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FINAL RESOLUTION for State Complaint C-7605-13 against the Kent Intermediate School District, the Thornapple-Kellogg Schools, the Forest Hills Public Schools, the Rockford Public Schools and the East Grand Rapids Public Schools
May 14, 2013

Certified Mail

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In state complaint C-7605-13, filed on April 4, 2013 against the Kent Intermediate School District (ISD), the Thornapple-Kellogg Schools, the Forest Hills Public Schools, the Rockford Public Schools and the East Grand Rapids Public Schools, (complainant) raised the following allegations:

1. Whether the Kent ISD monitored the Thornapple-Kellogg Schools, the Forest Hills Public Schools, the Rockford Public Schools and the East Grand Rapids

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Public Schools to assure compliance regarding identification of students with specific learning disabilities

2. Whether the Thornapple-Kellogg Schools', the Forest Hills Public Schools', the Rockford Public Schools' and the East Grand Rapids Public Schools' policies posted on district websites adversely affected each district's Child Find obligations.

The Michigan Department of Education (MDE) Office of Special Education (OSE) interviewed the following individuals:

- Complainant
- Thornapple-Kellogg Schools
- Thornapple-Kellogg Schools
- Forest Hills Public Schools
- Forest Hills Public Schools
- Rockford Public Schools
- Kent ISD

The OSE reviewed the following documents:

- Kent ISD Pattern of Strengths and Weaknesses Guidelines, dated March 21, 2012
- OSE Michigan Criteria for Determining the Existence of a Specific Learning Disability, dated October, 2010
- OSE Memorandum Requirement to Make Public School District Processes for Determining the Existence of a Specific Learning Disability, 2010
- Thornapple Kellogg Schools Child Study Team Process, undated
- Thornapple Kellogg Schools Part B Strand Report, issued April 2012
- Thornapple Kellogg Schools Part B Strand Report, issued April 2013
- Thornapple-Kellogg Schools Specific Learning Disabilities Guidelines
- Forest Hills Public Schools Part B Strand Report, issued April 2012
- Forest Hills Part B Strand Report, issued April 2013
- Forest Hills Public Schools Elementary Student Assistance Process, dated February 8, 2010
- Forest Hills Public Schools Secondary Student Assistance Process, undated
- Forest Hills Public Schools Student Assistance Teacher Questionnaire, undated
- Forest Hills Public Schools Determination of a Specific Learning Disability, undated
- Rockford Public Schools Kindergarten Tier Decision Making Guidelines, November 2011
- Rockford Public Schools First Grade Classroom Level Action Plan, May 2012
- Rockford Public Schools RtI Tier 1 Fidelity Checklist: K-2, August, 2009

- Rockford Public Schools Meadow Ridge Elementary School Student Assistance Team Procedure, October 2012
- Rockford Public Schools Pyramid of Interventions, undated
- Rockford Public Schools Part B Strand Report, issued April 2012
- Rockford Public Schools Part B Strand Report, issued April, 2013
- Rockford Public Schools District Procedures for Determination of a Specific Learning Disability
- East Grand Rapids Public Schools Part B Strand Report, issued April 2012
- East Grand Rapids Public Schools Part B Strand Report, issued April, 2013
- East Grand Rapids Public Schools Procedures for Determination of a Specific Learning Disability
- OSE Final Resolution for state complaint C-7599-13 dated April 25, 2013

Allegation 1:

Rule 340.1839 of the Michigan Administrative Rules for Special Education (MARSE) requires the MDE to develop monitoring standards and the ISD to monitor the implementation of those standards.

The Kent ISD complaint investigator indicated the ISD monitors districts annually consistent with the Continuous Improvement Monitoring System. Any under- or over-representation of specific learning disability would show up in Compliance Indicator 10, Disproportionate Representation.

The Part B 2012 and 2013 Strand Reports for the Thornapple-Kellogg Schools, the Forest Hills Public Schools, the Rockford Public Schools and the East Grand Rapids Public Schools document that each district participated with the Kent ISD and the OSE in the Continuous Improvement Monitoring System.

The Kent ISD was involved with the Thornapple-Kellogg Schools, the Forest Hills Public Schools, the Rockford Public Schools and the East Grand Rapids Public Schools in the Continuous Improvement Monitoring System and the Kent ISD is compliant with R 340.1839.

Allegation 2:

34 CFR § 300.111 of the federal regulations implementing the Individuals with Disabilities Education Act (IDEA) requires the district to conduct Child Find activities to identify, locate and evaluate students with suspected disabilities.

34 CFR § 300.304(b)(2) requires the district not to use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability.

34 CFR § 300.306(b)(1) requires a student not be determined to be a student with a disability if the determinant factor is lack of appropriate instruction in reading, including the essential components of reading, lack of appropriate instruction in math or limited English proficiency.

34 CFR § 300.306(c)(1)(i) requires that in interpreting the evaluation data for the purpose of determining if a student is a student with a disability and the educational needs of the student, the district must draw on information from a variety of sources including aptitude and achievement tests, parent input and teacher recommendations as well as information about the student's physical condition, social or cultural background and adaptive behavior.

34 CFR § 300.307(b) requires that the district use the state criteria in determining whether a student has a specific learning disability.

34 CFR § 300.308(a) requires the student's general education teacher be a part of the group that determines whether a student has a specific learning disability.

34 CFR § 300.309(a)(1) indicates that the district team including the parent and qualified professionals may determine that a student has a specific learning disability if the student does not achieve adequately for the student's age or to meet state-approved grade-level standards in one or more of the following areas when provided with instruction appropriate for the student's age or state-approved grade level standards: oral expression, listening comprehension, written expression, basic reading skill, reading fluency, reading comprehension, mathematics calculation, mathematics problem solving.

34 CFR § 300.309(a)(2)(ii) indicates that as a part of the determination that a student is a student with a specific learning disability the district team may use a process based on the student exhibiting a pattern of strengths and weaknesses in performance, achievement or both relative to age, state-approved standards or intellectual development that is determined by the group to be relevant to the identification of a specific learning disability using appropriate assessments.

34 CFR § 300.321(a) requires the district to ensure that the individualized education program team for each student with a disability include at a minimum the student's parent, the student's general education teacher, a special education teacher, a representative of the district and an individual who can interpret the instructional implications of evaluation results.

R 340.1713(3)(a) of the Michigan Administrative Rules for Special Education (MARSE) requires the determination of a specific learning disability be based on a

full and individual evaluation by a multidisciplinary evaluation team that includes a general education teacher.

The special education directors of the above-name districts indicated they use patterns of strengths and weaknesses to evaluate eligibility for specific learning disabilities. They also described various interventions each district employs to identify students who are not at grade level or who are not demonstrating satisfactory progress. These interventions assure that students are not found eligible for special education because of a lack of appropriate instruction. These interventions involve staff teams, data collection, assessments and instructional interventions. Regarding finding students eligible for special education with specific learning disabilities the districts use the Kent ISD Pattern of Strengths and Weaknesses Guidelines, do not use any single assessment to determine eligibility, draw on a variety of measures, involve parents, general education teachers and other qualified professionals, and conduct full and individual evaluations by multidisciplinary evaluation teams.

The Thornapple-Kellogg Schools', the Forest Hills Public Schools', the Rockford Public Schools' and the East Grand Rapids Public Schools' posted policies for determining eligibility for special education with a specific learning disability each indicates the district will use a pattern of strengths and weaknesses.

The OSE memorandum, Requirement to Make Public School District Processes for Determining the Existence of a Specific Learning Disability, dated October 2010, requires districts to post policies for determining eligibility for specific learning disability.

The OSE Final Resolution in state complaint C-7599-13 against the East Grand Rapids Public Schools states:

- The complainant's statistical analysis of eligibility rates for special education and for specific learning disability erroneously assumes that correlation implies causation.
- The complainant's speculation that the statistical analysis provides evidence of a deliberate effort to avoid identifying students as eligible with a specific learning disability is flawed.
- The Procedures for Determining the Existence of a Specific Learning Disability meets the requirements of the IDEA and the MARSE.

The OSE requires districts to post their policies for determining specific learning disability. Each policy refers to patterns of strengths and weaknesses. In using the Kent ISD Pattern of Strengths and Weaknesses Guidelines the Thornapple-Kellogg Schools, the Forest Hills Public Schools, the Rockford Public Schools and the East Grand Rapids Public Schools are compliant with the requirements of 34 CFR

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§§ 300.111, 300.304(b)(2), 300.306(b)(1)(c)(1)(i), 300.307(b), 300.308(a), 300.309(a)(1)(2)(ii) and 300.321(a), and R 340.1713(3)(a).

Pursuant to the State of Michigan Record Retention and Disposal Schedule the case file in this matter will be destroyed when it has been inactive (closed) for three years.

If any of the parties has any questions, please contact the case manager,
Any written correspondence should be clearly marked
as pertaining to C-7605-13.

Sincerely,

Office of Special Education
Program Accountability

C: