices within schools for assigning substitutes to cover teacher absences, staffing and scheduling ICT services resulted in a failure to provide the special education specified on IEPs as required by paragraph 200.6(a)(2) of the *Regulations of the Commissioner of Education*. Specifically, some students did not receive all of their ICT services when their special education teacher was reassigned as a substitute and/or inadequate staffing/scheduling led to an inability to fully implement IEPs.

Allegation 1 Status: Sustained

Allegation 2:

Buffalo Public Schools administrative policies, practices, and/or procedures limit the availability of special education programs and services to students with disabilities.

Citation**Language**

200.6

Continuum of Services

Statements of Fact:

- The District implemented a practice of allowing central office administrators to influence or determine potential placements for individual students outside of the CSE process; specifically, CSEs were required to request, through central office special education administrators, more restrictive placements for students in advance of CSE meetings.
- The District policy submitted to this Office regarding the provision of specialized reading instruction creates opportunities for limiting student access to special education reading instruction. Specifically, the District limited the appropriate programs and services for students with disabilities at PS 39 when the Principal directed a teacher to amend the IEPs of students by removing the ICT reading recommendation without consideration of individual student needs. The Principal indicated this decision was in part based on the District's policy established in a September 10, 2010 memo.
- The District limited program options available to students with specific disability classifications; specifically, the District would not allow students with speech or language impairment (SLI) classification to receive programs or services other than related services unless their disability classification was also changed. If a student with a SLI classification required services other than related services, the student's disability classification was changed.
- The District limited students' access to programs and services, including the amendment of student IEPs to reflect programs and services available within the building. Specifically, the Principal of PS 39 directed a teacher to amend the IEPs of students by removing the ICT reading recommendation without consideration of individual student needs and at PS 197 students' IEPs were amended to reflect the availability of additional ICT staff.

Conclusions and Reasons:

This Office finds that District policies, practices, and/or procedures limit the ability of CSEs to recommend for students with disabilities programs and services from the continuum of services outlined in section 200.6 of the Regulations of the Commissioner of Education. The District employed a policy or practice of: requiring building level CSEs to request more restrictive placements through central office administrators; limiting access to specially-designed reading instruction by a special education teacher, as evidenced at PS 39; limiting services to students based on their disability

Allegation 3:

Buffalo Public Schools did not provide instruction by appropriately certified individuals to students with disabilities at PS 197.

<u>Citation</u>	<u>Language</u>
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200.6(b)(4)	Special education instruction shall be provided by individuals appropriately certified or licensed pursuant to Part 80 of this Title.
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Statements of Fact:

- There was one instance of a long term teacher absence among special education teachers at PS197 during the period 3/9/2010 to 3/9/2011. From 10/30/2010 to 3/17/2011 (82 school days), a special education teacher was absent and one individual who was not certified in special education was assigned to serve as the substitute for the duration of the teacher's absence.

Conclusions and Reasons:

This Office finds that the District did not provide instruction by appropriately certified individuals to students with disabilities at PS 197 in accordance with paragraph 200.6(b)(4) of the *Regulations of the Commissioner of Education*. Specifically, an individual who was not certified to teach special education served in excess of 40 days as the substitute for a special education teacher who was on a long term absence during the 2010-2011 school year.

Allegation 3 Status: Sustained

**Compliance Assurance Plan
Buffalo Public Schools 5/6/2011**

Allegation 1 **Citation 200.6(a)(2)** **Due Date 7/15/2011**

Required Corrective Action:

The District will provide students with disabilities the programs and services specified on their IEPs.

By 6/15/2011, the District will provide this Office with administrative procedures regarding the assignment of substitute teachers. These procedures will minimally include how the District will ensure students with disabilities are provided all their ICT service when schools do not have sufficient numbers of substitute teachers.

By 6/30/2011, the District will submit documentation of the dissemination of the procedures to the appropriate District and building level staff. This documentation will minimally include signed assurances from all community superintendents and building principals.

Beginning on 9/1/2011, each school in the District will maintain documentation of the assignment of substitute teachers to ensure students with disabilities receive their IEP programs and services when their special education teacher is reassigned to cover for another teacher or is absent. The documentation must include a list of dates of all ICT teacher absences and the name of the substitute who covered each teacher's absence. This list will also include any dates on which ICT teachers are reassigned to serve as substitutes for other teachers, as well as a description of the provision of ICT services to each affected student. On 9/30/2011, 11/15/2011, and 12/30/2011 the District will submit the documentation described above for PS 30, 37, 45, 61, 66, 72 and 80, as well as for a representative sample of schools as selected by the Regional Associate.

Allegation 1 **Citation 200.6(a)(2)** **Due Date 10/30/2011**

Required Corrective Action:

The District will ensure students with disabilities at PS 45 and PS 72 receive the programs and services recommended in their IEPs, in accordance with paragraph 200.6(a)(2) of the Regulations of the Commissioner of Education.

By 9/1/2011, the District will submit a list of all ICT teachers at PS 45 and PS 72.

By 10/15/2011, the District will submit the teachers' schedules and students' IEPs for a representative sample of ICT classes selected by the Regional Associate, to demonstrate the provision of ICT services.

Evidence to Verify Compliance:

The RA will verify compliance by a review of the documentation.

Allegation 2

Citation 200.6

Due Date 1/20/2011

Required Corrective Action:

The District must develop procedures to provide students with disabilities appropriate special education programs and services.

By 8/1/2011, the District must submit procedures for:

- the provision of specially designed reading instruction by special education teachers when students' needs require this service;
- any central office oversight of CSEs to develop recommendations for special education programs and services without approval by central office administrators;
- the access by students to necessary services independent of their disability classifications; and,
- the determination of appropriate programs and services if the CSE has recommended a program or service not available within the school, including the amendment of student IEPs outside of the formal CSE meeting process.

These procedures will reflect any revisions to existing procedures that have been identified as restricting students' access to special education programs and services.

By 10/1/2011, the District must submit documentation that central office administrators have disseminated, monitored and ensured the implementation of the above procedures. This documentation will minimally include signed assurances from all special education directors, building principals and building level CSE chairpersons.

Evidence to Verify Compliance:

The RA will verify compliance by a review of the documentation as it pertains to PS 39 and 197, as well as a representative sample of additional schools.

Allegation 3

Citation 200.6(b)(4)

Due Date 11/20/2011

Required Corrective Action:

PS 197 must employ individuals certified to teach special education to substitute for special education teachers who are absent more than 40 days, as required in paragraph 200.6(b)(4) of the *Regulations of the Commissioner of Education*.

By 5/31/2011, PS 197 will submit documentation that the identified long term substitute issue has been rectified.

By 11/15/2011, PS 197 will submit a list of any and all special education teacher absences that exceed 40 days during the period 5/15/2011 and 11/1/2011. The list will include each absent teacher's name, the dates of absence, and the name and certification of all individuals employed as substitute teachers during each absence.

Evidence to Verify Compliance:

The RA will verify compliance by a review of the documentation.