



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

OFFICE OF P-12 EDUCATION: Office of Special Education
ASSISTANT COMMISSIONER
Room 301M EB, 89 Washington Avenue • Albany, NY 12234
www.p12.nysed.gov/specialed/

Telephone (518) 402-3353
Fax: (518) 402-3534

RECEIVED

JAN - 2 2013

SUPERINTENDENT'S OFFICE
EAST RAMAPO CSD

December 19, 2012

Dr. Joel Klein
Superintendent
East Ramapo Central School District
105 South Madison Avenue
Spring Valley, New York 10977

Dear Dr. Klein:

On July 31, 2012, staff from the New York State Education Department (NYSED) Hudson Valley Regional Office of Special Education Quality Assurance (SEQA) conducted an on-site follow-up monitoring review of the East Ramapo Central School District (CSD). The monitoring review was conducted to determine if the District had appropriately changed practices to correct noncompliance, as identified during the April 2010 and February 2012 special education monitoring reviews, relating to the placement of students with disabilities in private schools when appropriate placements were available in public facilities. Following is a summary of the findings from this monitoring review.

Least Restrictive Environment (LRE)

The East Ramapo CSD failed to produce documentation to verify that the District has corrected the outstanding noncompliance from either of the above-mentioned special education monitoring reviews. The student records were found to continue to lack the following documentation as required in section 200.6(j)(1) of the Regulations of the Commissioner of Education:

- Documentation of efforts to place the students in public facilities and the outcomes of those efforts;
- Documentation of all efforts to enable the students to benefit from instruction in less restrictive settings using support services and supplementary aids and special education services; and
- Detailed evidence of the students' lack of progress in previous less restrictive programs and placements or a statement of reasons that such evidence is not available.

As the East Ramapo CSD has failed to resolve the previously identified noncompliance stemming from the April 2010 and February 2012 monitoring reviews by the due date in the resulting compliance assurance plans (CAP), and because the District has not corrected its practices as evidenced in the July 2012 monitoring review, the East Ramapo CSD remains under the previously ordered enforcement action for submitting applications for State reimbursement for private school placements at Rockland Institute for Special Education (RISE), the Community School, and Woods Services to the NYSED Office of Special Education for the 2012-13 and 2013-14 school years.

IEP Implementation

NYSED finds that the East Ramapo CSD is in violation of 8 NYCRR §200.4(e), which requires the board of education to implement the recommendation of the CSE. Upon review of minutes from 21 meetings between District administration and parents, which the East Ramapo CSD refers to as "Resolution Meetings," NYSED has identified patterns and practices in which the District is engaging that are inconsistent with both federal and New York State law and regulation governing the education of students with disabilities as summarized below:

- NYSED reviewed the results of the 21 Resolution Meetings conducted between June 5, 2012 and September 6, 2012. Twelve of the 21 Resolution Meetings were held on June 5, 2012.
- An East Ramapo CSD Board of Education (BOE) representative scheduled and conducted these 21 Resolution Meetings having only received a letter from the parents stating that they disagreed with the CSE placement recommendation and were requesting a Resolution Meeting.
- In all 21 Resolution Meeting cases, the original CSE recommendation was for a public facility (15 – District special class, 5 – BOCES special class and 1 – Kiryas Joel UFSD bilingual special class).
- In 14 of 21 Resolution Meeting cases, the Resolution Meeting decision was for East Ramapo CSD to place the student in a private school program (11 – RISE; 1 – HASC; 1 – The Community School; and 1 – The Forum School).
- In 6 of 21 Resolution Meeting cases, the Resolution Meeting decision was for East Ramapo CSD to place the student at the Kiryas Joel UFSD.
- In 14 of 21 Resolution Meeting cases, justification for the Resolution Meeting decision was based on the student's need for a Yiddish bilingual special education program.
- In 9 of 11 Resolution Meeting cases where the decision was made to place the student at RISE, justification for the Resolution Meeting decision was based on the student's need for a Yiddish bilingual special education program.

- In 5 of 6 Resolution Meeting cases where the decision was made to place the student at the Kiryas Joel UFSD, justification for the Resolution Meeting decision was based on the student's need for a Yiddish bilingual special education program.

NYSED finds that the District's practice of routinely allowing one District representative to unilaterally determine the placement for students with disabilities is inconsistent with federal and State law and regulations that require a District's Committee on Special Education (CSE) to recommend a placement in the least restrictive environment (LRE). In accordance with LRE requirements, the CSE must recommend a public school program if it can provide the special education needed by the student. Unless the student's IEP specifically requires a different placement based on the nature or severity of the student's disability, the student must be educated in the school he or she would have attended if not disabled. Although the District CSE and the parent may otherwise agree to another placement, the District may not establish a practice by which it allows one District representative to circumvent or overturn CSE decisions. State law further limits the board of education's authority in this regard, establishing that in the event a board of education disagrees with the recommendation of the CSE, it may remand the recommendation back to the CSE or it may establish a second CSE to develop an IEP for the student. The process outlined in law and regulation is not being followed at East Ramapo. Additionally, a parent has the right to request another CSE meeting or engage in mediation pursuant to 8 NYCRR §200.5(h) or to initiate an impartial hearing and engage in a resolution session pursuant to 8 NYCRR §200.5(j)(2) in the effort to resolve disagreements with the CSE regarding the identification, evaluation or placement of their child. While the District has the authority to enter into settlement agreements with parents on matters in dispute, East Ramapo's practices demonstrate a clear intent and pattern to circumvent IDEA and remove the IEP decision-making process from the CSE.

Pattern of Placements in Separate, Out-of-District Programs

NYSED finds that East Ramapo has a pattern of placing students in separate, out-of-district programs for the intended purpose of providing students with Yiddish bilingual special education programs when, in fact, these same students were not identified as English Language Learners (ELL) consistent with the requirements of Part 154 of the Regulations of the Commissioner and when the IEPs of these students indicated that the students did not have bilingual needs that relate to the students' IEPs and the students were recommended for placements in public school programs by the CSE [8 NYCRR Part 154 and §200.4(d)(3)]. Federal and State regulations require that the CSE consider the language needs of the student with limited English proficiency, as such needs relate to the student's IEP. However, in 14 of the 21 Resolution Meeting cases, justification for the Resolution Meeting decision was based on the students' "need" for a Yiddish bilingual special education program, while only two IEPs indicated that the students needed a special education service to address his/her language needs. One IEP identified the student as ELL, but indicated that the student did not have language needs as they relate to the IEP, and 11 IEPs indicated the students were not ELL. Further, there were no other references on the IEPs regarding Yiddish/ELL or the need for bilingual services or

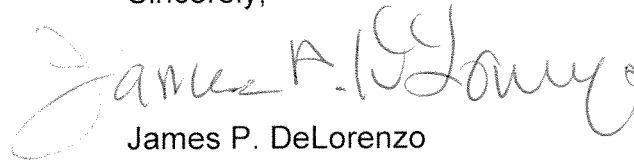
evaluations. In addition, our records show that none of these 14 students were identified as ELL pursuant to the requirements of Part 154 of the Regulations of the Commissioner of Education. In conclusion, East Ramapo CSD's pattern of placing students in out-of-district programs for the purposes of providing a bilingual Yiddish program for the students, even when such students are not identified as ELL and the CSE has indicated on the IEPs that the students do not have a need for bilingual special education services and that their IEPs could be implemented in less restrictive settings, is inconsistent with IDEA.

Required Actions

1. For the 2012-13 and 2013-14 school years, the East Ramapo CSD must continue the process previously ordered as an enforcement action for submitting paper applications for approval of State reimbursement for private school placements at Rockland Institute for Special Education (RISE), the Community School, and Woods Services to the NYSED Office of Special Education. The District must submit all applications for all students for whom it publicly funds such placements.
2. The East Ramapo CSD must immediately cease and desist its practice of routinely allowing one District representative to unilaterally determine the placement for students with disabilities and override CSE LRE placement recommendations. If the District is attempting to resolve a disagreement between a parent and the CSE, it must use the dispute resolution processes established in federal and State law and regulation. When settling a dispute, the District must also ensure that it is meeting its federally mandated responsibility that students with disabilities are receiving a free and appropriate public education in the LRE, in consideration of the nature and severity of the student's disability. Further, the District must ensure that the Board of Education is meeting its responsibility to implement the placement recommendations of the CSE in a timely manner consistent with the requirements in section 200.4(e) of the Regulations of the Commissioner of Education.
3. The East Ramapo CSE must review the IEPs of all students who have been placed in a public or private out-of-district program for the primary purpose of providing the students with Yiddish programs and submit a plan and timeline for developing in-district programs to meet the needs of such students, as appropriate.
4. The East Ramapo CSD must post the enclosed Notice to the Community for 60 days on the announcement section of its website.

The CAP for the July 2012 monitoring review, the CAP status reports for the April 2010 and February 2012 monitoring reviews and the Notice to the Community are attached to this report. The monitoring review final report is a public document and must be made available, in its entirety, upon request. You may contact Sean Dwyer 518-486-6366 if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "James P. DeLorenzo". The signature is fluid and cursive, with the first name "James" being the most prominent part.

James P. DeLorenzo

Enclosures

c: Ken Slentz
Jacqueline Bumbalo
Sean Dwyer
Nancy Oskow-Schoenbrod
Mary Jean Marsico
East Ramapo CSD Board of Education
Arthur Jakubowitz
Elizabeth Cohen



OFFICE OF P-12 EDUCATION: Office of Special Education
SPECIAL EDUCATION QUALITY ASSURANCE
HUDSON VALLEY REGIONAL OFFICE
Room 309 EB, 89 Washington Avenue • Albany, NY 12234
www.p12.nysed.gov/specialed

Telephone (518) 473-1185 Fax: (518) 402-3582

Notice to the East Ramapo Central School District Community
Regarding the Result of a Finding of Continuing Noncompliance
December 2012

On July 31, 2012, staff from the New York State Education Department (NYSED) Hudson Valley Regional Office of Special Education Quality Assurance (SEQA) conducted an on-site follow-up monitoring review of the East Ramapo Central School District (CSD). The monitoring review was conducted to determine if the District had appropriately changed practices to correct noncompliance, as identified during the April 2010 and February 2012 special education monitoring reviews, relating to the placement of students with disabilities in private schools when appropriate placements were available in public facilities. The East Ramapo CSD failed to produce documentation to verify that the District has corrected the outstanding noncompliance from either of the above mentioned special education monitoring reviews. The student records were found to continue to lack the following documentation as required in section 200.6(j)(1) of the Regulations of the Commissioner of Education:

- Documentation of efforts to place the students in public facilities and the outcomes of those efforts;
- Documentation of all efforts to enable the students to benefit from instruction in less restrictive settings using support services and supplementary aids and special education services; and
- Detailed evidence of the students' lack of progress in previous less restrictive programs and placements or a statement of reasons that such evidence is not available.

As the East Ramapo CSD has failed to resolve the previously identified noncompliance stemming from the April 2010 and February 2012 monitoring reviews by the due date in the resulting compliance assurance plans (CAP) and because the District has not corrected its practices as evidenced in the July 2012 monitoring review, the District will continue to be under enforcement action and must submit applications for State reimbursement for private school placements to the NYSED Office of Special Education for the 2012-2013 and 2013-2014 school years.

In addition, upon review of minutes from 21 meetings between District administration and parents, which the East Ramapo CSD refers to as "Resolution Meetings," NYSED has identified patterns and practices in which the District is engaging that are inconsistent with both federal and New York State law and regulation governing the education of students with disabilities. NYSED finds that the District's pattern and practice of routinely allowing one District representative to routinely override committee on special education (CSE) placement recommendations and to unilaterally determine the placement for students with disabilities is inconsistent with federal and State law and regulations that require a District's CSE to recommend a placement in the least restrictive

environment (LRE). In accordance with LRE requirements, the CSE must recommend a public school program if it can provide the special education needed by the student. Unless the student's individualized education program (IEP) specifically requires a different placement, based on the nature or severity of the student's disability, the student must be educated in the school he or she would have attended if not disabled. East Ramapo's practices demonstrate a clear intent and pattern to circumvent the Individuals with Disabilities Education Act (IDEA) and remove the IEP decision-making process from the CSE.

Furthermore, NYSED finds that East Ramapo has a pattern of placing students in separate, out-of-district programs for the intended purpose of providing students with Yiddish bilingual special education programs when, in fact, these same students were not identified as English Language Learners (ELL) consistent with the requirements of Part 154 of the Regulations of the Commissioner and when the IEPs of these students indicated that the students did not have bilingual needs that relate to the students' IEPs and the students were originally recommended for placements in East Ramapo and BOCES public school programs by the CSE.

NYSED has required the East Ramapo CSD to post this Notice to the Community for 60 days on the announcement section of the District's website to inform the community of the District's continuing noncompliance, the potential loss to the school district of State reimbursement and of the continuing efforts of NYSED through enforcement and corrective actions to address the noncompliant practices of the District affecting the placement of students with disabilities.

Compliance Assurance Plan Status Report

East Ramapo CSD (Spring Valley)

Monitoring Review 2009-2010

Final Report Issued August 27, 2010

Citation	Required Corrective Action	Due Date
200.6(j)(1)	All applications for State reimbursement, submitted to this office as outlined in the monitoring report, must be consistent with the right to placement in the least restrictive environment.	07/01/2011
	Verification of Compliance	
	All private school placements will be consistent with the right to placement in the least restrictive environment, as evidenced by documentation in the students' records.	

Special Education Quality Assurance Monitoring Review Compliance Assurance Plan

Institution Name: East Ramapo CSD (spring Valley)

School Year: 2011-2012

Regulatory Citation	Description of Noncompliance	Required Corrective Action
200.6(j)(1)	<p>Based on 20 student records reviewed on February 28-29, 2012, 11 of the records indicated that the students were placed by the District in private schools, when appropriate placements were available in public facilities or where there was a lack of evidence documenting the placements as being in the least restrictive environment based on the individual needs of the students. Specifically, the 11 student records reviewed were found to lack the following documentation:</p> <ul style="list-style-type: none"> • documentation of efforts to place the students in public facilities and the outcomes of those efforts; • documentation of all efforts to enable the students to benefit from instruction in less restrictive settings using support services and supplementary aids and special education services; and • detailed evidence of the students' lack of progress in previous less restrictive programs and placements or a statement of reasons that such evidence is not available. 	<p>The committee on special education (CSE) will review and, if appropriate, revise the placement recommendation of the 11 identified students.</p>
		Verification of Compliance
		In order to verify compliance, the placement recommendation of the 11 identified students will be consistent with the right to placement in the least restrictive environment, as evidenced by documentation in the students' records.

Special Education Quality Assurance Monitoring Review Compliance Assurance Plan

Institution Name: East Ramapo Central School District

School Year: 2012-2013

Regulatory Citation	Description of Noncompliance
200.4(d)(4)(i) 200.4(e)(1)	Upon review of the outcomes of 21 "Resolution Meetings" that occurred between June 5, 2012 and September 6, 2012, it was determined that the East Ramapo CSD has a pattern and practice of changing the placement recommendation of the CSE inconsistent with the requirements in State law and regulation. Specifically, a pattern of decision making exists where one individual is authorized to supersede the placement recommendations of the CSE, thereby circumventing the CSE process and overturning the Committee's recommendation.
Due Date	Required Corrective Action
05/31/2013	The District must immediately cease and desist its practice of routinely allowing one District representative to unilaterally determine the placement for students with disabilities and override the CSE LRE placement recommendations. In addition, the District must ensure that CSE recommendations shall be provided to the Board of Education (BOE) within 60 school days of receipt of consent to evaluate or 60 school days of referral for review. The BOE shall arrange for the CSE's recommended programs and services or remand the recommendation back to the CSE with a statement of the BOE's objections or concerns and a request that a timely meeting be held to review and consider such objections or concerns.
	Verification of Compliance
	In order to verify compliance, the Regional Associate will select a random sample of 20 students with disabilities who are placed in out-of-district programs by the District for the 2013-14 school year and review the student records to determine if the District has fully implemented the corrective action and is no longer overturning the CSE placement recommendation.

Regulatory Citation	Description of Noncompliance
200.6(j)(5)(i)(a)	The East Ramapo CSD is engaged in a pattern and practice of placing students with disabilities in public and private out-of-district programs for the specified purpose of providing the students with Yiddish bilingual special education programs.
Due Date	Required Corrective Action
08/31/2013	The East Ramapo CSE must review and revise, as appropriate, the placement recommendation and IEPs of all students who have been placed in a public or private out-of-district program for the 2012-13 school year for the specified purpose of providing the student with a Yiddish bilingual special education program to consider public options including a newly developed in-district program required under separate corrective action.
	Verification of Compliance
	In order to verify compliance, the Regional Associate will select 20 students records from the sample above in order to verify that the placement recommendation is consistent with the right to placement in the least restrictive environment.

Regulatory Citation	Description of Noncompliance
200.6(j)(5)(i)(b)	The East Ramapo CSD is engaged in a pattern and practice of placing students with disabilities in public and private out-of-district programs for the specified purpose of providing the students with Yiddish bilingual special education programs.
Due Date	Required Corrective Action
08/31/2013	By 5/31/2013, the East Ramapo CSD must submit a plan and timetable for developing, as appropriate, in-district special education programs to meet the needs of the students who have been placed in public and private out-of-district programs for the purpose of providing the students with Yiddish bilingual special education programs. By 8/31/2013, the East Ramapo CSD will have the programs developed for the start of the 2013-14 school year.
	Verification of Compliance
	In order to verify compliance, the Regional Associate will review and approve the submitted plan as well as select 20 student records from the sample above in order to verify that the placement recommendation is consistent with the right to placement in the least restrictive environment.