



## Disability Rights Connecticut

"Connecticut's protection and advocacy system"

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### EXECUTIVE SUMMARY

From March 2022 to March 2024, the Office of the Child Advocate (“OCA”)<sup>1</sup> and Disability Rights Connecticut (“DRCT”)<sup>2</sup> collaborated on an investigation into High Road Schools, a group of eight state-approved private special education programs (“APSEPS”) in Connecticut owned by Specialized Education Services, Inc. (“SESI”). In conducting this investigation, OCA and DRCT examined the programming provided to students with disabilities placed by their home school district to receive their special education services at High Road schools and the state and local oversight of such programming.

During the 2021-2022 school year there were approximately 316 students eligible for special education services who had Individualized Education Plans (“IEPs”) enrolled at High Road Schools in Connecticut from 38 school districts across the state.

Federal special education law and Title II of the Americans with Disabilities Act (ADA) requires, respectively, that students receive their education and related services in the least restrictive environment (“LRE”) and most integrated setting appropriate to their needs. Placement of a student in an “outplacement” such as High Road Schools may only be considered if there is no reasonable in-district option that can meet the student’s needs. Connecticut currently leads all states in the placement of children with disabilities in “separate schools,” and the majority of these students are children of color.

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<sup>1</sup> **Office of the Child Advocate** The mission of the Office of the Child Advocate (OCA) is to oversee the protection and care of children and to advocate for their well-being. OCA is not an administrator of programs. Rather, the OCA monitors and evaluates public and private agencies that are charged with the protection of children, and reviews state agency policies and procedures to ensure they protect children's rights and promote their best interest. OCA helps to: advocate for children at risk; address public policy issues concerning juvenile justice, child care, foster care, and treatment; review individual cases and investigate complaints; educate and inform the public of laws and services affecting families and children who are placed under state supervision; coach families, concerned citizens, and agencies to "navigate" public service and information systems and advocate for children effectively; review facilities and procedures of public or private institutions or residences where juveniles are placed; and facilitate change by bringing different agencies together to find creative solutions to difficult problems.

<sup>2</sup> **Disability Rights Connecticut's** mission is to advocate, educate, investigate, and pursue legal, administrative, and other appropriate remedies to advance and protect the civil rights of individuals with disabilities to participate equally and fully in all facets of community life in Connecticut. Disability Rights Connecticut provides legal advocacy and rights protection to people of all ages with disabilities. DRCT focuses its legal and other advocacy on a wide range of disability justice issues for Connecticut residents with disabilities. DRCT's services include advocating for the rights of individuals with disabilities on issues including abuse, neglect, discrimination, community integration, forensic mental health, voting, and other rights protection issues. DRCT replaced the Office of Protection & Advocacy for Persons with Disabilities, which was abolished by Connecticut Law as of June 30, 2017, and is now Connecticut's federally mandated Protection and Advocacy System pursuant to the Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. § 10801, *et seq.*, as amended, 42 C.F.R. § 51; the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 15041, *et seq.*, as amended, 45 C.F.R. § 1326; the Protection and Advocacy for Individuals with Traumatic Brain Injury Act, 42 U.S.C. §§ 300d-52, 53, the Protection and Advocacy for Individual Rights Act, 29 U.S.C. §794e.

## **BACKGROUND**

High Road is one of the state’s largest state-approved private special education providers and it primarily serves children from low-income school districts. High Road receives millions of dollars in public funds each year.

- Of the 316 students enrolled at High Road schools during the review period, 80% are boys, and more than 70% are children of color.
- While 38 school districts contracted with High Road during the review period, 80 students came from the Hartford Public Schools—the largest district consumer of High Road services.
- All students enrolled at High Road have an IEP that must be implemented by the High Road Schools pursuant to student-specific contracts with the student’s local school district.
- For the 2021-22 academic year, High Road charged districts a base per student rate that ranged from \$222.89 a day to \$548.16, not including the cost of related services such as social work support (additional \$85.00 per 30 minutes) or 1:1 support (additional \$187.4 per day). Some facilities offered discounted rates to residents in the town in which they are located. Districts also bear the costs of transporting students door to door to High Road School locations.

## **METHODOLOGY**

The joint investigation consisted of more than a dozen site visits to High Road locations across Connecticut, interviews of staff and students, reviews of data and records obtained from SESI, the Connecticut State Department of Education (“CSDE”), and Local Education Agencies (“LEAs”) as well as a review of individual educational files for thirty High Road students. Investigators consulted with educational experts in the development of this Report, including Dr. Michael Powers and his colleagues at The Center for Children with Special Needs, Andrea M. Spencer, Ph.D., Associate Professor, Department of Education, University of Saint Joseph, and Dr. Ross Greene and his colleagues at Lives in the Balance.

## **INVESTIGATORY FINDINGS**

In sum, OCA and DRCT found that many of the students at High Road Schools were grossly underserved both in terms of educational planning and service delivery. The investigation revealed widespread student disengagement and chronic absenteeism across High Road locations, failure to adequately assess and support students’ educational needs through individualized service delivery, and perhaps most alarmingly, gross deficiencies in the number of certified special education teachers and other credentialed educational staff working with children and systemic failure to ensure and/or document that staff had undergone employment checks and criminal and child welfare background checks.

The children at High Road Schools, some as young as five years old, are among the state’s most vulnerable students. OCA/DRCT investigation revealed significant deficiencies with respect to the statutorily required oversight and monitoring by CSDE and the LEAs of services to these students—disproportionately low-income children of color. Additionally, the investigators identified systemic violations of Title II of the ADA, Section 504 of the Rehabilitation Act, and the Individuals with Disabilities Education Act. This Report speaks to urgent system concerns, and OCA/DRCT offer several recommendations to improve service delivery to children and increase local and state oversight

and accountability for ensuring children with disabilities receive the appropriate education they are entitled to under state and federal law. OCA and DRCT investigative findings, as summarized below, fell into four main categories including: staffing, individualized educational programming, LEA monitoring, and CSDE oversight. The recommendations that follow address these findings and show there is a path forward to remediate the deficiencies.

## I. INADEQUATE STAFFING AT HIGH ROAD

OCA and DRCT found numerous gaps in the provision of certified, trained, and qualified staff to deliver special education and related services as required by individual student IEPs, the contracts with LEAs, state standards for operation of an APSEP, and federal law. The findings implicate inadequate local and state oversight of staffing and service delivery for some of the state’s highest need students, who have a civil right to special education under state and federal law.

### Lack of credentialed staff across High Road locations

- Almost half of the teachers employed at High Road for the period OCA/DRCT sought staff data lacked teacher certification from the state of Connecticut.
- Failure to communicate staffing gaps to LEAs despite the company’s contracts with districts to deliver services via credentialed staff consistent with student IEPs.
- Lack of adequate documentation or CSDE approval for multiple individuals purportedly teaching with “durational permits” (an uncertified short-term teaching permit that must be approved by CSDE).
- Heavy reliance on Long-Term Substitute Teachers (uncertified staff), not all of which were appropriately credentialed and approved by CSDE.

*During an early 2022 site visit to a High Road location, OCA/DRCT observed a classroom identified by the New England Executive Director as the “Autism Classroom,” though High Road executives later disputed that designation. The classroom teacher reported to investigators during the site visit that s/he was not a certified special education teacher, and a review of the SDE certification database indicates that the individual had only a previously issued Long Term Substitute authorization for a different program, and which was not transferrable to High Road.*

- Certified administrators lacking across all High Road programs during the review period.
- No documentation of physical education, art, or music teachers at High Road Schools.
- Nurses are not employed at all buildings.

*Primary students at one High Road location were observed to represent a broad age and developmental span but there was no indication of physical education, recess, active indoor or outdoor activities except “break rooms” equipped with shag carpet pieces, a beanbag chair or two, an indoor trampoline.*

Systemic failure to conduct background checks of staff working with children.

- High Road could not document that it conducted basic background checks for staff, including employment checks, criminal history, or DCF background checks.
- High Road lacked background check documentation for more than sixty of its employees during a three-year period reviewed by OCA/DRCT.

Failure to annually file statements of assurance regarding staffing as required by the State.

- To remain state-approved, a facility must submit annual “signed statement of assurances,” that the program employs or contracts only with credentialed/licensed staff.
- Despite this requirement, CSDE could not produce annual copies of Statements of Assurance for each High Road location for a 5-year span requested. CSDE had no documents that it audited High Road’s failure to provide such Assurances.

## **II. LACK OF INDIVIDUALIZED PROGRAMMING**

Individualized educational programming is a cornerstone of special education yet is an area of significant concern at High Road Schools. OCA’s and DRCT’s investigation found serious and widespread deficiencies in all aspects of educational service delivery across multiple High Road locations.

Overreliance on restraint and seclusion to manage student behaviors.

- There were more than 1200 reported incidents of restraint and seclusion of students during the 2021-2022 school year.
- High Road School of Hartford Primary/Middle School had a total of 543 instances of Restraint alone during the 2021-2022 school year.
- High instances of restraint and seclusion of students by school staff in “time out” rooms leading to loss of instructional time among other adverse effects on students.
- Student records reviewed included almost no Functional Behavior Assessments or Behavior Intervention Plans despite students with complex behavioral presentations and frequent restraint and seclusion of these students.

*Student B's record showed multiple timeouts most days ranging from 4-49 minutes. Upon placement, a safety plan recommended that she be searched daily to ensure that she had not brought anything to school which could be used to self-harm and that she receive adult supervision at all times. A social work summary a year after her placement at High Road noted a history of 70 timeouts and 7 restraints during her first year in the placement. No Functional Behavioral Assessment or BIP was included in her records.*

Records and site visits reflected significant educational service deficiencies.

- One administrator (who upon further review was not state certified despite asserting to investigators that he was a principal) told investigators “Students here don’t have academic goals; they are here because of behavior.”
- Individual student records review (30 students) revealed that reading and mathematics diagnostic assessments were rare; comprehensive evaluations were often missing; and there was a lack of evidence of individualized or personalized instructional or behavioral strategies. Full academic records provided for review contained no raw data to support progress monitoring. Records reflected students with extensive need for language supports who did not receive intervention.

*Student A was placed at the Hartford Primary-Middle School program in Grade 3, at age 10, with a Behavior Intervention Plan created at his previous public school. Yet a program review later that year indicated he was performing below grade level due to a lack of access to education based on extended timeouts, raising questions about the degree to which his Behavior Plan was reflective of his current needs. In addition, Student A had multiple absences, slept for the whole day on multiple days waking only to eat lunch and had significant academic delays. Despite a psychological evaluation (prior to enrollment) indicating “unusually poor expressive and receptive communication skills” no language evaluation or therapy was provided. Complex academic/behavioral/disengagement issues persisted from enrollment at High Road for 7 years without his needs being properly addressed.*

- At multiple sites, almost none of the students received Functional Behavioral Assessments (FBAs) or Behavior Intervention Plans (BIPs) despite many students having complex behavioral presentations and frequent restraints and seclusions.
- Lack of individualized programming/transition services for older students.

*Student F had been diagnosed with PTSD and an adjustment disorder, had a Full-Scale IQ in the average range and was described as “working below potential” as a “credit deficient 12<sup>th</sup> grader.” However, she was not able to participate in job exploration in the community because she was “not on the correct level” of the contingency management levels system. She withdrew from the program to enroll in Adult Education with an F in all grades.*

Records and observations found widespread student disengagement and chronic absenteeism.

- While investigators' visits to program locations varied in terms of impressions, most site visits saw students who were sleeping for prolonged periods during class and students who were completely disengaged from classroom activities.
- Investigators consistently saw students who were left entirely to themselves during a 30 minute or even 45-minute class period, alone in a cubicle or at a computer, without any or only the briefest of interactions with a teacher or an aide.
- Review of attendance data for the review period found that just under 40% of students across High Road locations were chronically absent. More than a quarter of all students missed 25 or more days of school for excused and unexcused reasons. Ten percent of all students missed 50 or more days of school.

**III. Failure of LEAs to Monitor and Provide Required Oversight**

LEAs are responsible for ensuring a student's IEP is implemented and for oversight and monitoring of the schools and programs where they place students, including APSEPs. DRCT/OCA reached out to 18 school districts that had a number of students placed at High Road during the review period to outline preliminary concerns, request follow up, and seek further information about monitoring of their students' education at High Road. While some school districts followed up immediately, several districts did not provide any substantive response at all. OCA/DRCT findings include:

LEAs generally reported no concerns about High Road programming.

- One LEA reported being "pleased" with High Road Schools, noting that other programs are "worse," and that there were no red flags for service hours not being met. Investigators determined that this District had more than a dozen students at the High Road programs during the review period and that five of the students were significantly chronically absent with a combined number of absences of 306 days, though none of these students had a behavior intervention plan in place.
- Another LEA that reported no concerns had 9 students enrolled at its local High Road program in the '21-'22 school year. Six of these students were chronically absent, with a combined 333 absences. None of the students were identified as receiving related services or having a behavior intervention plan.
- A third LEA conducted a site visit and concluded the provision of services and staff support to its students was adequate.
- Another LEA conducted an observation of its student, documented a poor site visit, including poorly trained support staff, and ultimately returned its student to the home district.

Most school districts did not conduct regular site visits to High Road, observe education, or inquire about staffing.

- Only 3/18 Districts stated that they observe students after placement at High Road.
- Most districts were unable to provide names or qualifications of the staff serving their students.
- Districts were unable to produce documentation that they inquired with High Road about staffing levels, despite statewide concerns about special education staffing shortages.

- Districts relied almost exclusively on information, including written progress reports, provided by High Road personnel at Planning and Placement Team meetings as the only monitoring mechanism.
- One district stated that it “trusted” High Road to implement the IEP of the student attending the School.
- Multiple districts maintained that CSDE is responsible for ensuring that High Road schools have qualified staff employed.

Overall, LEA monitoring is inadequate to protect and ensure children’s right to special education and related services and for that education to be free from discrimination.

- OCA and DRCT’s investigation found that certain LEAs that place and maintain students at High Road do so because they lack the resources to serve students within their home districts either because they have not developed the capacity that they already have in place to provide such services or do not provide such services at all—in violation of the LRE provisions of IDEA.
- Investigators identified systemic violations of Title II of the ADA and Section 504 of the Rehabilitation Act for failure to provide services in the most integrated setting and failure to ensure students with behavioral health and/or developmental disabilities have an equal educational opportunity to students without disabilities.
- Investigators identified violations of the Individuals with Disabilities Education Act and Connecticut special education law due to LEAs failing to ensure students are receiving a free appropriate public education in the least restrictive environment including adequate assessments.

#### **IV. CSDE Oversight of High Road and Provision of Special Education is Deficient**

The CSDE has regulatory oversight obligations of all special education schools and programs including APSEPs. The investigation found significant deficiencies in this area including:

Inadequate follow up by CSDE to identified deficiencies and concerns.

- Site visit/program approval records produced by CSDE indicated “deficiencies” had been found, including concerns about background checking, inadequate documentation in students’ IEPs and education records, but there were no corresponding records of CSDE follow up or monitoring of corrective action.
- Following a previous concern transmitted by OCA to CSDE regarding the failure of High Road to conduct background checks in a particular case, CSDE required some corrective action. In November 2019, High Road agreed to conduct an internal audit of its background checking activities. The CSDE file requested by OCA/DRCT, however, contained no such audit or any other follow up activities to ascertain whether the background checking deficiencies had been remedied. Subsequent investigative findings by OCA/DRCT confirmed this problem was not remedied.

CSDE did not follow up on High Road failure to comply with state standards.

- Programs are required to submit yearly assurances that they are compliant with state standards for utilization of credentialed staff. While CSDE provided High Road’s assurances for 2017-2019, it did not produce assurances for 2020 and 2021 for most of the High Road schools. Nor did CSDE produce documentation that it had followed up with High Road regarding the missing assurances.

CSDE did not properly monitor and ensure compliance with IDEA and relevant state special education law.

- It does not appear that CSDE conducts reasonably designed supervision of education provided in APSEPs as contemplated by federal guidance.
- CSDE did not conduct a prompt visit of the High Road Danielson location prior to that program’s approval.
- CSDE did not ensure corrective action to identified deficiencies.
- CSDE did not take adequate measures to ensure High Road’s compliance with state standards for APSEPs.
- While OCA/DRCT briefed CSDE in 2022 on preliminary findings of this investigation, that briefing did not lead to documentation of a timely inquiry by the state into the High Road programs or the contracting districts’ compliance with IDEA.

## REMEDIAL RECOMMENDATIONS

**Any recommendations that include proposed legislative changes are made solely on behalf of OCA. DRCT does not propose legislative changes. However, DRCT does believe that such legislative changes proposed by OCA in these recommendations would be beneficial to students with disabilities.**

To remediate the numerous deficiencies revealed by the investigation, OCA and DRCT recommend that CSDE, the LEAs and High Road take the following measures:

### CSDE/SEA Oversight and Resources

1. Amend state law to require strengthened CSDE oversight of state-approved private special education programs including determinations by LEAs of an APSEP as the Least Restrictive Environment (LRE); annual inspections and site visits to ensure IDEA and regulatory compliance; mandatory follow up where corrective actions are mandated by CSDE; periodic audits of required statements of assurances regarding employee credentials and background checks; and parent questionnaires as contemplated by the September 29, 2023, federal guidance for states.

2. Amend state law to mandate transparency of CSDE’s federally required monitoring and enforcement regarding placement of children with disabilities in “separate schools,” including APSEPs, and the provision of FAPE to children in separate schools.



3. CSDE should enhance monitoring and enforcement of restraint and seclusion laws pertaining to students with disabilities, inclusive of site visits to seclusion spaces used by “separate schools”/APSEPS, audits of restraint and seclusion and “time out” incident reports and parental notifications and establish criteria for mandatory staff and administrator professional development to reduce reliance on isolation and restraint.
4. CSDE should ensure all monitoring and enforcement activities related to APSEPS and public “separate schools” are included on its website and that the CSDE website include a compliant form/link for members of the public to alert CSDE to concerns around such programs.
5. CSDE should house an “inclusion” page on their website with resources for schools and families. One such resource is *A Summary of Evidence on Inclusion Education* from August 2016 showing the benefits of inclusion to both students with disabilities and without. The page should include technical assistance resources to assist school districts in educating children in the least restrictive environment.
6. CSDE should consider rulemaking regarding the use of restraint and seclusion to protect students from these ineffective and dangerous practices, especially students segregated due to their disabilities and provide professional development to reduce or eliminate restraint and seclusion.
7. CSDE should request the Connecticut Medicaid office clarify if Medicaid reimbursement is available when staff use restraint on a child in outpatient behavioral health settings, including school settings.

### **Improvements in LEA Oversight**

1. State law should require specific monitoring by LEAs of students placed in “separate schools,” including APSEPs. CSDE should work with LEAs to provide a template for monitoring the provision of special education and related services by credentialed staff in APSEPs to include, periodic site visits and observation of educational service delivery, review of onsite educational records, review of assigned staff’s credentials, and maintenance of programs’ annual statements of assurance to CSDE regarding the provision of education by credentialed and background checked staff.
2. Ensure resources for special education services are adequate to support LEAs’ provision of services to students with disabilities in the least restrictive environment and the most integrated setting and to enable these students to have an equal educational opportunity to that of their nondisabled peers.
3. Require LEAs to provide services to students with behavioral health and related disabilities so they can remain and be served in the most integrated setting as required by federal law.
4. LEAs should ensure that they are contracting with High Road schools for services required for children attending public schools, including physical education, the arts, and health and safety.

### **APSEPS – Student Supports**

1. APSEPs should be required to utilize evidence based behavioral health strategies that are truly proactive interventions and highly individualized. We recommend an instrument such as the Assessment of Lagging Skills and Unsolved Problems (ALSUP) for this purpose.

2. Staff should be trained in evidence-based models that emphasize problem solving as the primary treatment component.
3. APSEPs should add cameras to the time out/seclusion rooms and include weekly viewing of those video recordings to ensure compliance with all state and federal laws and best practices with respect to time out/seclusion of students.
4. APSEPs should be required to notify parents and school districts of changes in staffing or vacancies that impact the delivery of educational services to students.
5. APSEPs should be required to routinely conduct audits to ensure that all staff are properly qualified, trained, and have gone through the proper background checking process.

## **RESPONSES**

In response to a draft of this Report, High Road, Hartford Public Schools, and CSDE, were invited to offer corrections to any factual errors contained in the draft and were later offered an opportunity to submit a “1-to-2-page summary of response/actions steps.” High Road’s and Hartford Public Schools’ action step submissions are being released with this Report. CSDE did not offer factual corrections. Instead of providing a summary of its “response/action steps,” and without disputing the factual findings in the Report, CSDE expressed its disagreement with the Report’s conclusions and recommendations. Specifically, CSDE “disagrees . . . with the Report to the extent that it suggests that the CSDE may have failed to adequately exercise general supervision over the High Road Schools.”