



STATE OF CONNECTICUT  
STATE BOARD OF EDUCATION



November 18, 2020

Andrew Feinstein  
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SENT VIA EMAIL

Re: Greenwich Board of Education Section 10-4b Complaint (October 28, 2020)

Dear Attorney Feinstein:

I am writing in response to your complaint, received October 28, 2020, in which you ask the Connecticut State Board of Education (SBE) to initiate an investigation of the Greenwich Board of Education (Greenwich Board) pursuant to Connecticut General Statutes (C.G.S.) Section 10-4b. Specifically, you allege that (1) the Greenwich Board is not providing federally mandated services as outlined in students' Individualized Education Programs (IEPs); (2) the Greenwich Board is not providing special education programs in the least restrictive environment (LRE); (3) the Greenwich Board has a long history of having reviews and audits of their special education programs by outside agencies, and such alleged failures have denied Greenwich students in need of special education the opportunity to receive a suitable program of educational experiences. I have concluded that I must dismiss your complaint for the reasons set forth below.

Pursuant to the regulations enacted under C.G.S. Section 10-4b, I must determine whether your complaint is substantial under the applicable legal standard, which requires the complaint to allege facts that, if proven, would be sufficient to establish that an educational interest of the state has been violated. Generally, this means that a local or regional board of education has a policy, practice or procedure in place that violates a specific law over which the SBE has jurisdiction. The complaint must contain the following:

- (1) Information indicating that the complainant is an eligible person (that the complainant is a resident or a parent/guardian of a child enrolled in the district);
- (2) A description of prior good faith efforts to resolve the complaint with the board of education, which shall include information that shows that the board of education has taken final action adverse to the complaint or has refused or failed to take any final action relating to the complaint within a reasonable period of time;
- (3) The exact nature of the allegations, including, but not limited to, reference to the provisions of Section 10-4a of the C.G.S. which relate to each such allegation, and to other specific statutory provisions where the complainant alleges that a board of education has failed to comply with mandates in the C.G.S. pertaining to education;
- (4) A clear and concise description of the facts which support each allegation; and

- (5) Other materials or documents containing information which support or clarify the allegations.

Regs. Conn. St. Agencies Section 10-4b-3(c).

First, pursuant to Section 10-4b-3(c) of the Regulations, you must show that the Greenwich Board has taken final action adverse to the complaint or has refused or failed to take any action relating to the complaint within a reasonable period of time. You noted in your complaint that parents have voiced their concerns at Greenwich Board meetings on a variety of issues over several years. You also noted that parents met with Key2ed, a contractor that was secured by the Greenwich Board to perform a review of its special education program. In addition, according to the Greenwich Board Attorney, the Greenwich Board recently contracted with another vendor, the Public Consulting Group (PCG), to investigate the issues raised in the complaint, and to continue the work of Key2ed by conducting a review of the district's special education program, as well as to address the communication issues that appear to be part of the concerns raised in the complaint. Considering that the Greenwich Board is continuing this work with PCG, it appears that it is in the process of addressing the issues raised in your complaint. Therefore, you have not provided a showing that the Greenwich Board has taken final action or failed to take any action related to the complaint. To the contrary, it appears from the information provided by both parties, the Greenwich Board is actively engaged in a review, which you acknowledge will "lead to recommendations for systemic reforms."

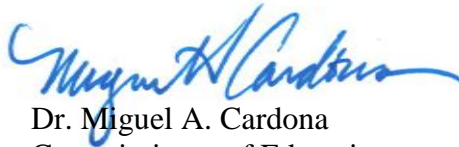
Further, the crux of your complaint appears to center around violations of the federal mandates contained within the IDEA. The IDEA requires each state to have a process for investigating such violations, including a complaint alleging that a public agency has not provided FAPE to an individual child or a group of children in accordance with Part B of the statute. Similar to the 10-4b complaint procedure, a special education complaint requires that the complainant provide evidentiary support for their allegations. The IDEA complaint procedure for filing a complaint that a public agency has violated the IDEA, as you may know, are found in the regulations at 34 CFR Sections 300.151 through 300.153 and appear to be the appropriate venue for investigating the concerns you raised. Notwithstanding the above, the evidence that you have provided in this complaint consist largely of newspaper articles and public comment at Greenwich Board meetings, which is anecdotal in nature and does not show that there actually exists a failure to implement individual students' IEPs or that there exists a pattern and practice in Greenwich of refusing to meet the LRE requirement.

Finally, your contention is that somehow the 10-4b complaint "would be focused on violations of the IDEA and Section 504 of the Rehabilitation Act and would, if substantiated, lead to specific corrective action compensating individual students or groups of students for denial of their rights." However, compensatory education is an IDEA remedy. As I am sure you are aware, the special education hearing and review procedure to bring forth a challenge regarding the local educational agency's provision of special education for any individual child is provided for in C.G.S. Section 10-76h. While the 10-4b complaint procedure does cover a broad range of issues related to the educational interests of the state, C.G.S. Section 10-76h clearly establishes a separate procedure to raise concerns such as those in the complaint filed.

Section 10-4b does not generally provide remedies for individual complainants or focus on compensating individual or groups of students. Rather, it seeks to bring a school district into compliance with its statutory obligations through a plan of action. Specifically, Section 10-4b provides that if the SBE finds that a board of education has failed or is unable to make reasonable provision to implement the educational interests of the state, the SBE shall require “that the board of education engage in a remedial process to develop and implement a plan of action through which compliance may be attained.” Regs. Conn. St. Agencies Section 10-4b-10(b).

Therefore, I have concluded that I must dismiss your complaint in accordance with Section 10-4b-5 of the Regulations of Connecticut State Agencies. I strongly encourage your clients to continue working with the Greenwich Board and PCG to improve communication in the district and to remedy any concerns regarding the provision of special education to your clients.

Sincerely yours,

A handwritten signature in blue ink, reading "Miguel A. Cardona".

Dr. Miguel A. Cardona  
Commissioner of Education

cc: Members, State Board of Education  
Members, Greenwich Board of Education  
Dr. Toni Jones, Greenwich Public Schools