

## COLLIER COUNTY PARENTS SEEKING REFORM

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NAPLES FL 34114

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March 28, 2008

Mr. Roger Mills, Esq.  
Office of Civil Rights, Region IV  
61 Forsyth St. S.W., Suite 19T70  
Atlanta, Ga. 30303

Re: OCR Complaint No.: 04-07-1264

Dear Mr. Mills:

Thank you for providing the summary of your investigative status on the above-captioned OCR Complaint, as outlined in our telephone conferences of March 26<sup>th</sup> and 27<sup>th</sup>.

We were pleased that OCR has completed the investigative aspect of our Complaint process, and found Collier County School Board (CCSB) to be in violation of CFR 34 104.36. We were likewise pleased that you had secured the necessary agency approvals to enter into negotiations with CCSB to correct the violations.

Although witness to CCSB's blatant disregard for procedural safeguards, to include the denial of impartial hearings, we were surprised to learn that CCSB could, and had, refused to enter into negotiations with OCR to implement corrective measures. They have, thereby, indicated both their refusal to acknowledge their violations of CFR 34 104.36, despite OCR's independent findings of fact, and their intention to delay and deny both regulatory compliance and accountability. This has been their well-established pattern as it relates to all federally protected rights (Section 504, ADA, and IDEA) of the disabled children within their care, custody, and control.

We trust OCR's thirty (30) day written notice to CCSB will be forwarded immediately, and the imposed deadline to either accept or reject OCR's negotiation proposal will be closely adhered to. As the OCR Complainants, we are hereby requesting a copy of this written notice, and all future written notices, so that we may monitor the OCR resolution process, as it progresses.

Should CCSB persist in this unreasonable and defiant posture beyond the thirty (30) day deadline, we further trust OCR will move forward expeditiously in the legal compliance filings with the Department of Justice, or through the independent hearing process with the Commerce Department, as you outlined.

Do know that in a March 18, 2008 correspondence to CCSB Superintendent Dr. Thompson (copy enclosed), we presented a challenge to him to demonstrate accountability and leadership in immediately addressing these very real concerns. We compelled him to initiate both the ESE Department audit recommended in the Hinshaw & Culbertson independent report dated July 23, 2007 (which prompted the dismissal of his predecessor for cause), as well as an independent investigation of the Legal Department. We believe these findings will result in the recommended dismissal of School Board Attorney Withers for cause, as well

as ESE Department staff complicit in the discriminatory practices of CCSB. It should certainly provide Dr. Thompson and School Board members the independent information necessary to make informed decisions relative to the OCR resolution process. Perhaps your direct communication with Dr. Thompson would encourage a proactive posture, and lead to an immediate negotiation process within OCR guidelines, for the benefit of the School District's ESE children, whose federally-protected rights otherwise continue to be delayed and denied.

We are concerned that Attorney Withers is now abdicating responsibility as the School Board Attorney, although it was his legal strategy that directly created the federal regulatory violations. He is now very intentionally deferring to the same District employees responsible for these areas of regulatory compliance, until they ultimately reach his desk through the due process filings. We believe CCSB's decision to refuse negotiations with OCR, when found in violation of federal regulations, should come from the Superintendent or School Board level.

To support our recommendations to OCR, we have assembled and enclosed a compilation of independent news reports, documenting this wide-spread pattern of federal regulatory defiance on behalf of CCSB, since the hiring of School Board Attorney Withers. Notable are the continued delays in accountability and regulatory compliance, during protracted complaint processing procedures.

You may find particularly intriguing the February 23, 2006 Naples Daily News article entitled, "Parents file federal complaint against school district". This article outlines Mr. Hughes' first attempt to bring the federal violations of CCSB to OCR's attention, emphasizing the sense of urgency to cease the discriminatory practices of CCSB. That Complaint was summarily dismissed by OCR, because the Hughes family was in Due Process with CCSB. This was at the very time CCSB was, in fact, denying his son's rights to a 504 Due Process Hearing, which you now have confirmed under our current OCR Complaint, two years after the fact!

If ever there was evidence of the need to expedite change in CCBS's federal regulatory compliance, as well as OCR and DOE Complaint processing procedures, this case provides it. OCR, FDOE, and the Superintendent of Schools for CCPS, all summarily dismissed, or placed in abeyance, Mr. Hughes' 2006 OCR Discrimination Complaint, FDOE State Complaint, and FDOE Local Complaint, respectively. The reason cited in the dismissal of all three Complaints was to await the outcome of the Hughes' due process proceedings with CCSB. Yet, CCSB was simultaneously violating federal regulations under CFR 34 104.36, in denying their son's rights to due process! The "wait and see" posture on behalf of OCR and DOE only has merit if the children's federally-protected rights to due process on the local level are truly being respected. When they are not, all recourse under the federal regulations are denied the children and their families.

In the Hughes case, two years later, the child and mother are still residing in Pennsylvania, while the father remains a resident of Collier County, fighting this battle on a local level, simultaneous with the Hughes' Federal lawsuit against CCSB. Since September, 2006, a public school in Chester County, Pennsylvania has been providing their son every educational and related service in dispute with CCSB, as CCSB has been systematically denying the child's federally-protected rights to due process, to have his educational needs even heard in Collier County, Fl. The same is true for the Cannivet child (the other case study in our OCR Complaint), now residing in the state of Illinois, under the exact same set of circumstances.

How much longer must the disabled children of Collier County be discriminated against, as CCSB continually defies federal regulatory compliance, awaiting OCR's intervention? Isn't two years enough!

Respectfully Submitted,

William Hughes

Catherine Cannivet

Patty Caldwell Portenier

CC: Dr. Thompson, Superintendent, CCSB  
CCSB School Board members