



Massachusetts Department of Elementary and Secondary Education

75 Pleasant St, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3700
TTY: N.E.T. Relay 1-800-439-2370

November 4, 2022

Robert Tremblay, Superintendent
Framingham Public School
19 Flagg Drive
Suite 5
Framingham, MA 01702

Re: Intake PRS 7526
Student Name: [REDACTED]
Letter of Finding

Dear Superintendent Tremblay:

The Massachusetts Department of Elementary and Secondary Education (Department) received a written statement of concern from Kimberly Winslow on June 15, 2022, involving Framingham Public Schools. The PRS investigation included the following:

- Reviewed the statement of concern and supporting documentation.
- Spoke with Counsel for the District regarding the statement of concern.
- Requested a Local Report from the District.
- Reviewed the District's Local Report and supporting documentation submitted to the Department on September 2, 2022.
- Discussed PRS process and the concerns with the complainant.
- Reviewed relevant state and federal laws and regulations.
- Consulted with other Problem Resolution System staff.
- Received and reviewed the complainant's response to the District's Local Report.

The Department's inquiries determined noncompliance, and we are advising the District now of this finding, as well as of the required corrective action. The concerns included in the signed statement, a summary of our findings and required corrective actions follow.

CONCERNS AND FINDINGS

PRS requested that you report on the following concerns and any systemic occurrences of them:

1. The complainant alleged the District did not make reasonable efforts to obtain parental eqpugpv'vq'vj g'uwwf gpw'u'vj tgg-year reevaluation and did not provide for a three-year reevaluation within the timelines. The complainant alleged noncompliance with 603 CMR 28.04(3) which states:

Annual reviews and three-year reevaluations. The school district shall review the IEPs and the progress of each eligible student at least annually. Additionally, every three years, or sooner, if necessary, the school district shall, with parental consent, conduct a full three-year reevaluation consistent with the requirements of federal law.

And

34 CFR 300.300(c)(5):

To meet the reasonable efforts requirement in paragraphs (a)(1)(iii), (a)(2)(i), (b)(2), and (c)(2)(i) of this section, the public agency must document its attempts to obtain parental consent using the procedures in § 300.322(d).

And 34 CFR 300.303(a)(2):

(a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311 -

(1) If the public agency determines that the educational or related ugtxlegau needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(2) If the child's parent or teacher requests a reevaluation.

2. The complainant alleged that the District did not complete vj g'uwwf gpw'u re-evaluation assessments within 30 school working days after receipt of the r ctgpw'u'eqpugpv'vq'tg-evaluate. The complainant alleged noncompliance with 603 CMR 28.05(1) which states:

(1) Convening the Team. Within 45 school working days after receipt of a parent's written consent to an initial evaluation or reevaluation, the school district shall: provide an evaluation; convene a Team meeting to review the evaluation data, determine whether the student requires special education and, if required, develop an IEP in accordance with state and federal laws; and provide the parents with two copies of the proposed IEP and proposed placement, except that the proposal of placement may be delayed

according to the provisions of 603 CMR 28.06(2)(e); or, if the Team determines that the student is not eligible for special education, the school district shall send a written explanation of the finding that the student is not eligible. The evaluation assessments shall be completed within 30 school working days after receipt of parental consent for evaluation. Summaries of such assessments shall be completed so as to ensure their availability to parents at least two days prior to the Team meeting. If consent is received within 30 to 45 school working days before the end of the school year, the school district shall ensure that a Team meeting is scheduled so as to allow for the provision of a proposed IEP or written notice of the finding that the student is not eligible no later than 14 days after the end of the school year.

3. The complainant alleged the District did not convene the IEP Team within 45 school working days after receipt of the request to evaluate. The complainant alleged the District failed to comply with 603 CMR 28.05(1), as noted above.
4. The complainant alleged the District did not provide sufficient notice of the re-scheduled three-year reevaluation to ensure parents had the opportunity to attend the IEP Team meeting and did not schedule the meeting at a mutually agreed upon time. The complainant alleged noncompliance with 34 CFR 300.322(a):

*(a) **Public agency responsibility - general.** Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including -*

(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

Investigation

On September 2, 2022, the District submitted its Local Report (Report) to the Department. The Report included:

- A. A narrative description addressing each specific allegation.
- B. A copy of the notice(s) (N1) and evaluation consent forms(s) (N1A) sent to the parent(s) regarding the three-year reevaluation.
- C. A copy of the evaluation summaries completed by the District.
- D. The IEP Team meeting notice(s) (N3) sent to the parent(s) to ensure parent participation.
- E. The IEP Team meeting notice (N3) and attendance sheet (N3A) from the IEP three-year reevaluation Team meeting.
- F. All correspondence and communications relevant to the specific allegations, such as emails and telephone logs.

[REDACTED]

[REDACTED]

Allegation 1: Three-year Evaluation timeline

Relative to the allegation that the District failed to make reasonable efforts to obtain parental eqpugpv'vq"vj g'uwwf gpwau'vj tgg-year reevaluation and did not provide for a three-year re-evaluation within the timelines, the Department reviewed tj g'uwwf gpwau'r ctvcm{ "ci tggf "vr qp"KGR."f cvgf [REDACTED]. The Department reviewed this partially agreed upon IEP as it stated that the uwwf gpwau'pgzv'uej gf wrgf "vj tgg-year evaluation was to be completed by [REDACTED]

In its narrative response to the allegation, the District reported it mailed a District Notice of Proposed Action (N1) to the parent on [REDACTED] and this [REDACTED] notice included an Evaluation Consent Form. The Department notes that the District Evaluation Coordinator, in an [REDACTED], go ckl'vq"vj g'r ctgpvf gvcku"vj g'F kml'vau'r tqegf wgu and informs the parent that the student, ðku f wghqt [REDACTED] "tggxcnvcvqp [REDACTED]. If we do not get a parent signature for an upcoming reevaluation, we send additional consents home in the mail and or email. In addition, liaisons will at times follow up with families to get the status of unsigned consents.ö

The Department notes that the District asserted that it mailed the parent an Evaluation Consent Form on [REDACTED] and emailed the parent, on [REDACTED] "vj cv'vj g'uwwf gpwau'vj tgg-year special education evaluations were due [REDACTED]. Prior to this, the Department notes that there is no documentation evidencing that the District conducted any follow-up to its [REDACTED] mailing to the parent.

Subsequent to the District issuing the Notice of Proposed District Action with the Evaluation Consent Form, dated [REDACTED], the District did not provide evidence that efforts were made to contact the parent regarding to obtain consent. showing reasonable efforts were made to qdvckp'r ctgpvcl'eqpugpv'hqt"vj g'uwwf gpwau'vj tgg-year evaluation. Under 300.300(c)(5), the regulation states To meet the reasonable efforts requirement in paragraphs (a)(1)(iii), (a)(2)(i), (b)(2), and (c)(2)(i) of this section, the public agency must document its attempts to obtain parental consent using the procedures in § 300.322(d), which include the following:

- < Detailed records of telephone calls made or attempted and the results of those calls;
- < Copies of correspondence sent to the parents and any responses received; and

- < Detailed records of visits made to the parent's home or place of employment and the results of those visits

In this matter, after sending the notice and consent form on [REDACTED], the District did not provide evidence that it proceeded to follow-up to obtain consent, until the parent contacted the District regarding [REDACTED] 'j g'eqpugpv'hqto 'hqt'vj g'uwwf gpv's re-evaluation on [REDACTED]

The District has not fully complied with 34 CFR 300.300(c)(5) in this matter.

Allegation 2: Evaluation Timeline

Vj g'F gr ctvo gpv'u'tgxky 'qh'a [REDACTED], Notice of District Proposal to Act (N1), submitted d{'dqj 'r ctvku.'ucv'gf 'vj cv'vj g'uwwf gpv'u.'o5-year re-evaluation is being conducted and the team is scheduled to meet for the 3-year re-gxcn'cv'kp'qh'8 B6 1440'"

As part of its Local Report, the District submitted an Evaluation Consent Form signed by the parent on [REDACTED], and is date stamped [REDACTED], as received by the District. The District was obligated to have completed the consented-to evaluations by [REDACTED]; 30 school wotn'kpi 'f c{'u'htqo 'vj g'f cvg'qh't gegk v'qh'vj g'r ctgpv'u'eqpugpv'v'q'gxcn'cv'vj g'uwwf gpv'0'k'ku" review of the Evaluation Consent Form, the Department confirmed the following due dates:

- < Evaluation Due Date [REDACTED]
- < Meeting Due Date: [REDACTED]

In a [REDACTED].'go ck'iltqo 'vj g'F k'utlev'u'Vgco 'Gxcn'cv'kp'Eqqtf k'pcvt'v'q'vj g'uwwf gpv'u' r ctgpv'u.'eqo r n'k'pcpv.'cpf 'eqv'pugv'hqto 'vj g'F k'utlev.'vj g'eqqtf k'pcvt'ucv'gu'vj cv.'oKy tk'kpi 'v'q'rgv'{'qw' know that despite multiple attempts to test [REDACTED] [the student] was nqv'cxck'rdng'hqto 'vgv'kpi o'c'p'f " 'vj cv'cu'c't'guwv.'vj g'uwwf gpv'u'KGR'Vgco 'y kn'o'p'ggf 'o qtg'ko g'v'q'h'k'uj o'c'p'f 'vj cv'vj g'F k'utlev' y q'w'f 'h'k'ng'v'q.'o't'guej gf w'rg'vj g'Tggxcn'cv'kp'KGR'O ggv'kpi 'hqto [REDACTED] Please confirm if you are available to meet at this time and if you would like to meet in-person or xk'wcm' o' "

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- █ [REDACTED]
- █ [REDACTED]

█ [REDACTED]

- █ [REDACTED]
- █ [REDACTED]

█ [REDACTED]

- █ [REDACTED]
- █ [REDACTED]

█ [REDACTED]

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

The District submitted copies of those evaluations conducted for the student's three-year evaluation. The Department's review of these evaluations determined the following, student testing dates:

- [REDACTED] Additional testing dates: [REDACTED]
- [REDACTED] Additional testing date: [REDACTED]

The District was in receipt of the parent's consent to conduct the student's three-year evaluations on [REDACTED]. The District was obligated to have completed the consented-to evaluations by [REDACTED]; thirty (30) school working days from the date of receipt of consent to evaluate the student. The Department recognizes that student dysregulation affected the student's participation in academic evaluation in this manner. Nonetheless the timeline is mandated, and evaluations were required to be completed within 30 school-working days after receipt of parental consent for evaluation; [REDACTED]. **The District did fully to comply with 603 CMR 28.05(1) in this matter, by failing to complete the evaluations within 30 school-working days.**

█ [REDACTED]

█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]

█ [REDACTED]
█ [REDACTED]
█ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CORRECTIVE ACTION THAT MUST BE IMPLEMENTED

1. To ensure compliance with *34 CFR 300.300(c)(5)*, the District must develop a tracking system that includes due dates of student three-year evaluations and documents the attempts made to procure parent consent. Please provide the Department with a copy of the tracking system and the title of those District staff members responsible for the use of the system.
2. The District must provide training to those District staff members responsible for the implementation of its tracking system. Please provide the Department with the name and title of training participants and any training materials used for training.
3. The District must send a memorandum to District evaluators and the mandated timelines to ensure compliance with *603 CMR 28.05(1)*. Please provide the Department a copy of the memorandum that includes the name of all recipients.

Please provide the Department with the required Corrective Action Report pursuant to these findings **no later than December 2, 2022**. A standard response form is enclosed for your use in responding to this request. **A copy of your Report must be sent to the person who registered this complaint.**

Also note that for matters related to special education the parties may seek mediation and/or a hearing through the Bureau of Special Education Appeals (BSEA) on the same issues addressed in this letter. Such a hearing, however, is a new proceeding and is not for the purposes of reviewing the Department’s decision in this matter. Any order or decision issued by the BSEA on the issues raised in this complaint would be binding.

I would be pleased to provide further clarification of all information and requirements noted above if you find it necessary. Please contact me at Rhonda.Mojkowski@mass.gov.

Sincerely,

Rhonda Mojkowski, PRS Specialist
Problem Resolution System Office

Dean Paolillo, PRS Supervisor
Supervisor, Problem Resolution System Office

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Enclosures: Response Form

**MASSACHUSETTS DEPARTMENT OF
ELEMENTARY AND SECONDARY EDUCATION**

Problem Resolution System

School District: Framingham Public Schools

**CORRECTIVE ACTION REPORT
In Response to Intake PRS 7526**

Name of Student: [REDACTED]

Response Prepared by: _____ Date: _____

The Corrective Action Report **must include a statement of assurance of the steps taken, or to be taken, to remedy the identified noncompliance issues**, any plan of compensatory services offered, together with completion date(s), persons responsible and copies of information documenting implementation of the Corrective Action.

A copy of this Corrective Action Report must be sent to the person registering this complaint.

The District's Corrective Action Report was sent to the complainant on (date) _____

Page ___ of ___