



## COMPLAINT INVESTIGATION REPORT

**LOCAL EDUCATION AGENCY:** Elwyn SEEDS

**DATE RECEIVED:** April 20, 2010

**DATE OF REPORT:** June 21, 2010

**COMPLAINANTS:**

**NAME:** Kelly Darr Esq., Gabe LaBella Esq., Janet Stotland, Esq.  
**ADDRESS:** 1315 Walnut Street Suite 400  
Philadelphia, PA 19107

**RE:** Early Intervention Complaint against the Pennsylvania Department of Education, the Office of Child Development and Early Learning and Elwyn Seeds

**COMPLAINT:**

The complainant alleges that the Pennsylvania Department of Education's Office of Child Development and Early Learning (OCDEL), and Elwyn have violated the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq., 34 C.F.R. Part 300, the Early Intervention Services Systems Act (Act 212), 11 P.S. § 875-101, et seq., and 22 Pa. Code Chapter 14 by: (1) failing to deliver Early Intervention services to eligible young children in a timely and consistent fashion; (2) failing to provide appropriate remedies for delays and gaps in services to eligible young children; and, (3) failing to provide timely evaluations of eligible young children. The complainants also allege that OCDEL violated the IDEA by: (1) failing to ensure Elwyn's compliance with the IDEA; and, (2) failing to widely disseminate information about the administrative complaint process.

**APPLICABLE REGULATORY AUTHORITY:**

**22 Pa. Code § 14.123(b)** In addition to the requirements incorporated by reference in 34 CFR § 300.301 (relating to initial evaluations), the initial evaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60-calendar days after the agency receives written parental consent for evaluation, except that the calendar days from the day after the last day of the spring school term up to and including the day before the first day of the subsequent fall school term will not be counted.

**22 Pa. Code § 14.123(c)** Parents may request an evaluation at any time, and the request must be in writing. The school entity shall make the permission to evaluate form readily available for that purpose. If a request is made orally to any professional employee or administrator of the school entity, that individual shall provide a copy of the permission to evaluate form to the parents within 10-calendar days of the oral request.

**22 Pa. Code § 14.154(d)(1)** The IEP of each eligible young child shall be implemented as soon as possible, but no later than 14 calendar days after the completion of the IEP.

**34 CFR § 300.151(a)(2)** Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State procedures under §§300.151 through 300.153.

**34 CFR § 300.151(b)** *Remedies for denial of appropriate services.* In resolving a complaint in which the SEA has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority under Part B of the Act, must address—

- (1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and
- (2) Appropriate future provision of services for all children with disabilities.

**34 CFR § 300.323(c)(2)** As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

#### **SOURCES OF INFORMATION:**

The following sources of information were used to complete this Complaint Investigation Report:

##### Documents:

1. Elwyn Problem Solving flowchart with timelines
2. Elwyn Revised PTE cover letter
3. SEEDS Manual Revisions in process
4. SEEDS Manual Final
5. Elwyn calendar for staff
6. Discharge Procedure no show
7. Agenda for Joint Service Coordination Training
8. SC Expansion Procedures
9. Decision tree introduction
10. OT final decision tree
11. PT final decision tree
12. SLP final decision tree
13. Elwyn-SERVICE COORDINATION ASSIGNMENT Reorganization
14. Elwyn-SC parent letter
15. Elwyn SERVICE COORDINATION CONTACT LIST
16. Elwyn-Spanish Speaking Service Coordinators List
17. Coordination of annual report
18. Elwyn-File Transfer Process
19. Elwyn-IEP Packet Form
20. Elwyn-IEP Request Form
21. Elwyn-IEP Scheduling
22. Referral Intake Process revised
23. Failure to find a replacement letter
24. Missing Services letter
25. 1<sup>st</sup> Attendance Letter

26. Beginning Comp Ed Plan letter
27. Completion of Comp Ed Plan letter
28. Original and revised dismissal letter ECSE class
29. Original and revised dismissal letter for community services
30. Revised 09-10 provider contract
31. Elwyn Internal PROCEDURE FOR REQUESTING A CONTRACTOR
32. Provider REQUEST FOR A CONTRACTOR from Elwyn
33. Additional Contractor list
34. Elwyn PROVIDER MONITORING letter
35. Schedule of Monthly Provider Monitoring Visits
36. Elwyn Provider Monitoring reports
37. Elwyn time study form
38. TRAINING list
39. May comp education letter
40. Draft Comp Ed Workflow Process
41. Draft Compensatory Education Tracking Workflow
42. Draft Trend analysis and recruitment and retention plan
43. Child records
44. Session notes
45. Data records of service delivery
46. Permission to Evaluate process and logs
47. Internal Complaint procedures

**Persons Interviewed:**

Kyu Hwang, Elwyn, Executive Director, Early Childhood/Education  
 Bonnie Lundy, Director, Elwyn SEEDS  
 Lisa King, Elwyn, Director of Service Coordination  
 Kim Rankin, Elwyn, Quality Improvement Program Director  
 Rosita Shaw, Elwyn, Director of Clinical Services  
 Christine King, Elwyn, Penn Data Manager  
 Marissa Tabak, Elwyn, Service Coordinator  
 Heidi C., JV's mother  
 Rhonda Miller, Special Needs Coordinator, Hunter Head Start, School District of Phila.  
 Mildred N., Allan O.'s mother  
 Tanya Regli, HUNE, Inc., Outreach Worker  
 Nakida Coleman, Case Manager, Northwestern Human Services  
 Kathy Palermo, Green Tree School, Early Intervention Program Coordinator  
 Liz C., Nyzir B.'s mother  
 Reinaldo Alvares, HUNE, Inc., Outreach Worker  
 Racquel Diaz, Early Intervention Director, COMHAR  
 Linda Diner, Special Education Instructor, COMHAR  
 Valerie Craig, Our Lady of Port Richmond Preschool, Social Worker

**FINDINGS:**

Review of all of the above documents, particularly child records, session notes, data records of service delivery and parent interviews demonstrate that Elwyn did not always deliver Early Intervention services to eligible young children in a timely and consistent fashion. Also, the review established that Elwyn has not always remedied the delays and gaps in services to eligible young children.

Review of Elwyn's Permission to Evaluate process and the logs reflecting timelines for evaluations demonstrates that Elwyn did not always make readily available Permission to Evaluate- Consent forms to families upon request for Early Intervention services.

Review of OCDEL's oversight of Elwyn's compliance determined that when OCDEL identified noncompliance it began a process of regular intense onsite technical assistance and data monitoring and required corrective action from Elwyn in an effort to bring Elwyn into compliance. This was an ongoing process which was not completed by the time this complaint was filed.

Review of OCDEL's dissemination of procedural safeguards information revealed that dissemination was extensive including disseminating *PA Problem Solving in Early Intervention* to all families nonetheless OCDEL accepts and will implement the suggestions of the complainants for additional web postings and revisions of the procedural safeguards manual and related materials.

### **CLOSURE/CORRECTIVE ACTION:**

Elwyn must provide services in accordance with all IEPs developed for children receiving Early Intervention services from Elwyn as required by the Master Agreement and the YY Rider. Elwyn is reminded that the Master Agreement termination provision allows the department to terminate the contract for continuing noncompliance.

1. Elwyn has identified all children since April 2009, who have waited for IEP services, had gaps in IEP services or are currently not receiving IEP services.
2. Within 45 days of this CIR issuance, Elwyn must notify all families identified as waiting for IEP services since April 2009 and inform them that Elwyn will be developing compensatory education plans (or issue monetary reimbursement) for all families that have waited for services.
3. Elwyn will implement all compensatory education plans or monetary reimbursement as soon as each family agrees. OCDEL will monitor this process through its entirety and will ensure the compensatory education plans or monetary reimbursement will be provided as indicated in a timely manner.
4. Elwyn must allow any willing and qualified provider to provide IEP services in any location of Philadelphia beginning July 1, 2010.
5. Elwyn must provide OCDEL an opportunity to review/approve all 2010/11 contracts to ensure all fiscal practices support serving all eligible young children in Philadelphia. Elwyn will also provide OCDEL an opportunity to review/approve Elwyn's contracting process and the utilization of trend analysis data to assure that there are sufficient providers of services across the city.
6. Elwyn must develop a recruitment and retention plan to be approved by OCDEL by July 1, 2010.
7. Elwyn has revised its referral and Permission to Evaluate process. Elwyn must implement the revised process and be in full compliance with 22 Pa Code § 14.123(c) within 20 days of issuance of this report.
8. OCDEL will continue to monitor the data reports and child records to assure timely evaluations and service delivery.
9. Elwyn corrected its family contact process and streamlined the process for managing and resolving parent concerns. OCDEL will continue to monitor the outcomes for resolving family concerns.
10. Elwyn has contacted all major referral sources to alert them of the new referral process and initiated a process for ongoing communication.

11. OCDEL has posted Administrative Complaint information on the PATTAN ODR website.
12. OCDEL, with each reissuance of its publications, has added contact information for The Disability Rights Network
13. OCDEL will develop a cover letter to be attached to the procedure safeguard notice that all families receive as part of the referral process. The letter will reiterate the information in the *Problem Solving in Early Intervention* brochure and will include specifics on filing an administrative complaint.
14. Elwyn's Family Guide to Early Intervention is no longer being distributed.

Completed by:



Mark Ishman, Division Chief Eastern Operations and Monitoring

NOTICE: In accordance with 34 C.F.R. §300.152, this report constitutes the Bureau of Early Intervention Services final decision with regard to the complaint.

If a party to this complaint has new information that was not provided in the course of the complaint investigation, or disagrees with the conclusions or corrective action set forth herein, that party may submit a written request for reconsideration within 15 days of the date of this report. Requests for reconsideration must specify the basis for this request and should be directed to the Office of Child Development and Early Learning, Bureau of Early Intervention Services -Division of Operations and Monitoring, 6<sup>th</sup> Floor 333 Market Street, Harrisburg, PA 17126.

cc: T. Klunk  
M. Cronin  
E. Helling  
S. Cornelius  
K. Hwang