JOINT INVESTIGATIVE REPORT

OUT-OF-STATE SPECIAL EDUCATION PLACEMENTS LACK OVERSIGHT AND MONITORING

Disability Rights Connecticut
75 Charter Oak Avenue, Suite 1-101
Hartford, CT 06106
(860) 297-4300 www.disrightsct.org

Office of the Child Advocate
165 Capitol Avenue
Hartford, CT 06105
(860) 566-2106 www.ct.gov/oca

FEBRUARY 2026

DISABILITY RIGHTS CONNECTICUT
&
STATE OF CONNECTICUT
OFFICE OF THE CHILD ADVOCATE

JOINT INVESTIGATIVE REPORT

OUT-OF-STATE SPECIAL EDUCATION PLACEMENTS: LACK OF OVERSIGHT AND MONITORING

February 2026

Disability Rights Connecticut
75 Charter Oak Avenue, Suite 1-101
Hartford, CT 06106
(860) 297-4300
www.disrightsct.org

The Office of the Child Advocate[1]
165 Capitol Avenue
Hartford, CT 06105
(860) 566-2106
www.ct/gov/oca

[1] The OCA acknowledges the contribution of its post-graduate intern, Jenny Henneberry, to this report. Ms. Henneberry interned with the OCA for the spring/summer of 2024. Ms. Henneberry received her undergraduate degree from St. Lawrence University and holds a master's degree in Conflict Transformation & Social Justice from Queen's University of Belfast, Northern Ireland. Ms. Henneberry currently serves as the Civil Rights Case Manager & Assistant Director of Campus Dialogue at Connecticut College in New London.

Table of Contents

INTRODUCTION 3

METHODOLOGY 8

LEGAL BACKGROUND 9

PART I: USE OF RESTRAINT AND SECLUSION ROOMS ARE NOT SUBJECT TO CONNECTICUT LAW 16

PART II: EXCESSIVE INJURIES 23

PART III: INSUFFICIENT OVERSIGHT AND MONITORING 26

PART IV: RELIANCE ON COSTLY OUT-OF-STATE PLACEMENTS 35

PART V: CONCLUSION 39

RECOMMENDATIONS 40

APPENDICES 44

Appendix A: 44

Appendix B: 44

Appendix C: 45

Appendix D: 56

INTRODUCTION

In recent years, Disability Rights Connecticut (DRCT)[2] and the Office of the Child Advocate (OCA)[3] have received complaints regarding certain out-of-state placements of Connecticut students receiving special education and related services. Among these, Shrub Oak International School (Shrub Oak), located in New York, has received particular attention. These segregated out-of-state placements, which provide services to children with disabilities through publicly funded individual contracts with local school districts, cost millions of dollars every year.

In response to the complaints, DRCT and OCA initiated a joint investigation between September 2023 and January 2025 into the educational programming provided to children in certain out-of-state schools, including Shrub Oak, and the adequacy of state and local oversight. The period of review covered the following three (3) academic years: 2021-2022; 2022-2023; and 2023-2024 (PUR). The investigation involved multiple OCA Information Requests and DRCT Access Requests directed at certain Connecticut local school districts and the State Department of Education, on-site visits, and extensive records reviews for the Connecticut districts that had the highest rates of out-of-state placements between 2021-2024, including Stamford.[4] **During the PUR, Connecticut local school districts collectively spent over $75 million on these out-of-state placements. The cost for out-of-state placements was paid using federal, state, and/or local money. Stamford Public Schools segregated more students in out-of-state placements than any other district, individually spending over $25 million, during our PUR. For that reason, it is highlighted in this report.**

Key findings from the investigation include:

1. **Use of Restraint and Seclusion Rooms are Not Subject to Connecticut Law**: The policies and practices of restraint and seclusion as behavioral management tools in the out-of-state placements that were reviewed were troubling. The use of restraint and seclusion is not subject to the same legal requirements established in Connecticut. The investigation revealed overuse and misuse of restrictive practices, with no established mechanism for the Connecticut State Department of Education (CSDE) and the sending school district or local education agency (LEA) to perform meaningful oversight and monitoring. This is particularly concerning given the known negative impact on children's wellbeing and development, and suggests a lack of alternatives to manage challenging behaviors in these settings.

[2] For background information on Disability Rights Connecticut, (DRCT) see Appendix A.
[3] For background information on the Office of the Child Advocate (OCA), see Appendix B.
[4] While Stamford did not have any students enrolled at Shrub Oak, the District had the most students, out of all Connecticut Public School Districts, enrolled at out-of-state schools during the PUR, including to one school that is not approved by the state in which it is located. During its investigation, the OCA had to seek enforcement of its investigatory subpoena issued to Stamford Public Schools on July 3, 2024 after the District refused to comply with the OCA's subpoena. The OCA has never had to seek the assistance of the court to conduct its statutorily required responsibilities. After many months of delays and court intervention, Stamford finally produced the last of the requested documents in April of 2025.

2. **Excessive, Unexplained Injuries**: A concerning number of injuries among students in the segregated out-of-state placements reviewed could not be conclusively explained. These injuries raise serious concerns about student safety and the adequacy of the services provided at these schools. Many of these incidents remain unresolved, highlighting a significant gap in accountability.

3. **Insufficient Oversight and Monitoring:** The State of Connecticut does not approve out-of-state schools, and many such schools in which Connecticut students are enrolled are not approved and/or licensed by the state in which they operate. We found a lack of oversight and monitoring by both the Connecticut State Department of Education (CSDE) and the sending school district or local education agency (LEA) of students placed in these out-of-state schools. During the PUR, seventeen (17) out-of-state schools where Connecticut students were enrolled were **not** approved by the Department of Education in the state in which they were located,[5] two (2) were not licensed and two (2) schools were both not approved and not licensed by the state in which they were located.[6] The result is minimal oversight and monitoring of the conditions of the schools that house our most vulnerable Connecticut special education students. Given the lack of oversight and monitoring provided by the CSDE and LEAs, our findings regarding excessive use of restraint and seclusion and excessive injuries in the facilities we reviewed raise serious concerns about the safety and well-being of children in any out-of-state school.

4. **Reliance on Costly Out-of-State Placements:** Despite widespread public concerns regarding the safety and effectiveness of out-of-state educational placements like Shrub Oak, many districts continue to rely on these placements for children with complex needs even though less restrictive alternatives should be available in Connecticut. These placements are among the most expensive options available, costing millions of dollars annually. Instead of investing state and local funds in educational services within the state and districts, districts are sending large sums of money out-of-state to restrictive segregated placements. Students need varying levels of resources, and they should be spent in the state and in district where the students and their programs have oversight.

Between 2021 to 2024, CSDE reported that a total of two hundred twenty-four (224) children from seventy-two (72) school districts were placed in out-of-state schools across fifteen (15) states.[7] All the children were identified as students with a disability who are eligible to receive special education services. Most of the children were male (78% or 175 children) and 31% (or 70 children) were students of color, with the majority being identified as having autism, an emotional disability, or multiple disabilities. Prior to the out-of-state placement, each student had an Individualized Education Program (IEP) that must be implemented by

[5] Curtis Blake School, MA; Valley View School, MA; Community Resources for Justice, MA; White Oak School, MA; Eagle Hill School, MA; Tate Behavior Health, MA; The Center School, MA; S.W.C.E.C - The Grown School, MA; Center School-Chicopee, MA; Oliverion School, NH; Webster School, NH; Shortridge Academy, NH; Gow School, NY; The Walden School, NY; PNW BOCES—Yorktown Heights, NY; Andrus Children's Home/Orchard School, NY; Shrub Oak, NY.

[6] Fulsheare Treatment, TX; Gow School, NY; Oliverion School, NH; Shrub Oak, NY.

[7] The states include: MA; NY; RI; ME; MO; UT; PA; NH; NC; NJ; VT; OR; ID; NM; and TX.

the out-of-state placement, in line with federal and state laws, and student-specific contracts with the local school district (LEA).

Special education law mandates that students be educated in the least restrictive environment (LRE) appropriate to their needs, and that out-of-district placements are only considered when no reasonable in-district option exists to meet the student's individualized needs[8]. Districts are required to have a continuum of placements available to meet the needs of their students with IEPs.[9]

Notably, Connecticut has one of the highest rates of student placement in separate schools,[10] including Approved Private Special Education Programs (APSEPs). As most recently reported in 2024 and reflecting the 2022 academic school year, Connecticut had a rate of 6.2% of students with IEPs being educated in "separate schools," which was over 2.5 times the national average of 2.4% and put Connecticut as the state with the highest rate of such educational placement.[11] For students with "emotional disability" Connecticut ranked first with a rate of placement in "separate schools" of 27.8% compared to the national average of 10.8%.[12] LEAs are outplacing students in segregated schools and programs at an alarming rate due to their inability to support them and provide them with services in their home district.

This Report offers recommendations to improve service delivery to students with disabilities, increase accountability, and reduce the overutilization of costly and restrictive out-of-state placements. It also emphasizes the need for greater transparency in state and local funding decisions related to private special education programs. These recommendations are aimed at addressing the issues identified in the investigation and ensuring that all students with disabilities maintain the right to receive the special education services they need in the least restrictive environment appropriate to their needs.

There are several reasons why students are outplaced in segregated out-of-state schools/programs, but they all share a common foundation for the outplacement decision. For nearly all these students, the school district or LEA has determined that it is unable to provide the support and services the student needs within their in-district schools and programs. The student's Planning and Placement Team (PPT) generally makes this decision, determining that the in-district school or program is not the least restrictive environment in which the student can be served. The LEA and/or family then search for an outplacement for the student within the state of Connecticut.

---

[8] 20 U.S.C. § 1412(a)(5)(A)-(B); 34 C.F.R. §§ 300.114(a)(2)(ii) & 300.116; Conn. Agencies Regs. 10-76d-17(a)(1).

[9] 34 C.F.R. § 300.115.

[10] U.S. Department of Education 46th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act (2024), which reflects 2022 data. "Separate schools" is defined in the report to include "students with disabilities who receive special education and related services, at public expense, for greater than 50 percent of the school day in public or private separate day schools or residential facilities, respectively."

[11] *Id.*

[12] *Id.*

One system in Connecticut that, in part, fills this need for specialized special education and related services is privately run special education programs around the state.[13] Most of these privately run schools are approved by the Connecticut State Department of Education (CSDE) as APSEPs to which LEAs often outplace students. In total, there are eighty-eight (88) APSEPs in Connecticut educating over 5,000 Connecticut students with disabilities in segregated settings.

The State Board of Education (SBE) is responsible for determining whether a privately operated special education program meets certain federal and state requirements. The State Board established standards to govern such programs, most recently updated in February of 2021 - - "Principles, Procedures and Standards for the Approval of Private Special Education Programs – February 2021" (hereinafter referred to as "Standards"). The Standards set forth certain minimum requirements that must be met for a private facility to receive funding for providing special education services to students and cover the following areas:

> A. Governance; B. Administration; C. Fiscal Management; D. Admissions; E. Individual Student Records; F. Program Requirements; G. Evaluation of Student Progress and Reporting Responsibilities; H. Positive Behavioral Supports, Prevention, and Intervention Strategies; I. Qualification and Requirements for Instructional, Administrative, and Support Personnel; J. Health and Safety; K. Termination of Enrollment.

In many cases when searching for in-state placements, APSEPs tell LEAs and parents that they cannot support their students with more significant support needs. Notably, there are a number of in-state APSEPs with a residential component, though not all of them are available for "residential educational placements."[14] When the LEA and/or parents are unsuccessful in finding a school/program in Connecticut that can serve the student's support needs, they look outside of Connecticut to find one that is willing and able to provide the necessary supports and services often at a very high financial cost, and as will be discussed later, at a potential risk to the safety and well-being of those students. **In fact, these out-of-state schools are not required to be approved by the CSDE, and many are not approved or licensed in the state in which they operate. This lack of oversight and**

---

[13] Regional Education Services Centers (RESCs) are also utilized for educational programming for students with special education programs. RESCs are nonprofit, fee-for-service, public education agencies who serve many roles for Connecticut LEAs, one of which is providing special education and related services for students on behalf of an LEA. In many cases, these services are provided within a LEA district while at other times, an LEA will outplace a student at a segregated RESC special education school.

[14] There are currently 18 APSEPs located in Connecticut that are approved by CSDE that service children with disabilities and have a residential component. Those 18 APSEPS are located throughout the state and include: (1) Adelbrook Academy Cromwell; (2) American School for the Deaf; (3) Arch Bridge School; (4) Benhaven School; (5) Chapel Haven Schleifer Center, Inc.; (6) Charles F. Hayden School at Boys & Girls Village; (7) Connecticut Junior Republic; (8) Devereux Glenholme School; (9) Eagle House Education Program; (10) Grove School; (11) Natchaug Hospital Inpatient School; (12) Natchaug Hospital Journey School; (13) PACES: (14) River Run Academy at the Susan Wayne Center of Excellence; (15) Rushford Day School; (16) Waterford Country School; (17) Whitney Hall School; (18) Yale Child Study Center School. **Unlike the out-of-state schools like Shrub Oak, these schools must adhere to all Connecticut Standards and state requirements to provide educational programming to Connecticut students.**

monitoring by the state of Connecticut and/or the state in which the out-of-state school is located leaves a serious gap in ensuring the safety and welfare of Connecticut's most vulnerable students who are placed at these segregated schools – often hundreds of miles away from the student's family and important community support systems.

As our investigation revealed, across the state, there is a lack of capacity, and a lack of qualified staff, both at in-district programs, and segregated private programs to serve students with the most significant support needs. Many of these students have 1 to 1, or 2 to 1 direct care support staff with them due to behavioral challenges, medical needs, or assistance with daily living skills. The result is that school districts place students with the most significant support needs and greatest challenges in segregated schools and programs often very far from their homes, outside the state of Connecticut and at a very high cost. Additionally, due to the nature of the students' disabilities and the distance of the school from their home district, most students placed in these out-of-state schools are enrolled in residential programs in addition to or as part of their educational program.[15]

As will be detailed below for out-of-state placements, large sums of money are being spent to educate students in segregated schools and programs. Allocating these resources from costly out-of-state placements to building and sustaining supports, services and programs within the LEA and/or in Connecticut to keep students in their communities and home schools would take thoughtful planning and consideration, but the resources are very often available to be reallocated from these outplacement tuitions to in-district or in-state programs and services. It is not as simple as a LEA not having the money for these supports and services. It is often an issue of where the money is spent. When the resources aren't properly allocated to building the programs in the district, the result is outplacing students to segregated schools and programs often far from home.

DRCT/OCA's investigatory activities included an extensive look at Shrub Oak International School (Shrub Oak) in Mohegan Lake, New York, which activities included multiple site visits by DRCT, conversations with school administrators, teachers, and staff, interviews with Connecticut students, and extensive records requests and records reviews of student and school records.[16] Shrub Oak is a private residential school for children with autism that has a capacity of approximately sixty (60) students. The age of the students ranges from eight (8) to thirty (30) years of age[17]. Eleven (11) students from eleven (11) different Connecticut school

[15] In addition to the lack of support and services for these students in their home school district, it is worth noting that there are very often insufficient community services and a lack of access to the necessary continuum of care for these students in their home communities. This compounds the problems they have with receiving the necessary educational supports and services from their LEA.

[16] There has been a variety of public reporting and response to this reporting by school districts and states. The non-profit investigative reporting organization, ProPublica, has reported on issues at Shrub Oak in a series of publications uncovering a variety of instances of abuse, neglect and mistreatment of students there. https://www.propublica.org/series/inside-shrub-oak. The Boston Globe has also reported on the continuing issues of Massachusetts students at Shrub Oak. https://www.bostonglobe.com/2023/10/07/metro/making-that-decision-changes-you-forever-parents-kids-with-severe-autism-impossible-choices/. In 2023, in response to various investigations into Shrub Oak, the Massachusetts Department of Elementary and Secondary Education (DESE) ceased allowing school districts to use public funds to pay for Massachusetts students to attend Shrub Oak.

[17] This includes students who have aged out of IDEA services.

districts attended Shrub Oak during the PUR. As of October 2023, seven (7) students from Connecticut were attending Shrub Oak. When we began our investigation, Shrub Oak was not licensed through the New York Department of Education, the New York Department of Health, or any other oversight agency in the state. Because they are an out-of-state school, the CSDE does not have any oversight authority over the facility. However, they do have Individuals with Disabilities Education Act (IDEA) monitoring responsibilities, regardless of where the school is located. The Connecticut Department of Public Health (DPH), and Connecticut Department of Children and Families (DCF) have no oversight authority over this out-of-state school.

The findings in this Investigatory Report highlight systemic issues related to abuse, neglect, and rights violations within many out-of-state schools/programs. These out-of-state schools, which Connecticut students are attending, are not required to comply with Connecticut standards and Connecticut law. This, combined with insufficient oversight and monitoring, has created an environment where the health, safety, and dignity of individuals with developmental disabilities are frequently compromised. Immediate corrective action is necessary to address these deficiencies and ensure compliance with federal and state regulations and protect these students. These corrective actions include a reduction in the overuse of restraint and seclusion, reduction in the abuse/neglect of students, adherence to Connecticut standards and law by any out-of-state programs/schools through mandatory contract provisions in all out-of-state contracts for students whose tuition is paid with local and state funds, increased oversight and monitoring by the CSDE and LEAs, and a focused effort to return these students to schools and programs in Connecticut and their local school districts. These students' needs, with the right supports and services, can be met in Connecticut, and many of them can have their needs met in their home districts.[18]

METHODOLOGY

As part of its investigation, Office of the Child Advocate (OCA)/Disability Rights Connecticut (DRCT) engaged in the following activities:

- Reviewed demographic and enrollment data for each student enrolled at out-of-state facilities during the 2021-2022, 2022-2023 and 2023-2024 school years (PUR).
- Analyzed information provided by ten (10) Connecticut school districts that placed students in out-of-state placements during the PUR, focusing on the district's monitoring and oversight of students' educational programming.

[18] There have been other groups that have highlighted issues and concerns with special education outplacement programs and schools. The Connecticut General Assembly convened a Special Education Task Force in 2022 who issued a final report in 2024 and recommendations in 2025 encouraging the placement of students in the Least Restrictive Environment in in-district schools and programs. https://cga.ct.gov/ed/taskforce.asp?TF=20230411_Task%20Force%20to%20Study%20Special%20Education%20Services%20and%20Funding. Though focused on in-state private special education schools, the Connecticut Auditors of Public Accounts have issued multiple reports and findings related to Private Providers of Special Education in recent years, which have included recommendations related to services provided to students, contracts between school districts and private providers, and oversight and approval of private providers. https://wp.cga.ct.gov/apa/.

- Conducted observations at certain out-of-state facilities and classrooms on different occasions, with observations carried out by the following individuals: (1) Deborah Dorfman, DRCT Executive Director/Attorney; (2) Tom Cosker, DRCT Advocate; (3) Jennifer Jenkins, DRCT Senior Advocate; (4) Kasey Considine, DRCT Supervising Attorney; and (5) Maria Feliciano, DRCT Children's Advocacy and Investigations Program Manager.
- Engaged in discussions with representatives of certain out-of-state facilities, including administrators, teachers, staff, and students.
- Reviewed records of individuals placed at certain out-of-state facilities.
- Analyzed relevant state and federal law governing alternative special education programming and facilities, including responsibilities for programming and oversight.
- Held discussions with representatives of the Connecticut State Department of Education (CSDE).

LEGAL BACKGROUND

Individuals with Disabilities Education Act (IDEA).

The Individuals with Disabilities Education Act (IDEA) mandates that all children with disabilities receive a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE).[19] These children are often referred to as children receiving special education and related services.

State and Federal Funding for Special Education Programs.

Special education funding on the state level is received by LEAs in the form of a special education excess cost grant reimbursement,[20] and through education cost sharing grants, which are not limited to special educational programming and are based, in part, on a town's wealth.[21]

Special education programs are eligible for funding under the IDEA. In accordance with federal regulations: "[a]n LEA [Local Education Agency] is eligible for assistance under Part B of the Act [Individuals with Disabilities Education Act] for a fiscal year if the agency submits a plan that provides assurances to the SEA [State Education Agency] that the LEA [Local Education Agency] meets each of the conditions in §§ 300.201 through 300.213."[22] LEAs receive money from the federal government from IDEA grants for use in funding special education programs and services for students. This money flows through the State of Connecticut to LEAs and must be used specifically to address the needs of special education students.

Some of the conditions in 34 C.F.R. §§ 300.201 through 300.213 require the LEA to have in effect policies, procedures, and programs that are consistent with the State policies and

[19] 20 U.S.C. §§ 1412, 1413; 34 C.F.R. §§ 300.101, 300.114.
[20] Conn. Gen. Stat. § 10-76g.
[21] Conn. Gen. Stat. § 10-262f(26).
[22] 34 C.F.R. § 300.200.

procedures, including on general supervision by the SEA,[23] require the LEA to expend IDEA funds in accordance with the IDEA,[24] and require the LEA to provide the SEA with information necessary for the SEA to carry out its duties.[25]

Monitoring Compliance Under The IDEA.

The U.S. Office of Special Education Programs (OSEP), which is within the Office of Special Education and Rehabilitative Services (OSERS), has the responsibility for ensuring that states comply with the IDEA.[26] State Educational Agencies (SEAs) are responsible for ensuring that Local Educational Agencies (LEAs) comply with the IDEA.[27] The IDEA's monitoring and enforcement responsibilities refer to both OSEP and SEAs. OSEP monitors the SEA for IDEA compliance, and the SEA monitors the LEAs for compliance with the IDEA.[28] **This dual system of monitoring and enforcement aims to ensure that children with disabilities are afforded the supports and services needed to access their educational programming.**

In Connecticut, the State Department of Education is the administrative arm for the State Board of Education (SBE) and has the authority and the responsibility to ensure that LEAs are compliant with the IDEA.[29] When an SEA becomes aware of individual noncompliance and/or systemic noncompliance, it must investigate and put corrective measures into place. Corrective measures apply equally to individual compliance as they do for systemic compliance. As explained in a 2008 OSEP Letter, **"[t]he legal authority for an SEA to require its LEAs to correct individual noncompliance is the same as the legal authority for an SEA to require its LEAs to correct systemic noncompliance--its general supervisory responsibility over all educational programs for children with disabilities administered within the State**."[30]

"Each State and its public agencies must ensure that a free appropriate public education (FAPE) is available to all children with disabilities residing in the State in mandatory age ranges."[31] In exercising its general supervisory authority, "if an SEA identifies noncompliance with individual student IEPs when it monitors an LEA, the SEA must

---

[23] 34 C.F.R. § 300.201; 34 C.F.R. § 300.149.
[24] 34 C.F.R. § 300.202.
[25] 34 C.F.R. § 300.211.
[26] 20 U.S.C. § 1416.
[27] 20 U.S.C. § 1416(a)(1)(C).
[28] 20 U.S.C. § 1416. Specifically, § 1416(a)(1) provides in relevant part: "[t]he Secretary shall--(A) monitor implementation of this subchapter through—(i) oversight of the exercise of general supervision by the States, as required in section 1412(a)(11); and (ii) the State performance plans, described in subsection (b); (B) enforce this subchapter in accordance with subsection (e); and (C) require States to--(i) monitor implementation of this subchapter by local educational agencies; and (ii) enforce this subchapter in accordance with paragraph (3) and subsection (e).
[29] Conn. Gen. Stat. § 10-3a(a); Conn. Gen. Stat. § 10-76b.
[30] Office of Special Education and Rehabilitative Services letter to Copenhaver, October 31, 2008; Office of Special Education and Rehabilitative Services List of Correspondence, 74 Fed. Reg. 45843, noting clarification by letter dated October 31, 2008 to Mountain Plains Regional Resource Center Director John Copenhavor, the Department's authority to require States to ensure that their LEAs correct all identified noncompliance with the requirements of the IDEA.
[31] *Id.*

require the LEA to correct the individual noncompliance as well as systemic practices that gave rise to the individual noncompliance."[32]

In 2023, OSEP released its "State General Supervision Responsibilities Under Parts B and C of the IDEA Monitoring, Technical Assistance and Enforcement" guidance, which reinforces the obligation of SEAs to ensure that all children with disabilities, ages 3 through 21, receive a free appropriate public education (FAPE) in the least restrictive environment (LRE).[33] The guidance clarifies that "as part of a State's general supervision system, a State may not ignore credible allegations about potential noncompliance, to ensure the timely identification of noncompliance."[34] The guidance stresses that a "reasonably designed State general supervision system should include eight integrated components," which include: "1) Integrated monitoring activities; 2) Data on processes and results; 3) The SPP/APR; 4) Fiscal management; 5) Effective dispute resolution; 6) Targeted TA and professional development; 7) Policies, procedures, and practices resulting in effective implementation; and 8) Improvement, correction, incentives, and sanctions."[35]

The integrated monitoring activities are further defined in the guidance:

> Integrated monitoring activities are a key component of a State's general supervision system. Specifically, integrated monitoring activities are a multifaceted formal process or system designed to examine and evaluate an LEA's or EIS program's or provider's implementation of IDEA with a particular emphasis on educational results, functional outcomes, and compliance with IDEA programmatic requirements. Under IDEA Part B, the SEA must monitor the LEAs located in the State in each of the following priority areas: the provision of FAPE in the least restrictive environment (LRE); general supervision, including effective monitoring; child find; a system of transition services; the use of resolution meetings; mediation; and disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. 34 C.F.R. § 300.600(d). Under IDEA Part C, the LA must monitor each EIS program or provider located in the State in each of the following priority areas: early intervention services in natural environments; general supervision, including effective monitoring; child find; a system of transition services; the use of resolution sessions (if the State adopts Part B due process hearing procedures under 34 C.F.R. § 303.430(d)(2)); and mediation. 34 C.F.R. § 303.700(d). In addition, State integrated monitoring activities should assess the equitable implementation of IDEA, through examination of local policies, procedures, and evidence of implementation (or practices).[36]

---

[32] *Id.*

[33] U.S. Department of Education Office of Special Education and Rehabilitative Services, "State General Supervision Responsibilities Under Parts B and C of the IDEA Monitoring, Technical Assistance and Enforcement," OSEP QA 23-01, (July 24, 2023). In Connecticut, the obligation to make a FAPE available applies until children with disabilities reach their 22nd birthday.

[34] *Id*. at p. ii.

[35] *Id*. at p. 2.

[36] *Id*. at p. 3.

Integrated monitoring activities may include "[i]nterviewing LEA and local program staff, including specialized instructional support personnel, on-site or virtually, and reviewing local policies, procedures, and practices for compliance and improved functional outcomes and results for children with disabilities" and "[c]onducting interviews and listening sessions with parents of children with disabilities, children with disabilities, and other stakeholders to learn about an LEA's or EIS program's or provider's implementation of IDEA, including functional outcomes and results."[37]

In accordance with 34 CFR § 300.151, states must adopt written complaint procedures, which procedures include the resolution of complaints filed by an individual or an organization.[38] At a minimum, the SEA must take the certain proscribed steps within 60 days of receiving a complaint, including carrying out "an independent on-site investigation, if the SEA determines that an investigation is necessary" and "review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part" and "issue a written decision to the complainant that addresses each allegation in the complaint and contains - (i) Findings of fact and conclusions; and (ii) The reasons for the SEA's final decision."[39] The SEA must also include procedures "for effective implementation of the SEA's final decision, if needed, including - (i) Technical assistance activities; (ii) Negotiations; and (iii) Corrective actions to achieve compliance."[40]

Monitoring Compliance Under the IDEA for Students Enrolled in Private Programs.

As aptly characterized by the U.S. Department of Education,"[c]hildren with disabilities attending private schools will generally fall into one of three categories: (1) those placed by their parents, who are not enrolled in the LEA, and for whom the provision of a free appropriate public education (FAPE) is not at issue; (2) those placed by their parents and who are, or previously were, enrolled in the LEA and the provision of FAPE is at issue; and (3) those placed by the LEA as the means of ensuring that FAPE is made available."[41]

This report, which focuses primarily on data provided by the Connecticut State Department of Educate (CSDE), includes children who fall into the second and third categories. For children who fall into these categories, it is the responsibility of the SEA to ensure that the LEAs are providing FAPE in the LRE.[42] Generally, these placements are paid for using public funds.

---

[37] *Id.*

[38] 34 CFR § 300.151.

[39] 34 CFR § 300.152.

[40] *Id.*

[41] U.S. Department of Education Office of Special Education and Rehabilitative Servies Office of Special Education Programs, "Questions and Answers on Serving children with Disabilities Placed by their Parents in Private Schools" (Revised February 2022).

[42] 34 CFR § 300.146, which provides that: "[e]ach SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency - (a) Is provided special education and related services— (1) In conformance with an IEP that meets the requirements of §§ 300.320 through 300.325; and (2) At no cost to the parents; (b) Is provided an education that meets the

State Department of Education Responsibility for Students Enrolled in Private Special Education Programs.

The Connecticut State Board of Education (SBE) is statutorily responsible for the overall structure, development and supervision of special education programs provided to children residing in or attending any facility (private or public) that receives state funds. That supervision includes overseeing the "educational aspects of all programs and instructional facilities in any day or residential child-caring agency or school which provides training for children requiring special education and which receives funding from the state under the provisions of sections 10-76a to 10-76g, inclusive."[43]

LEA Responsibility for Students Enrolled in Private Special Education Programs.

While the State Board of Education is statutorily responsible for the overall structure, LEAs are responsible for providing and/or acquiring the actual special education services, the development of individualized education programs, planning and placements meetings and public agency placements.[44] An LEA must ensure that it has a continuum of supports to educate children with disabilities in the least restrictive environment appropriate to the child's needs.

---

standards that apply to education provided by the SEA and LEAs including the requirements of this part, except for § 300.156(c); and (c) Has all of the rights of a child with a disability who is served by a public agency."

[43] Conn. Gen. Stat. § 10-76b. Section 10-76b, entitled, State supervision of special education programs and services. Regulations. Coordinating agency, provides that: "(a) The State Board of Education shall provide for the development and supervision of the educational programs and services for children requiring special education and may regulate curriculum, conditions of instruction, including the use of physical restraint and seclusion pursuant to section 10-236b, physical facilities and equipment, class composition and size, admission of students, and the requirements respecting necessary special services and instruction to be provided by local and regional boards of education. The approval and supervision of approved private providers of special education services and the educational aspects of all programs and instructional facilities in any day or residential child-caring agency or school which provides training for children requiring special education and which receives funding from the state or is paid with funds distributed under the provisions of sections 10-76a to 10-76g, inclusive, or section 7 of public act 25-67, shall be subject to the approval and supervision of the commissioner in accordance with regulations adopted by the State Board of Education, in accordance with the provisions of chapter 54, concerning requirements for such programs and accommodations.

(b) The commissioner shall designate by regulation, subject to the approval of the State Board of Education, the procedures which shall be used to identify exceptional children.

(c) Said board shall be the agency for cooperation and consultation with federal agencies, other state agencies and private bodies on matters of public school education of children requiring special education, provided the full responsibilities for other aspects of the care of such children shall be reserved to such other agencies.

(d) The State Board of Education shall ensure that local and regional boards of education are providing the information described in subparagraph (D) of subdivision (10) of subsection (a) of section 10-76d to the parent or guardian of a child requiring special education or the surrogate parent appointed pursuant to section 10-94g and, in the case of a pupil who is an emancipated minor or eighteen years of age or older, the pupil."

[44] *See* Conn. Gen. Stat. § 10-76d.

State Board of Education and LEAs Dual Responsibilities for Students Enrolled in Private Special Education Programs.

Connecticut law contemplates the need and provides the authority for the placement of a student who has been identified as needing special education services to be provided those services by a "private school or with any public or private agency or institution, including a group home" in certain circumstances.[45] Once that placement decision has been made, certain duties are the responsibility of the State Board of Education and certain duties belong to the local or regional boards of education as outlined in this Section.

State Law: Oversight and Responsibility for Students in Private Placements.

Connecticut law allows LEAs to place students in private special education programs only if:

1. The Commissioner of the Connecticut State Department of Education opines that no public-school program can meet the student's educational needs, and the local board of education decides the child cannot be appropriately placed in a school operated by or on behalf of the local board of education.[46]
2. The private school participates in the PPT process and implements the student's Individualized Education Program.[47]
3. The placement is at no cost to parents, with tuition funded by the LEA.[48]
4. The student retains all educational rights, including access to extracurriculars and graduation from their home district.[49]

In accordance with Connecticut law, a student may only be placed in a private **out-of-state school** by an LEA if certain conditions are met, including that the Commissioner of Education has made the following determinations:

(1) No public or approved private facility which can reasonably provide appropriate special education programs for such children is available in the state;
(2) no public or approved private facility which can reasonably provide appropriate special education programs for such children is available in the state and the out-of-state placement is required for a period of time not to exceed two years, during which time the local or regional board of education responsible for providing such children with a special education shall develop an appropriate special education program or cause such program to be developed within the state; or
(3) an out-of-state placement is more economically feasible than an existing special education program in the state or any such program that could be developed within the state within a reasonable period of time.[50]

[45] Conn. Gen. Stat. § 10-76d(d).
[46] Conn. Gen. Stat. § 10-76d(d); Conn. Agencies Regs. § 10-76d-17(a)(1).
[47] Conn. Agencies Regs. §10-76d-17(a)(2) & (4); *see also* Conn. Gen. Stat. § 10-76d.
[48] Conn. Agencies Regs. § 10-76d-17(a)(3) & 10-76d-11; *see also* Conn. Gen. Stat. § 10-76d.
[49] Conn. Agencies Regs. § 10-76d-17(a)(5); *see also* Conn. Gen. Stat. § 10-76d.
[50] Conn. Gen. Stat. § 10-76d(f).

In addition, "[n]o placement in an out-of-state private special education school, agency or facility shall be approved unless such school, agency or facility first agrees in writing to submit to the state Department of Education any such financial program and student progress reports as the commissioner may require for the purpose of making an annual determination as to the economic feasibility and program adequacy of the special education program provided."[51]

Out-of-state programs must meet the educational standards in the state where the program is located.[52] If no such standards exist, the sending LEA must provide the CSDE with documentation that the out-of-state private program is appropriate to the child's needs, as described in the child's IEP.[53] Additionally, any student placed in an out-of-state program must be given all the educational rights as a child who is educated directly by their LEA.[54]

The Connecticut State Board of Education (SBE) is responsible for ensuring LEAs follow these laws and must monitor whether private placements comply with federal and state standards.[55] The Connecticut State Department of Education is the administrative arm of the SBE.[56]

However, our investigation found that CSDE does not enforce these requirements—many out-of-state-schools, including Shrub Oak, lack required approvals, yet continue to receive public funding. Additionally, many placements at out-of-state programs last for more than two years with little evidence of in-state programs being developed.

Compliance with Federal Disability Rights Laws – Public School Districts Contracting with Non-Public Schools.

In 1990, Congress enacted the Americans with Disabilities Act (ADA) "to provide a clear and comprehensive **national mandate for the elimination of discrimination against individuals with disabilities**."[57] In so doing, Congress again recognized that "historically, **society has tended to isolate and segregate individuals with disabilities**, and despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem."[58] Title II of the ADA prohibits discrimination against individuals with disabilities by state and local governments.[59] Title III of the ADA prohibits discrimination against persons with disabilities by public accommodations and commercial facilities.[60] Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits recipients of federal financial assistance from discriminating solely

[51] *Id*.
[52] Conn. Agencies Regs. § 10-76d-17(a)(6).
[53] *Id*.
[54] Conn. Agencies Regs. § 10-76d-17(a)(5).
[55] Conn. Gen. Stat. §§ 10-76b, 10-76d, & 10-74u.
[56] Conn. Gen. Stat. § 10-3a.
[57] 42 U.S.C. § 12101(b)(1).
[58] 42 U.S.C. § 12101(a)(2).
[59] 42 U.S.C. § 12132.
[60] 42 U.S.C. § 12182(a).

on the basis of disability.[61] Similar to the Individuals with Disabilities Education Act (IDEA), Section 504 requires school districts and other LEAs receiving federal financial assistance to provide a Free Appropriate Public Education (FAPE) to all students with disabilities, regardless of the nature or severity of the disability.[62]

One form of discrimination prohibited by Title II of the ADA **is unnecessary segregation** of individuals with disabilities.[63] **The ADA also prohibits** state and local governments from **providing any aid, benefit, or service in a discriminatory manner**, **whether provided directly or through contractual or other arrangements**.[64] This includes failing to administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities,[65] which the U.S. Attorney General has defined as **"a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible."**[66] Title III of the ADA requires the goods, services, and facilities of places of public accommodations to be afforded to an individual with a disability in the most integrated setting appropriate to their needs.[67] Similarly, Section 504 requires students with disabilities to be educated with students without disabilities to the maximum extent appropriate.[68] Similar to the ADA, **Section 504 also prohibits a recipient from directly, or through contractual or other arrangements**, utilizing criteria or methods of administration (i) that have the effect of **subjecting** qualified **individuals with disabilities to discrimination** on the basis of disability, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to disabled individuals; or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.[69]

Despite all the federal and state law protections, our investigations found that the students in these out-of-state placements were subjected to excessive restraint and seclusion, excessive injuries, and insufficient oversight and monitoring by the CSDE and LEAs.

PART I: USE OF RESTRAINT AND SECLUSION ROOMS ARE NOT SUBJECT TO CONNECTICUT LAW

The policies and practices of restraint and seclusion as behavioral management tools in the out-of-state placements that were reviewed were worrying. The use of restraint and seclusion is not subject to the same legal requirements established in Connecticut. The investigation revealed overuse and misuse of restrictive practices, with no established mechanism for the

[61] 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104.
[62] 34 C.F.R. § 104.33.
[63] *Olmstead v. L. C.*, 527 U.S. 581 (1999).
[64] 28 C.F.R. § 35.130(b).
[65] 28 C.F.R. § 35.130(d).
[66] 28 C.F.R. pt. 35, App. B, p. 674.
[67] 42 U.S.C. § 12182(b)(1)(B); 28 C.F.R. § 36.203(a).
[68] 34 C.F.R. § 104.34.
[69] 34 C.F.R. § 104.4(b)(4).

Connecticut State Department of Education (CSDE) and the sending school district or local education agency (LEA) to perform meaningful oversight and monitoring. This is particularly concerning given the known negative impact on children's wellbeing and development and suggests a lack of alternatives to manage challenging behaviors in these settings.

Connecticut state law details many requirements related to the use of restraint and seclusion in child-serving systems, including educational settings (public and private schools);[70] and residential treatment facilities,[71] where children with disabilities receive care. In Connecticut, all schools and residential treatment facilities must follow strict requirements concerning restraint and seclusion.

Educational Settings

Laws regarding restraint and seclusion in schools have been the subject of review over recent years and apply to all students educated in the State of Connecticut, including those enrolled in APSEPs.[72]

Seclusion is defined as "the involuntary confinement of a student in a room from which the student is physically prevented from leaving. "Seclusion" does not include an exclusionary time out."[73] Exclusionary time out is defined as "a temporary, continuously monitored separation of a student from an ongoing activity in a non-locked setting, for the purpose of calming such student or deescalating such student's behavior."[74]

Seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement including in-school suspension and time-out. Seclusion does not include: (1) an exclusionary time out or (2) in-school suspensions"[75] **However, any situation in which a student is prevented from leaving a confined area becomes a "seclusion" despite the nomenclature used to describe such setting or situation.**

Under Connecticut law, "physical restraint" is "any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs, or head including, but not limited to, carrying or forcibly moving a person from one location to another."[76] The term does not include: briefly holding a person in order to calm or comfort the person; restraint involving the minimum contact necessary to safely escort a person from one area to another; medical devices, including, but not limited to, supports prescribed by a health care provider to achieve proper body position or balance; helmets or other protective gear used to protect a person from injuries due to a fall; or helmets, mitts and similar devices used to prevent self-injury when the device is part of a documented treatment plan or the IEP, or is prescribed or

[70] *See* Conn. Gen. Stat. § 10-236b.
[71] *See* Conn. Gen. Stat. § 46a-150, *et seq*.
[72] *See* Conn. Gen. Stat. § 10-236b.
[73] Conn. Gen. Stat. § 10-236b(5).
[74] Conn. Gen. Stat. § 10-236b(7).
[75] *See* Conn. Gen. Stat. § 10-236b(5); see also Connecticut State Department of Education, *Guidance Related to Recent Legislation Regarding Restraint and Seclusion in Schools* (Revised July 2019) https://portal.ct.gov/-/media/SDE/Special-Education/guidance_related_to_legislation_regarding_restraint_and_seclusion_in_schools.pdf
[76] Conn. Gen. Stat. § 10-236b(a)(3).

recommended by a medical professional, and is the least restrictive means available to prevent such self-injury.[77] The term "physical restraint" expressly excludes "an exclusionary time out."[78]

These state laws, in addition to these definitions of restraint and seclusion, detail limitations on their use, the training of staff who may use restraints, as well as the need for reporting to the CSDE on the use of restraint and seclusion. These laws have been put in place to protect students with disabilities from the overuse and misuse of restraint and seclusion by school staff and to allow the State to monitor LEAs and APSEPs on their use of restraint and/or seclusion, including when students are seriously injured by their use.

The negative impact on students of restraint and seclusion has been well researched and documented.[79] Seclusion or physical restraint of students are harmful practices and can have a lasting and negative impact on students. There is ample evidence of the significant harms of these practices, including serious physical injury, emotional trauma, and even death – creating a hostile educational environment for both the student directly impacted and those students who witness these excessive practices. When students are subjected to physical restraints and seclusion, they are not learning. Where the use of these practices is excessive, the student experiences excessive loss of instructional time and educational opportunities. Furthermore, there is a lack of evidence demonstrating that such practices are effective in responding to a student's behavior or that these practices reduce the occurrence of behaviors that interfere with a student's learning.

Despite the safeguards in Connecticut aimed at preventing the overuse and misuse of restraint and seclusion in schools, these laws do not apply to out-of-state schools, leaving vulnerable Connecticut children placed at these segregated schools with no safeguards against these harmful practices.

Residential Treatment Facilities

There are also laws that prevent the overuse and misuse of restraint and seclusion practices in residential treatment facilities. Many states have laws and guidelines for the use of physical restraints, requiring them to be used only as a last resort in emergency situations to prevent immediate harm. Connecticut is one such state. Physical restraint may only be used as an emergency intervention to prevent immediate or imminent injury to the person or others.[80] It must never be used for discipline, convenience, or as a substitute for a less restrictive alternative.[81] In situations where restraint is deemed necessary, it must be determined on an individualized basis by the person's treatment team.[82] Similarly, seclusion

[77] Conn. Gen. Stat. § 10-236b(a)(3)(A)-(D).
[78] Conn. Gen. Stat. § 10-236b(a)(3)(F).
[79] *See* U.S. Government Accountability Office; GAO-09-719T; *Seclusions and Restraints: Selected Cases of Death and Abuse and Public and Private Schools and Treatment Centers*, (May 19, 2009). https://www.gao.gov/assets/gao-09-719t.pdf and U.S. Department of Education, *Secretary's Letter on Restraint and Seclusion*, (January 8, 2025) https://www.ed.gov/laws-and-policy/key-policy-letters/secretarys-letter-restraint-and-seclusion
[80] Conn. Gen. Stat. § 46a-152(a).
[81] *Id.*
[82] *Id.*

may only be used in emergencies to prevent immediate or imminent injury to the person or others.[83] Like physical restraints, seclusion cannot be used for discipline, convenience, or as a substitute for less restrictive alternatives.[84]

Whenever physical restraint or seclusion is used, it must be documented in the person's medical record.[85] This documentation must include: (1) the nature of the emergency and what other steps, along with details of other steps, such as verbal de-escalation, that were taken to prevent the emergency; and (2) a detailed description of the restraint or seclusion, its duration, and its effect on the person's medical or behavioral support plan.[86] Additionally, any person subjected to physical restraint or seclusion must be regularly evaluated for signs of physical distress, and each evaluation must also be documented in the person's record.[87]

Connecticut law includes a degree of accountability and transparency that the use of restraint and seclusion is only a last resort, and not in violation of a person's rights and dignity. For example, facilities are required to compile information on each instance of physical restraint and seclusion annually.[88] Before renewing a facility license or contract, the overseeing state agency must review this compilation.[89] If restraint or seclusion results in physical injury, the facility must report the incident to the relevant state agency commissioner.[90] The commissioner is then responsible for reporting any serious injury or death to the executive director of the designated protection and advocacy system in Connecticut, and, if appropriate, to the Office of the Child Advocate.[91]

Connecticut law also builds in some internal monitoring and training. Facilities must develop policies and procedures that establish internal monitoring and reporting of physical restraint and seclusion incidents.[92] They are also required to train all care providers and assistants in areas such as verbal de-escalation, prevention strategies, types of physical restraint, and the differences between permissible restraint and pain compliance techniques.[93] Regular evaluations for signs of physical distress during restraint or seclusion are mandated, with each evaluation documented in the person's record.[94]

The OCA requested information and documents from the ten (10) Connecticut public school districts who placed the most students in out-of-state placements for the PUR, which included Stamford Public Schools. Based on records received from the ten (10) Connecticut public schools districts who have students attending out-of-state schools, it appears that there is an underreporting on the use of seclusion and restraints on students. More alarmingly, in cases

[83] Conn. Gen. Stat. § 46a-152(b).
[84] *Id.*
[85] Conn. Gen. Stat. § 46a-152(d).
[86] *Id.*
[87] Conn. Gen. Stat. § 46a-152(e).
[88] Conn. Gen. Stat. § 46a-153(a).
[89] *Id.*
[90] Conn. Gen. Stat. § 46a-153(b).
[91] *Id.*
[92] Conn. Gen. Stat. § 46a-154(a).
[93] Conn. Gen. Stat. § 46a-154(b).
[94] Conn. Gen. Stat. § 46a-152(e).

where there was robust reporting, there was evidence that students were excessively subjected to seclusion and restraint.

For example, Stamford Public Schools produced over 10,000 records for thirty-five (35) students enrolled in out-of-state schools, and there were only three (3) Incident Reports of restraint and/or seclusion during the PUR included in those 10,000 documents. Other districts responded that there were few to no incidents of restraint and/or seclusion for many students attending out-of-state schools. Specific findings relating to this are discussed in more detail below.

Where there were exceptions to this lack of reporting, the records were worrisome. In one example, a Connecticut student was restrained over 1,000 times during the PUR while receiving his educational programming at one out-of-state school. The school is one of many out-of-state schools in which Connecticut students are placed that has been subject to allegations of abuse. Another student enrolled at Shrub Oak was subjected to multiple restraints a day and eventually removed from the school due to allegations of physical abuse, and such allegations were a motivating factor in returning this student to Connecticut. Shrub Oak and findings relating to that out-of-state school are discussed in more detail throughout this Investigative Report.

Acknowledging all the Connecticut laws regulating restraint and seclusion of students (schools and residential treatment facilities), it is extremely troubling that children enrolled in these out-of-state special education schools are not afforded the same protection against the inappropriate use of restraint and seclusion that they would have if attending a school located in Connecticut. The state in which the out-of-state school is located may not have similar laws and, because some schools are not licensed and/or approved in the state in which they are located, the laws that do exist may not apply. These schools are left to develop their own policies and practices related to restraint and seclusion. Our investigation found that the policies and practices in place at Shrub Oak fell far short of protecting the students enrolled there and short of providing the level of protection if they were in Connecticut approved schools/programs

Exemplar: SHRUB OAK

DRCT site visits and record reviews made investigators aware of the presence and prevalence of small, padded rooms referred to at Shrub Oak as "quiet rooms/green rooms." These green rooms were located throughout the facility and used extensively to de-escalate students and manage behaviors. DRCT found that some students are subjected to what amounts to "seclusion" as defined by Connecticut state law as part of their behavioral programs. In such cases, the Shrub Oak staff informed DRCT staff that they place students in this room when they engage in certain behaviors and hold the door closed so they cannot exit the room. This intervention is per Shrub Oak's "hold and close" policy. A list of the initials of the students who were subject to the "hold and close policy" was posted on the "quiet room" doors in the living units. Despite assertions that Shrub Oak was no longer using the "hold and close" policy subsequent to DRCT's observations, record reviews confirmed that at least one student continues to have the "hold and close" intervention as part of his current individual service plan. While the Shrub Oak policy states that its "Quiet Room/Green Room" is not for the purpose of seclusion, the terms of the policy itself reveal that it is, in effect, used for seclusion

as that term is defined by Connecticut law. Of course, in Connecticut, children may only be subjected to restraint and seclusion for emergency reasons and not as part of their IEP.[95]

Some of the "Quiet Rooms/Green Rooms," which are located throughout the living and the school areas of Shrub Oak, were dangerous. Specifically, DRCT observed that although these rooms had pads on the walls and floor, some of the rooms have exposed areas to sharp and/or hard surfaces against which a child can hit their heads or other bodily parts and/or otherwise harm themselves.

During one site visit, DRCT observed a student in a green room connected to a classroom. Through a window in the door to the room, the student was observed to be sitting on the ground with the door to the room shut. There was a staff member standing in front of the door on the outside of the room observing the student. When asked about the reason the student was in the room, staff shared that the student needed some quiet time. Based on the staff response, it was questionable whether this incident was considered by staff to be a seclusion and if it was reported to the LEA and/or parents. However, according to Connecticut state law, an incident in which a student was in a small room with a closed door with a staff person blocking entry or exit from the room would be considered a seclusion and trigger certain reporting requirements.

During DRCT's record review, one student was subjected to at least forty-six (46) physical restraints within about nine (9) months. Forty-six (46) instances of physical restraint within nine (9) months are excessive, particularly for an individual with a developmental disability that requires individualized care. This extensive use of physical restraint points to the lack of an adequate individualized behavior plan and behavioral supports for this particular student.

In addition to seclusion, students at Shrub Oak were also subject to excessive restraints. DRCT record reviews showed some instances of the use of restraint of students but as noted, there was no indication that Shrub Oak reported on the use of restraint of students to LEAs or parents. We cannot be sure of the extent to which restraints are being used to deal with student behavior challenges. Understanding this to be the case, 3 of the 8 student files reviewed showed students subjected to restraints. Additionally, there are many instances of unexplained injuries that will be further addressed in the next section of this report.

The excessive use of and reliance on restraint and seclusion raises many concerns and issues as the expectation is that these students would receive the appropriate and necessary behavioral health and other support needed to avoid restraint and seclusion at this expensive and specialized special education school. Some of these concerns include:

- **Lack of Preventative Strategies:** Frequent use of physical restraints may indicate a failure to implement less intrusive behavioral interventions or preventative

[95] "P.A. 18-51 stipulates that seclusion is no longer permitted to be used as a behavior intervention in the IEP. Therefore, all reported incidents of restraint and seclusion are in response to an emergency." Connecticut State Department of Education, *Annual Report on the Use of Physical Restraint and Seclusion in Connecticut School Year 2022-23* (2024).

strategies that should be identified and addressed through a functional behavior assessment (FBA) and behavior intervention plan (BIP).[96]

- **Lack of Comprehensive, Individualized Behavior Plans**: The records reviewed did not show evidence of comprehensive individualized behavior assessments or behavior plans for Connecticut students. Considering these students have varying levels of behavioral challenges including some with significant behavior challenges, comprehensive individualized FBAs and BIPs performed and completed by trained and qualified professionals are necessary to reduce and eliminate the need for more restrictive strategies such as physical restraints and seclusions.

- **Risk of Physical and Emotional Harm:** The use of physical restraint carries risks, such as physical injury, psychological trauma, and the potential for reinforcing maladaptive behaviors.

- **Staff Training and Oversight:** Such a high number of physical restraints suggest issues with staff training, insufficient use of de-escalation techniques, or over-reliance on physical intervention as a default response to disability-related behaviors. There are many scientifically research-based interventions proven to be effective at reducing the need for more restrictive interventions such as physical restraints. Our record reviews showed no evidence of staff training on these less restrictive interventions and techniques. Additionally, there was little evidence of staff training on any individualized behavior plans for individual students.

Connecticut law requires an LEA or a school operating under contract with an LEA to record, track, and report on the use of restraint and seclusion to the CSDE. [97] According to the CSDE's practice and data reporting requirements, "if a student is placed by the LEA in an out-of-state facility and is restrained or secluded, this R/S [restraint/seclusion] incident is reported by the LEA and is included in the LEA's incident count."[98] However, while this information is required to be reported to the LEA, when those incidents of restraint and/or seclusion are then reported to CSDE, they are grouped in the districts' total instances of restraint and seclusion. This information is not separated out by each specific school. While LEAs are obligated to report instances of restraint and/or seclusion to the student's parent/guardian and to the CSDE, meeting that obligation assumes an out-of-state placement like Shrub Oak reports such instances to the LEA. **Our investigation found that Shrub Oak did not consistently notify parents of restraints, seclusions, or injuries. The investigation found little to no evidence of notification to LEAs or the CSDE.** Our investigation uncovered excessive use of restraint and seclusion of students with

[96] According to the Center on PBIS, Positive Behavioral Interventions and Supports the following are components of an FBA, identifying and defining target behaviors, progress monitoring, data collection and analysis, hypothesizing the function of target behaviors, and developing replacement behaviors. In addition, the Center on PBIS recognizes these components of a BIP, development of intervention strategies that: prevent antecedents (triggers), teach replacement behaviors, reinforce replacement behaviors, and prevent reinforcement of challenging behaviors; teaching/coaching of staff to implement intervention strategies; ongoing assessment of the BIP; modification of the BIP if needed.
[97] Conn. Gen. Stat. § 10-236b.
[98] Connecticut State Department of Education, *Annual Report on the Use of Physical Restraint and Seclusion in Connecticut School Year 2022-23* (2024).

the most significant support needs, which often included the need for behavioral supports, that went unreported. Record reviews showed many instances of restraint of students but no indication that the restraint was reported to the LEA.[99] In response to the concerns outlined in this Report, the CSDE said they would explore the feasibility of reporting restraint/seclusion data for students in out-of-state facilities. Additionally, the CSDE is currently developing a model contract (for use between LEAs and out-of-district programs) and agrees that restraint/seclusion data expectations should be standardized in student-specific outplacement contracts between LEAs and out-of-district programs.

PART II: EXCESSIVE INJURIES

A troubling number of injuries among students in the segregated out-of-state placements reviewed could not be conclusively explained. These injuries raise serious concerns about student safety and the adequacy of the services provided at these schools. Many of these incidents remain unresolved, highlighting a significant gap in accountability.

Most students who are placed in these segregated out-of-state schools have significant support needs, often with a high need for behavioral supports. Additionally, these students very often have significant communication challenges which present a variety of problems, especially when a student is so far from home. Often, students are unable to have regular, meaningful communication with family and others familiar to them outside the out-of-state school. The students' support needs and communication disabilities, paired with the distance between their loved ones and trusted adults, often create conditions that give rise to an increased risk of abuse and neglect.

Unfortunately, abuse and neglect of students with disabilities are all too prevalent in our society. The risk of abuse and neglect increases when people with disabilities are in segregated environments. Placing students with developmental disabilities in out-of-state facilities significantly heightens their risk of abuse, neglect, and rights violations. The Developmental Disabilities Assistance and Bill of Rights Act (DD Act) acknowledges that individuals with developmental disabilities are at greater risk than the general population of abuse and neglect.[100] Out-of-state placements remove students from their familiar environments and support networks, increasing their vulnerability. This separation can lead to isolation, making it more challenging to detect and prevent instances of abuse or neglect.

Out-of-state educational placements disproportionately affect students with significant behavioral support needs, exposing them to risks that contravene several key findings of the DD Act. For example: the abuse and neglect by staff in out-of-state facilities violates the fundamental rights of individuals to live in safety and dignity, as emphasized in the DD Act's findings.[101] Specifically, in enacting the DD Act, Congress found that individuals with developmental disabilities are at greater risk than the general population of abuse, neglect, financial and sexual exploitation, and the violation of their human and legal rights.[102]

---

[99] Shrub Oak practice is to refer to some restraints as "holds," although those "holds" would constitute a restraint as defined by Connecticut law.
[100] *See* 42 U.S.C.A. § 15001(a)(5).
[101] *Id.*
[102] *Id.*

The geographical distance inherent in out-of-state educational placements exacerbates the risks to students with developmental disabilities. Being removed from their families, friends, and communities, strips students of vital protective supports that enhances their quality of life, as highlighted in the Congressional findings of the DD Act. This distance erodes their right to exert control and choice over their lives, which is contrary to the DD Act's finding that disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently, to exert control and choice over their own lives, and to fully participate in and contribute to their communities through full integration and inclusion.[103] The distance also further isolates these individuals from access to critical services and individualized supports that are most effective when delivered within their home communities, as emphasized in the DD Act.[104] The practice of removing individuals with developmental disabilities that include significant behavioral support needs conflicts with the stated policy of the United States and the DD Act's core principles, which emphasize the importance of inclusion, integration, and the provision of culturally competent, community-based services. Protecting students with developmental disabilities requires a commitment to supporting them within their own communities, ensuring their rights, safety, and opportunities to thrive.

Geographical distance is also a factor that contributes to the conditions usually associated with abuse and neglect. For example, in promulgating the regulations implementing the DD Act, the U.S. Department of Health and Human Services noted that immediate access to facilities is sometimes necessary to "prevent interested parties from concealing situations involving abuse or neglect or taking actions which may compromise evidence related to such incidents (such as intimidating staff or service recipients" (i.e. students).[105]

While CSDE suggests that a lack of complaints from parents and/or educators is an indicator that students enrolled in out-of-state schools are thriving, our investigation strongly suggests the contrary. It is not reasonable to rely primarily on a complaint driven system with this highly vulnerable group of students and families. Parents/guardians are separated from their children, sometimes hundreds of miles away with little opportunity and/or resources to maintain regular in-person contact with the student. Students often struggle with communication; some are non-verbal, and may not know how, where, or to whom to complain about the conditions at these out-of-state schools. A system of monitoring that relies primarily on complaints with this group of vulnerable students is a failed system that cannot adequately ensure that students are receiving FAPE in the LRE and are free from abuse and neglect. CSDE must do a better job of monitoring the educational programming of these Connecticut students enrolled in out-of-state schools. Connecticut students enrolled in out-of-state schools deserve the same opportunities and protections that would be afforded to them in Connecticut-based schools. Location alone does not absolve the CSDE from this legally required responsibility.

Exemplar: SHRUB OAK

Our investigation discovered that many students at Shrub Oak experienced excessive and very often unexplained injuries that are indicative of abuse and/or neglect. These students

[103] 42 U.S.C. § 15001(a)(1).
[104] *See* 42 U.S.C. § 15000.
[105] Developmental Disabilities Program, 73 FR 19708-01 at 19717 (2008).

have significant support needs with direct care staff with them from 8 to 24 hours per day. The facility's incident reports document numerous examples of peer aggression, staff neglect, and unexplained injuries. Reports include incidents of students being bitten or hit by peers, as well as injuries sustained due to staff failure to supervise effectively. The unexplained injuries included bruises, cuts, scrapes, abrasions, burns, and bumps requiring first aid and/or additional attention from a medical professional. Unexplained bruises and injuries were a recurring theme, suggesting a lack of proper monitoring and intervention protocols. For instance, repeated instances of bruising were noted without clear explanations or follow-up measures.

Student E, a Founders student, was discharged from Shrub Oak to a community setting in his home state in September 2022. Immediately after his discharge, a nurse in his new placement discovered that he had developed cellulitis on his underarm while at Shrub Oak. Photos show four very deep holes in his armpit area. Student E was hospitalized and needed IV antibiotics for several days once he was brought to the ER by his parents, after a nurse at his new group home looked at the rash and advised them to go to the ER immediately. A Shrub Oak medical note recorded the day after Student E left the facility stated that they "had been treating the rash since Tuesday," but no medical notes were produced to confirm that, nor was the rash documented anywhere in Shrub Oak records. However, there was documentation of Student E being left in a pool of his own urine. According to a witness, Student E was being overmedicated and would sleep all day. He was supposed to use the bathroom every hour, but Campus Life staff allowed him to sleep in his own urine, which contributed to the infection under his arm. This was reported by at least two Shrub Oak witnesses, but evidently no incident report was created. Despite requests for the information, no documentation was provided regarding Student E's rash.

An additional concern was the difference between the notes provided on internal incident reports and the pictures, or lack of pictures, associated with that incident. Insufficient reporting, recording, and follow up on incidents involving injury were genuinely concerning.

Failure to Provide Essential Safety Measures: The facility reported three incidents over a 6-month period where a peer either bit or hit an individual with a 1:1 (16 hours/day). Additionally, staff found this same individual alone in his room with a bleeding cut. These incidents indicate a lack of staffing sufficient to monitor the conduct of their assigned individuals and their peers.

Staff were not trained in a student's safety plan: In conversation with staff by investigators, it was found that one on one direct care staff were not trained on or aware of the safety protocols for a student with a seizure disorder. The staff were not aware of the details of the student's medical condition (types, frequency and severity of seizures) or the appropriate response and intervention required to keep the individual safe. When asked, Shrub Oak did not provide staff training records related to student safety plans, behavior plans, education plans, etc. A response from Shrub Oak stated, "The Health and Wellness departments offer bi-monthly education sessions on seizure and concussion protocols which are geared towards the primary staff of those students who may suffer from these conditions. The sessions are open, of course, to all staff." Our record review showed no evidence of any required training completed by staff working with students with seizure disorders.

Also of great concern, in addition to the frequency and severity of injuries to students, is the lack of external notification or reporting of these injuries. As a non-approved, unlicensed special education school, there is no requirement that these injuries to students be reported to the parents, the sending LEA/school district, or the CSDE. Our investigation did find some, but very inconsistent, notification of parents of these injuries. Connecticut law requires notification of parents/guardians when a restraint or seclusion occurs, or certain injuries occur. **Our investigation found that Shrub Oak did not consistently notify parents of restraints, seclusions, or injuries. The investigation found little to no evidence of notification of sending LEAs or the CSDE.**

Additionally, this lack of reporting provides no opportunity for any investigation of potential abuse or neglect that may have occurred. For schools approved by the CSDE, there is at least a mechanism for reporting these injuries which provides the possibility of an investigation into the cause of such injuries and potential abuse or neglect. With no such requirement for schools such as Shrub Oak, student injuries often go unreported with little chance an investigation into their causes will occur. This has led to a system ripe for potential abuse and neglect of students with the most significant support needs.

PART III: INSUFFICIENT OVERSIGHT AND MONITORING

The State of Connecticut does not approve out-of-state schools, and many such schools in which Connecticut students are enrolled are not approved and/or licensed by the state in which they operate. We found a lack of oversight and monitoring by both the Connecticut State Department of Education and the sending school district or local education agency of these out-of-state schools. During the PUR, seventeen (17) out-of-state schools where Connecticut students were enrolled were **not** approved by the Department of Education in the state in which they were located[106], two (2) were not licensed and two (2) schools were both not approved and not licensed by the state in which they were located.[107] Although these out-of-state schools (the actual physical buildings) may not be subject to the same Standards as schools located in the state, the LEAs and SEA have IDEA monitoring responsibilities, regardless of where the school is located. The result is minimal oversight and monitoring of the conditions of the schools that house our most vulnerable Connecticut special education students. Given the lack of oversight and monitoring provided by the CSDE and LEAs, our findings regarding excessive use of restraint and seclusion and excessive injuries in the facilities we reviewed raise serious concerns about the safety and well-being of children in any out-of-state school.

When parents and families are faced with a situation in which their child is not being provided with the necessary support and services within the student's home school district, they consider the options for outplacement. Many parents and families are at a distinct disadvantage with respect to their knowledge and understanding of the options available and

[106] Curtis Blake School, MA; Valley View School, MA; Community Resources for Justice, MA; White Oak School, MA; Eagle Hill School, MA; Tate Behavior Health, MA; The Center School, MA; S.W.C.E.C - The Grown School, MA; Center School-Chicopee, MA; Oliverion School, NH; Webster School, NH; Shortridge Academy, NH; Gow School, NY; The Walden School, NY; PNW BOCES—Yorktown Heights, NY; Andrus Children's Home /Orchard School, NY; Shrub Oak, NY.

[107] Fulsheare Treatment, TX; Gow School, NY; Oliverion School, NH; Shrub Oak, NY.

are not able to know and understand the details. They may not know the possibilities available to support their child within the school district and must rely on the information provided by the LEA. Additionally, when considering the options for any out of district placement, either in state, and especially out-of-state, some parents have great difficulty in learning about these schools and programs and truly knowing if and how the school can support their child. Parents may rely on the LEA and often the accepting outplacement school for information which can be unreliable and incomplete. Parents are very often not fully informed to be able to make a good decision for their child. Often, they are in a crisis and are left with little to no options for the student. It also is not clear if they are fully informed whether the out-of-state options are approved or licensed in the states in which they operate. This leaves families in a situation where they have to make difficult decisions, in which they have few options and often not all the information they may want before making such decisions.

CSDE has a process in place to approve, oversee and monitor certain private special education schools, the APSEPs, within the State of Connecticut. Though there are issues with this system of oversight and monitoring, at the very least, these in state APSEPs are subject to some level of oversight. Additionally, the proximity of many of the in-state schools, as compared to out-of-state schools, to a student's home district, allows for some level of oversight by the sending LEA. Though this oversight of in state APSEPs by LEAs is very often insufficient, it again, at the very least, provides some oversight.

None of the out-of-state special education schools and programs are approved by CSDE and thereby are not subject to the same meaningful oversight and monitoring by Connecticut. In many cases, these out-of-state schools are also not licensed or approved by the state in which they operate. This leads to a lack of oversight of the schools and no need for them to follow the educational laws and requirements of the State of Connecticut or of the state where they operate. It is extremely troubling that these schools that are serving Connecticut students with the most significant support needs who are the most vulnerable to abuse and neglect are under the least amount of oversight and monitoring by the State of Connecticut and the LEAs sending them there.

In accordance with Connecticut law, a child cannot be placed in an out-of-state private facility except when, in the opinion of the Commissioner of Education, it is determined that (1) no public or approved private facility that can reasonably provide appropriate special education for the child is available in-state; (2) no public or approved private facility that can reasonably provide appropriate special education for the child is available in-state and the out-of-state placement is required for no longer than two years, during which the responsible LEA shall develop an appropriate special education program in-state; or (3) an out-of-state placement is more economically feasible than an existing special education program in the state or any such program that could be developed within a reasonable period of time.[108] There is no requirement that the out-of-state school must follow Connecticut approved standards.

Despite these legal mandates, the investigation found serious failures in statutory and regulatory compliance. For example, there was no evidence before placing a student in an out-of-state program that the Commissioner of Education determined there was no public or approved private facility that could reasonably provide appropriate special education

[108] Conn. Gen. Stat. § 10-76d(f).

available in-state, that the out-of-state placement would not exceed a period of two years, or that the out-of-state placement is more economically feasible than an in-state placement or any in-state placement that could be developed within a reasonable period of time.[109] Neither the CSDE nor the LEA ensured that the out-of-state program met the educational standards for private programs in the state where the program is located.[110] Indeed, in the case of Shrub Oak, the investigation revealed that it was not an approved private special education program in New York. Nor did the CSDE or LEA ensure that a child placed at the out-of-state education program was afforded all the educational rights as a child who is educated directly by their own LEA.[111] This includes ensuring the students have access to extracurricular and nonacademic programs and services.[112] Essentially, although the CSDE tracks students placed in out-of-state schools, it does not do anything more with data obtained about that out-of-state placement. There is little, to no, state intervention or monitoring.

In fact, data provided to OCA during this investigation from CSDE did not match data provided by districts who sent students to out-of-state schools during the PUR. Twenty-eight (28) districts reported students attending out-of-state schools that were not recorded by CSDE. Twenty-four (24) districts did not report students attending out-of-state schools that were reported by CSDE during the PUR. Finally, six (6) districts that CSDE reported as sending students to out-of-state schools reported NO students being placed out of Connecticut. It is troubling that the data collected by CSDE is not consistent with what Connecticut school districts are reporting. It is equally concerning that there seems to be no review and/or audit activity with respect to that data collected by CSDE.

Current state oversight also fails to ensure students placed in private and out-of-state schools receive legally required protections. Stronger enforcement of approval, monitoring, and reporting requirements would maintain and enforce the rights and protections for students with disabilities under the IDEA, state law, the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act (Section 504).

The State's policies and practices also do not ensure that students placed out-of-state have access to Connecticut's state-approved Core Standards and grade level instruction provided by appropriately certified teachers.[113] Connecticut General Statutes 10-76d(d) provides that no expenditures can be made pursuant to contracts made with a private school to offer services unless it meets certain standards. The standards don't require compliance with some of the regulatory standards under federal law. For example, there is no requirement that CSDE ensure that out-of-state personnel providing special education and related services are appropriately and adequately trained.[114] The Commissioner has to grant approval but must only base that approval on: the child's particular needs, appropriateness and efficacy of the program offered by private school, and the economic feasibility of comparable alternatives.[115]

---

[109] Conn. Gen. Stat. § 10-76d(f).
[110] Conn. Agencies Regs. § 10-76d-17(a)(6).
[111] Conn. Agencies Regs. § 10-76d-17(a)(5).
[112] *Id*.
[113] Conn. Gen. Stat. §10-76d(d).
[114] *See e.g.*, 34 C.F.R. § 300.156.
[115] Conn. Gen. Stat. §10-76d(d)

Based on a review of multiple students' educational records from out-of-state educational placements like Shrub Oak, it was clear that the educational plans did not include everything that is required in an IEP. It was also clear that there was no established policy or procedure for the CSDE to ensure that an educational plan at such an out-of-state placement complied with the IDEA and state law requirements for what must be included in an IEP.

While there are requirements in state law that the CSDE must receive information about a student, like progress reports,[116] our investigation did not reveal any policy or procedure by which CSDE was provided or reviewed that information.

There is no requirement that the out-of-state educational programs provide instructional hours comparable to those of in-district schools. Students placed in out-of-state educational programs often do not earn transferable credits to graduate with a high school diploma. CSDE, which has general supervisory authority over the implementation of the IDEA, has no mechanism to ensure the provisions of FAPE for students with disabilities in out-of-state educational facilities.

In addition to the lack of oversight and monitoring by CSDE of these out-of-state placements, our investigation showed that there is also a lack of oversight and monitoring by the LEAs who have contracted with these out-of-state schools for the educational programming of Connecticut students. The OCA requested information and documents from the ten (10) Connecticut public school districts who placed the most students in out-of-state placements for the PUR, which included Stamford Public Schools. Stamford was recorded by CSDE as placing thirty (35) students in out-of-state schools. Stamford provided documentation of the costs for those students during the PUR, which amounted to over 25 million dollars. Most of those Stamford students were boys (88%) and children of color (65%). Recorded disabilities classifications included Autism; Other Health Impairment; Multiple Disabilities; ADD/ADHD; Developmental Delay; and Intellectual Disability.

Only 2/10 districts engaged in direct observations of a student enrolled in an out-of-state school. Stamford was not one of those two schools. There was no indication that Stamford engaged in any direct observation of any of its students enrolled in out-of-state schools. Most districts relied on progress reports and virtual attendance at PPT meetings as the only mechanism for ensuring that the student's educational programming was appropriate for the student's individual needs – a mechanism that is wholly inadequate.

Several of those 10 districts sent students to out-of-state schools that were not approved by the state in which the school was located, including Stamford. Yet, none of those districts provided documentation to CSDE that the unapproved program was "appropriate to the child's needs as set forth in the child's individualized education program" as is required in accordance with Regs. Conn. State. Agencies. § 10-76d-17(6). Several of the out-of-state schools educating Stamford students had widely been reported as under investigation by a variety of agencies for allegations of abuse and misappropriation of funds.[117] Generally,

[116] Conn. Gen. Stat. 10-76d(f).

[117] **Anderson School of Autism:** https://www.einnews.com/pr_news/356446308/anderson-school-center-for-autism-has-history-of-abuse-of-children-with-autism and https://law.justia.com/cases/federal/district-courts/new-york/nyndce/1:2013cv00041/92690/29/

districts do not request information about the qualifications and certifications of the staff providing instruction and care to Connecticut students or evidence that the out-of-state school has completed full background checks on staff. Districts rely on assurances made by the out-of-state school and information provided on the schools' websites. Although a couple of the students in our review were brought back to receive transition services within their community school in Connecticut, most students placed in out-of-state placements remain there for the duration of their academic career.

Some of the out-of-state schools were unapproved and unlicensed, and none were subject to the rigorous oversight and monitoring of the State of Connecticut and/or LEAs that private schools located in state received. Nor are they, in many cases, subject to oversight and monitoring by the state in which they operate due to their lack of approval and licensure in those states. During the PUR, seventeen (17) out-of-state schools where Connecticut students were enrolled were **not** approved by the Department of Education in the state in which they were located,[118] two (2) were not licensed and two (2) schools were both not approved and not licensed by the state in which it is located.[119] That leaves very few entities in a position to keep their eyes on these schools and the students being educated and living there. One such set of entities with a federal mandate to monitor and investigate these schools is the Protection and Advocacy System (P&A) put in place by the Developmental Disabilities Assistance and Bill of Rights Act (DD Act). Disability Rights Connecticut is the Connecticut P&A with an obligation to monitor and investigate.

Despite the variety of legal mandates requiring oversight and monitoring of special education schools and programs located in Connecticut, many of these out-of-state placements are unapproved and/or unlicensed by the states in which they operate. As such, there is often little to no required/mandatory oversight and monitoring from the state agency in which the school is located and/or the LEA relying on the out-of-state placement for the delivery of special educational programming to the students enrolled. The investigation revealed that there were no additional provisions in law or policy to account for when an out-of-state

---

Devereux Advanced Behavioral Health: https://whyy.org/articles/13-people-sue-devereux-over-alleged-child-sexual-abuse/
Green Chimneys School: https://hermanlaw.com/staff-at-green-chimneys-school-in-brewster-ny-accused-of-sexually-abusing-children/
Karafin School: https://www.theexaminernews.com/mount-kisco-special-ed-school-pushed-to-brink-over-tuition-flap/ and https://westfaironline.com/courts/karafin-school-in-mount-kisco-sues-to-stop-eviction/
The Westchester School: https://www.osc.ny.gov/state-agencies/audits/2013/07/02/westchester-school-special-children-compliance-reimbursable-cost-manual#:~:text=Background,to%20rates%20set%20by%20SED and https://www.oms.nysed.gov/rsu/Rates_Methodology/Rates/2023-24SchoolAgeInterimTuitionRates.html
New England Center for Children: https://www.bostonglobe.com/2023/10/07/metro/making-that-decision-changes-you-forever-parents-kids-with-severe-autism-impossible-choices/

[118] Curtis Blake School, MA; Valley View School, MA; Community Resources for Justice, MA; White Oak School, MA; Eagle Hill School, MA; Tate Behavior Health, MA; The Center School, MA; S.W.C.E.C - The Grown School, MA; Center School-Chicopee, MA; Oliverion School, NH; Webster School, NH; Shortridge Academy, NH; Gow School, NY; The Walden School, NY; PNW BOCES—Yorktown Heights, NY; Andrus Children's Home /Orchard School, NY; Shrub Oak, NY.

[119] Fulsheare Treatment, TX; Gow School, NY; Oliverion School, NH; Shrub Oak, NY.

placement is not subject to their local state education agency's oversight and monitoring. During our investigation, we found:

- None of the out-of-state schools and programs examined are approved by the State of Connecticut, and some are not approved and/or unlicensed by the state in which they operate. The investigation also uncovered a lack of oversight and monitoring of the unapproved and/or unlicensed schools reviewed by any agency within the state in which they operate.
- CSDE does not verify whether out-of-state schools meet Connecticut's required standards.
- LEAs place students in unapproved programs without state participation and often with little or no oversight and monitoring of the school by the LEA.
- No clear complaint process exists for parents to report safety concerns at out-of-state schools.
- CSDE does not conduct sufficient monitoring of private placements, even when concerns are raised.

Current state and LEA oversight fails to ensure students placed in private and out-of-state schools receive legally required protections. Stronger enforcement of approval, monitoring, and reporting requirements would maintain and enforce the rights and protections for students with disabilities under the IDEA, state law, and the ADA.

Exemplar: Shrub Oak International School

There are additional implications of insufficient oversight and monitoring of these schools that threaten the health and safety of these vulnerable, segregated students. Our investigation exposed many instances of suspected neglect and rights violations of Connecticut students living and going to school at Shrub Oak – **and without proper monitoring and oversight, these instances went unchecked by either New York, Connecticut and/or the sending LEA.** These instances ranged from inadequate staffing to unsafe and unsanitary living conditions, underscoring their failure to ensure coordinated, effective, and competent services, resulting in systemic harm to a vulnerable population.

As part of the investigation, DRCT and OCA looked at the role and obligations of LEAs in placing students at out-of-state schools, the funding of those placements, and the oversight and monitoring of these schools. We have several findings based on this investigation.

Before and during placement – We found there to be very little up-front due diligence done on the part of the sending LEA into the conditions and programming generally at Shrub Oak before signing a contract and placing the student at Shrub Oak. Our investigation found that prior to a student being placed at Shrub Oak, none of the sending LEAs had conducted site visits or verified the credentials of educational, related service, or healthcare staff.

Contract issues – We found inconsistencies in the representation of services in contracts, including the wrong individual's name on a contract with one agency. This typically happens when documents are "copied and pasted" for multiple clients. This demonstrates a lack of individualization of contracted services and calls into question the due diligence of the sending schools.

Oversight of the services provided to students - We also found no indication that any of the LEAs conducted site visits, record reviews, or verified the services being provided after the students were placed at Shrub Oak. The support and services that had been on a students' IEP and were now to be administered by Shrub Oak were not being verified other than through the approval of payments for those services. LEAs are responsible for and required by law to ensure students receive a free appropriate public education which includes the educational and related services agreed to on the students' IEP. Our investigation showed little to no monitoring by the LEA of the delivery of these services.

Planning and placement team meetings - While the records show annual IEP review meetings were held, they were typically done virtually or by phone, including limited staff from Shrub Oak, and appeared to be a mere formality. The CSDE adopted IEP forms that are required for use by LEAs in Connecticut are not carried over by Shrub Oak to guide a student's programming. Shrub Oak has its own version called the Individualized Transdisciplinary Education Plan.

In early February 2024, DRCT notified CSDE about the investigation into Shrub Oak.[120] DRCT's letter detailed serious safety concerns about conditions at the school based on complaints received by DRCT and its subsequent investigation of those allegations including photographic representations of our concerns. The letter also requested that CSDE take immediate action to remediate the treatment of current students attending Shrub Oak and prevent future enrollment of Connecticut students with disabilities. Despite the urgency of our concerns, it was not until May of 2024 that CSDE took steps to notify LEAs of the concerns expressed by DRCT and recommended that the LEA review our letter and share it with the student's parents, determine whether an onsite review was necessary, review the current contract with Shrub Oak, and convene a PPT meeting to determine whether Shrub Oak continued to be an appropriate placement for the student.

In May 2024, CSDE accompanied a school district to conduct a site visit of Shrub Oak, which included a review of a handful of student records and observations of the educational setting only. Due to growing and continued concerns, DRCT and OCA issued a joint letter in August 2024 notifying CSDE and requesting they take immediate action to ensure the health and safety of Connecticut students placed in these out-of-state schools.[121] CSDE later conducted its own site visit to Shrub Oak in October of 2024, which included a review of a handful of student records and observations of the educational setting only. Despite its own limited review of the educational programming at Shrub Oak, recognizing the seriousness of concerns raised by DRT and OCA, the CSDE directed LEAs to take the following steps: (1) review the DRCT Preliminary Report and determine whether the District needs to conduct an onsite review of the Shrub Oak program; (2) review the current contract in place for the student who attends the Shrub Oak program; (3) share the DRCT Preliminary Report with the student's parent(s); and (4) on or before May 31, 2024, convene a planning and placement team meeting to review the student's placement and determine whether the Shrub Oak program continues to be an appropriate placement for the student.[122]

[120] Letter from DRCT to CSDE dated February 8, 2024 (Appendix C).
[121] Letter from DRCT/OCA to CSDE dated August 27, 2024 (Appendix D).
[122] According to CSDE, each LEA that received that notification complied with the above stated requirements.

In addition to the concerns previously cited, the lack of oversight and monitoring allowed the following troubling conditions to persist without meaningful intervention by LEAs and/or CSDE:

- **Staffing** - Staffing shortages were a recurring issue, contributing to inadequate care and supervision. Records and parental feedback highlight systemic failures to meet 1:1 staffing requirements, particularly for individuals at high risk of seizures or behavioral challenges. Additionally, the qualifications and certifications of staff are cause for concern with the recent arrest of a staff member, which highlights this concern. In early November, a Shrub Oak staff member was arrested and charged with criminal obstruction of breathing and first-degree endangering the welfare of an incompetent or physically disabled person.[123]
- **Concerning living conditions** - Personal items, including essential clothing, bedding, and hygiene products, were frequently reported as missing. Students often slept in unsanitary conditions due to the absence of appropriate bedding or delayed replacement of soiled mattresses.

> DRCT staff, during their visit to Shrub Oak, observed one student virtually confined to his room and forced to sleep on a linoleum floor with no bed or even mattress. He had no personal items or other furniture. The only items in his room were magazines and newspapers on the floor and numerous empty water bottles. During the visit, the student was observed lying on the floor covered in a blanket that appeared to be similar to a moving pad. The staff reported that the student did not have a bed or even a mattress because he had a habit of destroying his mattress. Additionally, although it was during a school day when the student was not in school or otherwise being provided with an education because, as the staff reported, the student "did not want to attend school" and so he stayed in his room on the floor. The staff were unaware of there being any behavioral intervention plan or data collection for this student. Although not Connecticut students, it speaks to the lack of adequate care in the school and all students witness these conditions.

- **Restricted bathroom access/inadequate staff monitoring** – Multiple reports indicated individuals bedwetting and urinating on the floor indicating restrictions on the individual to the bathroom and/or inattentive or lack of staff to monitor and assist them with using the bathroom. In some instances, staff confirmed that at times the bathrooms are locked.
- **Failure to provide a proper diet** – Multiple reports of unusual weight gain attributed by primary care physicians to an improper diet and improper monitoring of food intake. During onsite visits, we found Shrub Oak not to have a working kitchen to provide meals for students/residents. Instead, they relied on providing takeout meals to students from local businesses.
- **Insufficient contact with parents/guardians** - Reports by parents/caregivers of multiple missed phone/video calls with their children and/or lack of assistance to facilitate these calls indicating either a lack of appropriate staffing (these students

[123] Yorktown News, Nov. 25, 2025 "*Employee of Shrub Oak Int'l School accused of obstructing disabled student's breathing*" https://news.halstonmedia.com/yorktown-news/stories/school-employee-accused-of-obstructing-disabled-student-s-breathing,56803

had 1:1 for 16 hours/day) or an avoidance of having these calls made. Additionally, it was reported that students had limited access to using phones to make calls.

- **Lack of freedom of movement** – Site visits and records revealed instances where students were effectively restricted in their movements or left in isolation. In one case, staff ignored a student's behavioral crisis, leaving them stranded outdoors for 45 minutes in the heat.
- **Inaccessible communication devices** - Multiple reports noted missing or non-functional communication devices, which hindered students' ability to express their needs and engage with their environment. During observations, it was noted that very often devices were not charged and/or remained in the student's backpack. Also, some staff were not familiar with the devices and programs being used.
- **Educational neglect** - In classrooms, there were staff available, but DRCT observed little direct instruction and direct specialized instruction to meet the disability-related needs of the students.
- **Inadequate transition services -** Appropriate and individualized pre-employment transition services and employment opportunities are lacking, including ensuring access to such services in the student's least restrictive environment, where it might be community-based opportunities for students in Connecticut and in-district.

While the DRCT/OCA investigation found numerous discrepancies within Shrub Oak records regarding behavioral interventions, reporting of seclusion and restraint, and progress towards measurable goals and objectives, CSDE's report noted no concerns as a result of their document review and on-site reviews. It is questionable whether a comprehensive document review of four student files could be adequately conducted within the three-hour window of time spent on site on the two instances CSDE staff went to Shrub Oak. It is unfortunate that, from advocates' perspective, CSDE at every stage of the investigation have resisted the notion that concerns regarding funding, oversight, and management of LEAs placing students in these types of placements does not constitute the type of administration and oversight of the students' education contemplated under state law. Not licensed by New York State Department of Education, not licensed by the New York Department of Health, CSDE focused solely on school day educational services only, and the state complaint/due process procedure is not set up to handle abuse/neglect allegations. Rather, CSDE defers such allegations to DCF who have no jurisdiction in out-of-state placements.

In contrast to the minimal and delayed review conducted by CSDE after being alerted to our concerns, the Connecticut Department of Developmental Services (DDS) was also notified and took immediate action. Within days of being made aware of the situation, DDS sent staff to Shrub Oak to perform a monitoring visit. Based on their visit, they took action to stop any future placements of individuals under their care at Shrub Oak and to remove those individuals at Shrub Oak at the earliest possible time.

Beyond CSDE's role in administering the education of Connecticut students, including students with disabilities as set forth in Connecticut law, what is indisputable is that courts have widely recognized and long held that States and municipalities cannot avoid their obligations under Title II of the ADA by either contracting away their duty in providing services or pointing out that another government entity also has the responsibility.[124]

[124] 28 C.F.R. § 35.130(b)(1), (3), (5), (8).

PART IV: RELIANCE ON COSTLY OUT-OF-STATE PLACEMENTS

Despite widespread public concerns regarding the safety and effectiveness of out-of-state educational placements like Shrub Oak, many districts continue to rely on these placements for children with complex needs even though less restrictive alternatives should be available in Connecticut. These placements are among the most expensive options available, costing millions of dollars annually. Instead of investing state and local funds in educational services within the state and districts, districts are sending large sums of money out-of-state to restrictive segregated placements. Students need varying levels of resources, and they should be spent in the state and in district where the students and their programs have oversight. The Governor has recently invested $14 million to expand in-district capacity for students with complex needs, demonstrating alignment with the goal of reducing unnecessary out-of-state placements. This investment is a good first step, but there must be a strategic development plan for implementation to ensure that students, families, and school districts have meaningful guidance on how to bring these ideas to fruition.

During the period under review (PUR), there were 224 students from 72 Connecticut LEAs educated in out-of-state schools/programs as reported by the CSDE. These students included elementary school aged students up through transition aged students (up to 22 years old) with most of them being boys (175 – 78%). The top disability categories of these students included Autism (73 – 33%) and Emotional Disability (52 – 23%). Most students attended schools in neighboring states of Massachusetts, New York and Rhode Island while others were in schools as far away as Utah, Texas, and Oregon. The majority (147 – 66%) of the students were white.

Though the 224 students in out-of-state placements came from 72 LEAs during the PUR, 107 students came from only 10 LEAs, each of whom placed 5 or more students in out-of-state schools. These LEAs include small and large LEAs, and urban, suburban and rural school districts showing the overuse of out-of-state placements is an issue in a wide range of school districts across Connecticut. The LEA outplacing the most students during the PUR was Stamford, who sent 35 students to out-of-state schools and spent over $25 million dollars to fund those 35 out-of-state placements during the PUR. The majority of those students were boys (32/35). The most common special education disability classification was Autism (16/35), followed by Multiple Disabilities (9/35), Other Health Impairment (8/35), and Intellectual Disability (2/35).

Education Funding Streams.

Special education programming funding comes from a variety of sources, including federal, state, and local funds.

Federal funds for special education are passed to the individual states to distribute to LEAs. In order to apply for those federal funds, LEAs must file a grant application with the State Board of Education. Connecticut's Special Education Grant Program is administered by the State Department of Education.

State funds used for special education are passed to the individual districts and administered as part of the following two (2) programs: the "Education Cost Sharing" grant, which provides education equalization aid and the "Excess Cost" grant for the reimbursement of extraordinary special education costs.

One of the special education services funded by this combination of federal, state, and local money is the tuition for students outplaced to both in-state and out-of-state schools, including segregated, unapproved and often unlicensed schools.

Federal Funding for Special Education Programs - IDEA.

Special education programs are eligible for federal funding under the IDEA. In accordance with federal regulations: "[a]n LEA is eligible for assistance under Part B of the Act [Individuals with Disabilities Education Act] for a fiscal year if the agency submits a plan that provides assurances to the SEA [State Education Agency] that the LEA [Local Education Agency] meets each of the conditions in §§ 300.201 through 300.213."[125] LEAs receive money from the federal government from IDEA grants for use in funding special education programs and services for students. This money flows through the State of Connecticut to LEAs and must be used specifically to address the needs of special education students.[126]

State Funding for Special Education Programs - Education Cost Sharing.

Most state funding for educational programming is supplied through the Education Cost Sharing (ECS) grant, which comes from the State of Connecticut budget. The ECS Grant provides money to all Connecticut municipalities to fund their educational services, including special education programming. There is a complicated calculation used to determine the amount of money each LEA receives from the State from the ECS grant with amounts varying widely by municipality. This State money is combined with local money raised mainly from local property tax revenues to fund educational services at LEAs including special education.

State Funding for Special Education Programs - Excess Cost Grant.

Depending on available appropriations with the State, the Connecticut Excess Cost Grant allows for the reimbursement to an LEA of any special education costs associated with a special education student, that exceeds 4.5 times the average per pupil cost in the district. There are approximately 4,300 students in Connecticut per year in recent years whose educational expenses meet the threshold of qualifying for Excess Cost reimbursement.
Therefore, it is clear, that federal, state, and local funds are being used, whether directly or indirectly, to pay for the tuition of students with disabilities enrolled at these segregated out-of-state schools.[127]

---

[125] 34 C.F.R. § 300.200.

[126] In addition to federal funding, public education (including special education programming) is funded with state and local money. As reported by the School and State Finance Project, according to the US Census Bureau, in 2023 only 8.3% of overall Connecticut education funding came from federal funds, while state funds made up 34.6% and local funds accounted for 57.1%[126]. It is important to note, however, that this breakdown varies widely from district to district in Connecticut.

[127] School + State Finance Project "How Connecticut Funds Education" https://schoolstatefinance.org/issues/how-ct-funds-education

Segregation and Lack of In-district and In-state services.

There is a great deal of money being spent on out-of-state placements that could, with sufficient planning, be reallocated to provide these educational services within the district or within the State thereby avoiding unnecessary segregated outplacements, including those out-of-state. The State of Connecticut and many LEAs have not made the necessary investment to increase the capacity of their in-district and in-state programs to appropriately serve all students.

During the period under review (PUR), Connecticut LEAs collectively spent over $75 million on these out-of-state placements using federal, state and/or local money. Stamford Public Schools segregated more students in out-of-state placements than any other district, individually spending over $25 million, during our PUR.

Continuing to allocate these large sums of money to sending students to segregated, often unapproved and unlicensed, schools far from a student's home community perpetuates the problems of not having the resources to support these students closer to home and in their home district.

The more separated students are from their families and their home communities in their school age years, the harder it is for them to become more integrated and included in the future. This level of segregation in institutional school settings far from home in out-of-state schools sets students up for segregation in adulthood. It also sets students, families, and communities up for an expectation and acceptance of an institutional setting for these students in the future. Congress emphasizes that individuals with developmental disabilities have the right to live independently and participate fully in their communities.[128] Placing students in distant facilities undermines this right, as it disconnects them from their local communities, families, and friends, hindering their ability to integrate meaningfully in their communities.

Many individuals with developmental disabilities do not have access to appropriate supports and services.[129] Out-of-state facilities that do not provide services tailored to each student's unique needs lead to inadequate care and support. Moreover, being far from home complicates the coordination of services and the involvement of family, loved ones, and local advocates in care planning. Individuals with disabilities and their families are the primary decision makers regarding the supports and services they receive.[130] Out-of-state placements can erode this self-determination, as geographical distance may limit students' and families' ability to participate actively in decisions affecting their lives, leading to feelings of powerlessness and disenfranchisement.

[128] Exec. Order No. 12,994, 61 F.R. 13047-13049 (1996).
[129] 42 U.S.C. § 15001(a)(6).
[130] 42 U.S.C. § 15001(a)(3).

Additional Risks to Students

One more set of risks for students outplaced to out-of-state schools and programs comes when students transition out of special education services, often as they approach and reach the age of 22. Under federal law, students with disabilities can receive services up to their 22nd birthday while under CT state law, students with disabilities can receive services through the end of the school year during which the student reaches age 22. However, upon transitioning out of special education services, the LEA is no longer responsible for the services for that student. Some Connecticut students in these out-of-state placements qualify for services from the Connecticut Department of Developmental Services. However, once a student is determined to be eligible for DDS services, they and their families must deal with a severe lack of residential placement openings available for individuals with significant support needs. There is currently a long wait list for DDS residential placements of individuals with high support needs, with only those assigned a priority of "emergency" having a chance at a timely placement. Coming into this situation from an out-of-state placement increases the challenges of navigating this transition. Our investigation found that in some cases, DDS was unaware of students placed in out-of-state programs in sufficient time to allow for an appropriate transition into DDS services resulting in an even longer delay in finding an in-state placement. Many times, when an in-state placement is not readily available, DDS will take over funding from the LEA of the out-of-state placement until they identify an in-state placement for the individual.

Additionally, there is a continued risk of abuse and neglect, this time from direct care staff within these in-state "adult" placements. Having been subject to an increased risk of abuse and neglect in their out-of-state educational placements makes individuals more vulnerable to continued abuse and neglect. Contrary to the existing requirement that out-of-state placements last no longer than two (2) years, once students are sent to an out-of-state placement, they rarely return to their in-district home schools. Their lack of connection to their community from years away from home exacerbates this risk as they don't have that proverbial "village" of people around them.

Keeping these students, while they are school aged, in schools, programs and services in or close to their home communities will make this transition period easier to navigate. Students educated in or close to their home communities may still be confronted with the inherent challenges of navigating the adult service system and the risk of abuse and neglect, but they and their families will be better positioned to handle these challenges and risks having been part of the community when in school.

According to CSDE, its current initiatives include the development of a model contract for students placed out of district, enhanced R/S [restraint/seclusion] data visibility, and strengthened reporting expectations -- align with the goals of accountability, transparency, and student safety, and CSDE can also support the development of: (1) a monitoring template for LEAs to use with out-of-state programs; (2) clarified contract requirements around qualifications, reporting, and communication; (3) improved public-facing reporting on out-of-state placement data; and (4) guidance related to best practices in behavioral interventions and LRE implementation. These are all positive steps that could make a difference in the quality of the educational programming provided to Connecticut students enrolled in out-of-state schools. However, it is imperative for the health and safety of these students that these initiatives also include a monitoring component.

Exemplar: Shrub Oak

Cost of placement on LEA - DRCT/OCA reviewed contracts for Connecticut students placed at Shrub Oak. For a student attending only during the school day, an LEA was charged approximately $25,000 monthly ($300,000 annually) for educational services with a 1:1 staff-to-student ratio. DRCT/OCA found the cost doubled when a student required residential placement for the entire calendar year, totaling nearly $600,000 per student. As mentioned previously, funds going towards a students' educational placements at Shrub Oak generally come from a mix of federal, state and local town sources.

PART V: CONCLUSION

The policies and practices of the LEAs, as sanctioned by the CSDE, result in the segregation of students with disability related behaviors in separate and sometimes unlicensed and/or unapproved school settings. By segregating students in such out-of-state educational facilities, or placing them at risk of segregation, these students are denied equal educational opportunities compared to those afforded students not outplaced. In addition to the inability to attend school among their non-disabled peers, being educated in these segregated schools takes away the chance for students to participate in many other school and community-based activities such as extracurriculars, sports, clubs, prom, school graduations and celebrations, among others. Such segregated and unequal educational opportunities continue the stigmatization of students with disabilities.

Inferior education does not refer to the ultimate achievements and results the students achieve, but rather the education the students must accept and, consequently, the treatment these students come to expect within their communities. For example, when out-of-state educational placements are operating below the expected clinical staff ratio for therapeutic services, they often resort to using non-credentialed and underqualified staff and are therefore challenged in providing the necessary amount of therapeutic supports needed in such educational settings.

DRCT/OCA's investigation shines a necessary light on these segregated out-of-state programs to highlight that Connecticut can, and should, do better to ensure that all Connecticut students are receiving a free appropriate public education in the least restrictive environment as guaranteed under the IDEA. Inappropriate use of restraint and unsafe seclusion rooms; excessive injuries; insufficient local and state monitoring; and reliance on costly out-of-state placements weaken child-serving systems for Connecticut children and fail to ensure the wellbeing, safety, and security of Connecticut students attending these segregated out-of-state programs. While the investigation focused on only those out-of-state educational placements identified in this Report, the systemic concerns and findings regarding the insufficiency and inadequacy of oversight raise worrying questions about whether the same issues are present at other out-of-state educational placements.

The following recommendations offer viable solutions to improve service delivery to students with disabilities, increase accountability, and reduce the overutilization of costly and restrictive out-of-state placements. The recommendations also emphasize the need for

greater transparency in state and local funding decisions related to private special education programs. These recommendations are aimed at addressing the issues identified in the investigation and ensuring that all students with disabilities maintain the right to receive the special education services they are entitled to in the least restrictive environment appropriate to his/her needs.

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.

1. Amend state law to require that all contracts between Connecticut school districts (LEAs) and out-of-state schools for the enrollment of a Connecticut student contain the following provisions, which provisions model Connecticut law requirements and/or align with nationally recognized best practices and be subject to review by CSDE:

    a. All incidents of restraint and seclusion, including critical incidents arising from such practices resulting in a serious injury, shall be documented in writing and provided to CSDE, LEAs, and families.
    b. All incidents of restraint and seclusion shall be monitored by the LEA and CSDE for compliance with Connecticut requirements. Any failures to adhere to Connecticut law, discovered by the LEA and/or CSDE monitoring shall be reported, and immediate corrective actions should be required. These reports and accompanying corrective actions should be made to the LEA, the CSDE, and most importantly, students and their families, as well as to the public via the CSDE website.
    c. All staff must be trained in evidence-based models that emphasize problem solving as the primary treatment component. Many staff have been trained to believe that crisis prevention begins once a student starts becoming escalated, which explains the popularity of de-escalation strategies. In fact, deescalating is much better understood as a crisis management strategy. If BIPs are used, they should be written with an emphasis on problem-solving rather than behavior modification. The emphasis on de-escalating has actually fueled the use of restraint and seclusion (which occurs when attempts at de-escalating have failed). Staff will need to be re-trained to understand that true crisis prevention involves identifying and solving problems proactively and will need to be trained in the methodologies that support their new understanding.
    d. All staff must utilize evidence-based behavioral health strategies that are truly proactive interventions and highly individualized. A student's concerning behavior is best understood as a frustration response that occurs after a student is already having difficulty meeting a particular expectation. As such, the concerning behavior is late; the unmet expectation or problem causing the behavior is early. For intervention to be truly proactive – true crisis prevention - then assessment must focus primarily on identifying the expectations that a

student is having difficulty meeting. We recommend an instrument such as the Assessment of Lagging Skills and Unsolved Problems (ALSUP) for this purpose.

e. Schools shall have 1 full-time professional school nurse in every school building.
f. All out-of-state schools in which a Connecticut student is enrolled should promptly notify parents and LEAs of changes in staffing or vacancies that impact the delivery of educational services to students.
g. All out-of-state schools in which a Connecticut student is enrolled should routinely comply with audits conducted by the sending LEAs to ensure that all staff are properly qualified, trained, and have gone through the proper background checking process, with verification of such provided to an LEA on at least an annual basis as part of the audit process.
h. All out-of-state schools in which a Connecticut student is enrolled have cameras installed to record the entrance/exit doorway in the time out/seclusion rooms and include weekly viewing of those video recordings to ensure compliance with all Connecticut state laws and regulations and federal laws and best practices with respect to time out/seclusion of students. Students with disabilities and/or their families should have the right to view these video recordings.
i. All out-of-state schools should provide services required for children attending Connecticut public schools, including physical education, the arts, and health and safety. Connecticut law requires that public schools offer instruction in physical education, the arts, as well as "health and safety, including, but not limited to, human growth and development, [and] nutrition." While out-of-state schools are not subject to those legal requirements, the LEAs should ensure that such services are provided to their students who they place at out-of-state schools.
j. Requiring out-of-state schools to conform to standards that are consistent with the Connecticut Approved Private School Standards where public funds are used to send Connecticut students to those schools. Specifically, contracts with out-of-state schools should include provisions requiring that any child abuse and neglect be reported to the state child welfare agency and that the school timely notify the LEA and CSDE of any major legal proceedings and any reports of child abuse by staff.
k. Requiring out-of-state schools to conform to standards that are consistent with Connecticut state laws concerning restraint and seclusion use and reporting where public funds are used to send Connecticut students to those schools.

2. Strengthen existing state law to ensure that the CSDE develops a process for making the determinations required by Connecticut General Statutes § 10-76d(f), including a process whereby data is reported publicly on the determination that no public or approved private program in Connecticut is available, on status of the student's return to the state after a two year period of time, on the development of in-state programs to meet the needs of such students with disabilities, on the information used to make annual determinations on the economic feasibility and program adequacy of the special education program provided at the out-of-state program, and on the special education eligibility criteria(s) of the students attending such out-of-state programs and their age. Connecticut General Statutes § 10-76d should be amended to require a copy of the determinations made in Conn. Gen. Stat. § 10-76d(f) to be provided to the student and their family.

3. Amend state law to require CSDE to review all LEA contracts with out-of-state schools for compliance with IDEA and Connecticut standards. CSDE should verify whether out-of-state schools meet Connecticut's required standards. A copy of that verification should be provided to the student with a disability and their family.

4. Amend state law to require strengthened CSDE oversight of students in out-of-state private special education programs, including determinations by LEAs of an out-of-state school as the Least Restrictive Environment; annual inspections and site visits to ensure IDEA and state statutory and regulatory compliance.

5. Amend state law to require additional monitoring by LEAs of students placed in "separate schools," including out-of-state schools. Just as the state provided assistance with the Auditors of Public Accounts' recommendation for individual student contracts between LEAs and APSEPs (now required by state law), CSDE should work with LEAs to provide a template for monitoring the provision of special education and related services by credentialed staff in out-of-state schools. Such a template could require periodic and unannounced site visits and observation of educational service delivery, review of onsite educational records, review of assigned staff's credentials, review of whether placement in such program remains the least restrictive and most appropriate environment for student, and maintenance of programs' annual statements of assurance to CSDE regarding the provision of education by credentialed and background checked staff.

6. Amend state law to require CSDE to create guidelines and/or standards for education of students in out-of-state schools for LEAs, which should include a framework for enhanced monitoring and enforcement of programs' adherence to these guidelines/standards.

7. Amend state law to require CSDE to enhance monitoring and enforcement of restraint/seclusion laws pertaining to students with disabilities, inclusive of unannounced site visits, observation of seclusion spaces used by out-of-state schools, audits of restraint and seclusion and "time out" incident reports, and student/family notifications post-site visit, as well as establish criteria for mandatory staff and administrator professional development to reduce reliance on isolation and restraint.

8. Amend state law to specifically require CSDE to collect and report on data of out-of-state schools in which Connecticut students are enrolled in the same manner as CSDE collects and reports data on approved private special education programs in Connecticut.

9. Amend state law to require CSDE to include out-of-state schools, which Connecticut students attend, in its school auditing program.

10. Amend state law to require CSDE to revise its special education state complaint form to permit a student, parent, or organization to file a complaint against an in-district school, an APSEP, or an out-of-state school that they believe is violating a federal or state special education law or, where a school is unlicensed, unapproved, or otherwise unregulated, a complaint that they believe the school is subjecting the student to

abuse and/or neglect. The CSDE should be required to investigate and provide a written response within applicable timelines, as currently required for all other state complaints.

11. Amend state law to require CSDE to make publicly available all state complaints and due process complaints, the findings and/or resolution on at least an annual basis in a searchable database on the CSDE's website, with individual students' personally identifiable information redacted.

12. Amend state law to require CSDE to designate a qualified staff member to serve as an out-of-district placement monitor of Connecticut approved private special education programs and out-of-state programs.

13. Amend state law to require CSDE to house an "inclusion" page on their website with resources for schools and families, to include students attending schools out-of-state. One such resource is A Summary of Evidence on Inclusion Education from August 2016[131] 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. CSDE should consider development of a statewide "support team" model (see Ohio State Support Team Model) to assist districts struggling to meet the needs of all their students.

14. Amend state law to incentivize in-state private approved programs to continually move students into less restrictive settings.

[131] Hehir, T., et al., *A Summary of the Evidence on Inclusive Education* (2016).

APPENDICES

Appendix A:

Disability Rights Connecticut ("DRCT") is an independent private nonprofit organization that has been designated as Connecticut's protection and advocacy ("P&A") system for the state of Connecticut.[132] 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.[133] 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.

Appendix B:

The Office of the Child Advocate ("OCA") is an independent government agency that is statutorily required to "[r]eview complaints of persons concerning the actions of any state or municipal agency providing services to children and of any entity that provides services to children through funds provided by the state … investigate those where the Child Advocate determines that a child or family may be in need of assistance from the Child Advocate or that a systemic issue in the state's provision of services to children is raised by the complaint … provide assistance to a child or family who the Child Advocate determines is in need of such assistance including, but not limited to, advocating with an agency, provider or others on behalf of the best interests of the child . . . [and] [e]valuate the delivery of services to children by state agencies and those entities that provide services to children through funds provided by the state."[134] Concurrently, OCA is required to "[t]ake all possible action including, but not limited to, conducting programs of public education, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil and special rights of children who reside in this state."[135]

---

[132] *See* Conn. Gen. Stat. § 46a-10a.

[133] See the Protection and Advocacy for Individuals with Mental Illness ("PAIMI") Act, 42 U.S.C. § 10801, *et seq*., *as amended*, 42 C.F.R. § 51; the Developmental Disabilities Assistance and Bill of Rights Act ("DD 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 (PATBI) Act, 42 U.S.C. § 300d-52, the Protection and Advocacy for Individual Rights (PAIR) Act, 29 U.S.C. §794e, and their respective implementing regulations.

[134] Conn. Gen. Stat. § 46a-13*l*.

[135] *Id*.

Appendix C:

Letter from Disability Rights Connecticut (DRCT) to Connecticut State Department of Education (CSDE) Commissioner dated February 8, 2024.

DISABILITY RIGHTS CONNECTICUT
Justice. Community. Inclusion.

Disability Rights Connecticut
Connecticut's Protection and Advocacy System

75 Charter Oak Avenue
Suite 1-101
Hartford, CT 06106

By Electronic Mail

February 8, 2024

Charlene Russell-Tucker, Commissioner,
charlene.russell-tucker@ct.gov
Brian Klimkiewicz, Special Education Division Director,
Bryan.Klimkiewicz@ct.gov
Michael McKeon, Counsel for CSDE,
Michael.Mckeon@ct.gov

Re: Serious Safety Concerns for Students with Autism Attending Shrub Oak International School

Dear Commissioner Russell-Tucker, Mr. Klimkiewicz, and Attorney McKeon:

I write to you to alert you to serious and substantial concerns that Disability Rights Connecticut (DRCT) has regarding Shrub Oak International School (Shrub Oak) Home - Shrub Oak International School, a private residential school for children with autism located in Mohegan Lake, New York. These concerns arise out of complaints received by DRCT of abuse and neglect of students at Shrub Oak and the preliminary investigation of the conditions of care at that facility conducted by DRCT. The Shrub Oak International School is listed on Connecticut's Edsight as a "Standard Non-public" secondary school. https://public-edsight.ct.gov/Overview/Find-Schools/Find-School-District?language=en_US . The school has a capacity for approximately 60 students. The age of the students range from 8 through 30 years of age. Although Shrub Oak is a private school, students from several Connecticut school districts attend Shrub Oak including: Simsbury, Danbury, Avon, Colchester, Norwalk, and Greenwich, among others. As of October 2023, seven students from Connecticut attend Shrub Oak.

The complaints of abuse and neglect of students at Shrub Oak received by DRCT include, but are not limited to: unexplained bruising and injuries; denying students clean mattresses and in some cases, denying them mattresses at all; lack of behavioral functional analysis and individualized behavioral intervention plans (BIP); planned use of seclusion for some children; extensive bedroom confinement which amounts to seclusion; denial of education; and unsafe physical conditions. DRCT is currently investigating these allegations. Although DRCT's investigation is ongoing, due to the grave concerns from DRCT's on-site visit to Shrub Oak in October of 2023 and other information obtained through its investigation, DRCT is compelled to present its preliminary findings to your office so immediate remedial steps can be taken. DRCT

has determined that students at the Shrub Oak have been abused and have been and continue to be neglected.

A. Inappropriate Use of Seclusion & Unsafe Seclusion Rooms

As part of its preliminary investigation, DRCT found that some students are subjected to what amounts to "seclusion" as defined by Connecticut state law as part of their behavioral programs. In such cases, the Shrub Oak staff informed DRCT staff that they place children in this room when they engage in certain behaviors and hold the door closed so that the child cannot exit the room.[1] This intervention is done pursuant to Shrub Oak's "hold and close" policy. *See* Image A-1, immediately below.

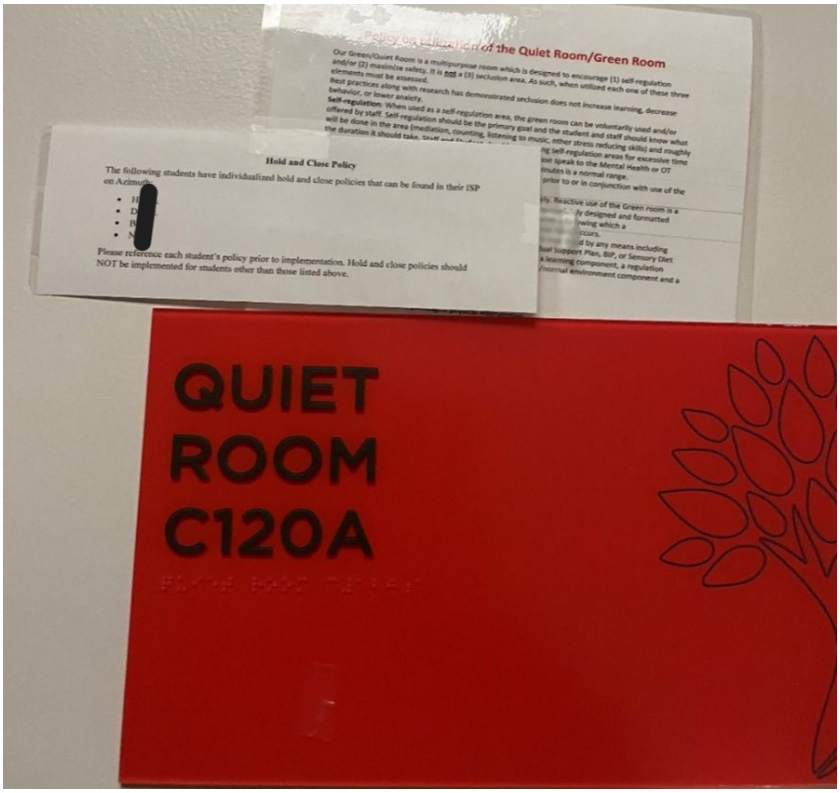
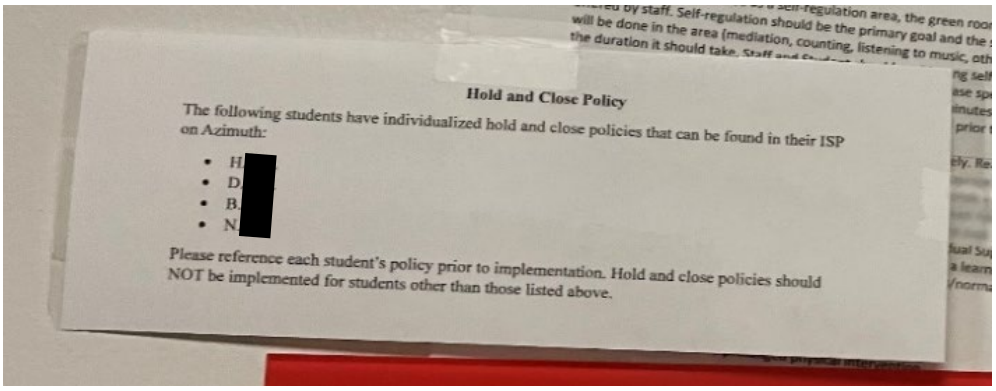


Image A-1

[1] Under Connecticut law, "seclusion" "means the involuntary confinement of a person in a room, from which the student is physically prevented from leaving. Seclusion does not include an exclusionary time out. In a public school, seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement including in-school suspension and time-out. Seclusion does not include: (1) an exclusionary time out or (2) in-school suspensions" C.G.S. Ch. 170, § 10-236b (5); *see also* https://portal.ct.gov/-/media/SDE/SpecialEducation/guidance_related_to_legislation_regarding_restraint_and_seclusion_in_schools.pdf

A list of the initials of the students who were subject to the "hold and close policy" were posted on the "quiet room" doors in the living units. *See e.g.*, Image A-2 immediately below.



Hold and Close Policy

The following students have individualized hold and close policies that can be found in their ISP on Azimuth:

- H[redacted]
- D[redacted]
- B[redacted]
- N[redacted]

Please reference each student's policy prior to implementation. Hold and close policies should NOT be implemented for students other than those listed above.

Image A-2

Although subsequent to our visit, Shrub Oak asserted that it was no longer using the "hold and close" policy, at least one student continues to have the "hold and close" intervention as part of his current individual service plan.

Further, although the Shrub Oak policy states that the "Quiet Room/Green Room" is not for the purpose of seclusion, the terms of the policy itself reveals that it is, in effect, used for seclusion as that term is defined by Connecticut law. *See* attached picture with the policy set forth below:

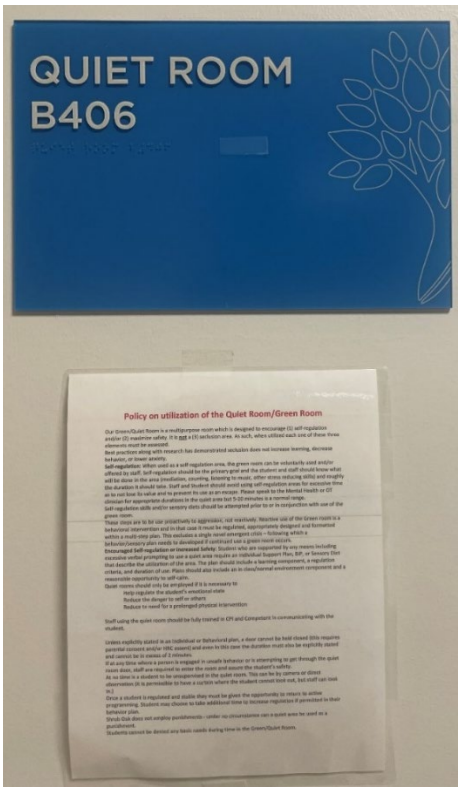
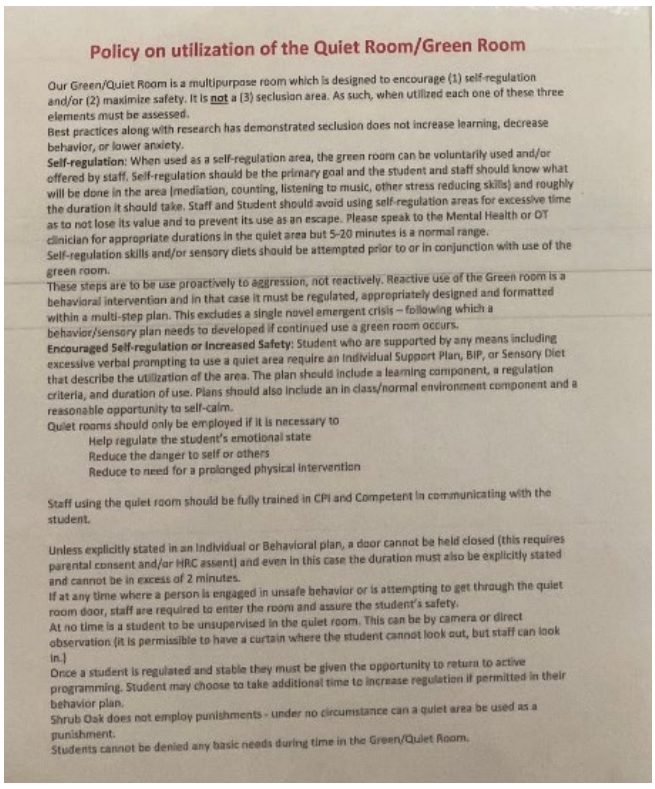


Image A-3



Policy on utilization of the Quiet Room/Green Room

Our Green/Quiet Room is a multipurpose room which is designed to encourage (1) self-regulation and/or (2) maximize safety. It is **not** a (3) seclusion area. As such, when utilized each one of these three elements must be assessed.

Best practices along with research has demonstrated seclusion does not increase learning, decrease behavior, or lower anxiety.

Self-regulation: When used as a self-regulation area, the green room can be voluntarily used and/or offered by staff. Self-regulation should be the primary goal and the student and staff should know what will be done in the area (mediation, counting, listening to music, other stress reducing skills) and roughly the duration it should take. Staff and Student should avoid using self-regulation areas for excessive time as to not lose its value and to prevent its use as an escape. Please speak to the Mental Health or OT clinician for appropriate durations in the quiet area but 5-20 minutes is a normal range.

Self-regulation skills and/or sensory diets should be attempted prior to or in conjunction with use of the green room.

These steps are to be use proactively to aggression, not reactively. Reactive use of the Green room is a behavioral intervention and in that case it must be regulated, appropriately designed and formatted within a multi-step plan. This excludes a single novel emergent crisis – following which a behavior/sensory plan needs to developed if continued use a green room occurs.

Encouraged Self-regulation or Increased Safety: Student who are supported by any means including excessive verbal prompting to use a quiet area require an Individual Support Plan, BIP, or Sensory Diet that describe the utilization of the area. The plan should include a learning component, a regulation criteria, and duration of use. Plans should also include an in class/normal environment component and a reasonable opportunity to self-calm.

Quiet rooms should only be employed if it is necessary to

- Help regulate the student's emotional state
- Reduce the danger to self or others
- Reduce to need for a prolonged physical intervention

Staff using the quiet room should be fully trained in CPI and Competent in communicating with the student.

Unless explicitly stated in an Individual or Behavioral plan, a door cannot be held closed (this requires parental consent and/or HRC assent) and even in this case the duration must also be explicitly stated and cannot be in excess of 2 minutes.

If at any time where a person is engaged in unsafe behavior or is attempting to get through the quiet room door, staff are required to enter the room and assure the student's safety.

At no time is a student to be unsupervised in the quiet room. This can be by camera or direct observation (it is permissible to have a curtain where the student cannot look out, but staff can look in.)

Once a student is regulated and stable they must be given the opportunity to return to active programming. Student may choose to take additional time to increase regulation if permitted in their behavior plan.

Shrub Oak does not employ punishments - under no circumstance can a quiet area be used as a punishment.

Students cannot be denied any basic needs during time in the Green/Quiet Room.

Image A-4

From the Policy on utilization of the Quiet Room/Green Room

"Unless explicitly stated in an Individual or Behavioral Plan, a door cannot be held closed (this requires parental consent and/or HRC assent) and even in this case the duration must also be explicitly stated and cannot be in excess of 2 minutes.

If at any time where a person is engaged in unsafe behavior or is attempting to get through the quiet room door, staff are required to enter the room and assure the student's safety.

At no time is a student to be unsupervised in the quiet room. This can be by camera or direct observation. (It is permissible to have a curtain where the student cannot look out, but staff can look in) …

… Shrub Oak does not employ punishments – under no circumstances can a quiet area be used as a punishment. Students cannot be denied any basic needs during time in the Green/Quiet rooms."

DRCT also found that some of the "quiet rooms/green rooms," which are located throughout the living and the school areas of Shrub Oak, were dangerous. Specifically, DRCT observed that although these rooms had pads on the walls and floor, some of the rooms have exposed areas to sharp and/or hard surfaces against which a child can hit their heads or other bodily parts and/or otherwise harm themselves. *See e.g.,* Images A-5 through A-8, attached below.

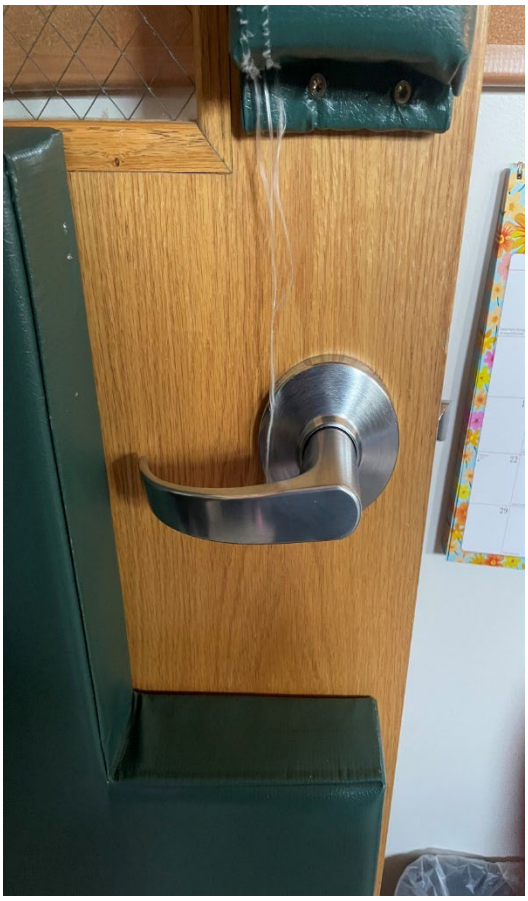


Image A-5

Image A-6

Image A-7

Image A-8

B. Students Confined to Bedrooms, Lack of Bedding and Personal Effects, and Lack of School Attendance

DRCT staff, during their visit to Shrub Oak, also observed one student virtually confined to his room and forced to sleep on a linoleum floor with no bed or even mattress.[2] He had no personal items or other furniture. The only items in his room were magazines and newspapers on the floor and numerous empty water bottles. During the visit, the student was observed lying on the floor covered in a blanket that appeared to be similar to a moving pad. The staff reported that the student did not have a bed or even a mattress because he had a habit of destroying his mattress. Additionally, although it was during a school day when the student was not in school or otherwise being provided with an education because, as the staff reported, the student "did not want to attend school" and so he stayed in his room on the floor. The staff were unaware of there being any behavioral intervention plan or data collection for this student.

Another student was similarly confined to his room (in the room next to the above-described student). Although he had a small bed, he had no personal items or toys in his room.[3] When we visited the student, he was standing in his room and appeared lethargic and disengaged. The staff reported that his appearance was as result of him having just been given his medications to manage his behaviors. The staff also reported that although they sometimes collect data regarding the student, they were unsure of the purpose of the data collection, and they were unaware of whether the student had a Behavior Intervention Plan. Additionally, during the visit, DRCT staff were informed by the Shrub Oak staff that this student also "did not want to go to school" and so therefore stayed mostly in his room. The staff further reported that on those

[2] This student was not from Connecticut.
[3] This student was not from Connecticut.

occasions when the child agreed to attend school, they provided the student with education at an isolated desk in the hallway of the residential portion of the facility where he sometimes received school instruction. *See* picture immediately below:

Image B-1

C. Lack of Oversight by the State of New York

DRCT has also learned that Shrub Oak is not subject to full oversight or regulation by the State of New York— the state in which Shrub Oak is located. Although Shrub Oak has just recently applied for a lower level of oversight by New York State, it has not applied for a second more rigorous oversight by New York. Because Shrub Oak has not applied for this second level of oversight by the State of New York, the Commonwealth of Massachusetts has decided to stop permitting school districts to pay for placements at Shrub Oak as of June 30, 2024. Please see the attached letter from the Massachusetts Department of Elementary and Secondary Education (DESE), attached hereto as Exhibit 1.

D. Requested Action by CSDE

Given the serious concerns regarding the health, safety, and educational programming for students at Shrub Oak, Disability Rights Connecticut respectfully requests that the CSDE immediately take the following steps:

1) Like Massachusetts's DESE, effective at the end of this school year, cease allowing LEAs to use public funds to pay for Connecticut students to attend Shrub Oak and inform the LEAs and Shrub Oak of this stop-placement of Connecticut students at Shrub Oak;
2) Remove Shrub Oak from the list of "Standard Non-public" schools;
3) Require each LEA with students currently enrolled at Shrub Oak for which public funds are being expended to:

    a. timely notify each parent/guardian in writing of the stop placement at Shrub Oak;
    b. work with each parent/guardian and student to promptly find a new appropriate placement for each student currently attending Shrub Oak starting in the fall semester of 2024; and
    c. review each student's IEP and progress report and determine whether the student is entitled to compensatory education for any portion of the time that the student spent at Shrub Oak.
4) Investigate the conditions of care and educational programs at Shrub Oak; and
5) Take any other necessary remedial actions CSDE deems necessary.

We would very much appreciate the opportunity to meet with you to discuss these concerns further. We are available to meet the week of February 12. Please let us know your availability to meet with us.

Thank you.

Sincerely,

/s/ *Deborah Dorfman*

Deborah A. Dorfman
Executive Director

cc: Sarah Egan, Connecticut Child Advocate, Office of the Child Advocate
Virginia Brown, Staff Attorney, Office of the Child Advocate

Enclosure

EXHIBIT 1

Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3000
TTY: N.E.T. Relay 1-800-439-2370

Jeffrey C. Riley
Commissioner

November 28, 2023

Ms. Sydel Morris
Ms. Janine D'Anna
Shrub Oak International School, LLC
3151 Stoney Street
Mohegan Lake, NY 10547

Re: Shrub Oak International School, LLC
Shrub Oak Day Program
Shrub Oak 5 - Day Residential Program
Shrub Oak 7 - Day Residential Program

Dear Ms. Morris and Ms. D'Anna:

The Massachusetts Department of Elementary and Secondary Education ("DESE") is hereby notifying Shrub Oak International School, LLC ("SOIS"), including Shrub Oak Day Program, Shrub Oak 5 - Day Residential Program and Shrub Oak 7 - Day Residential Program, that effective immediately SOIS will no longer be listed as an "approved" out-of-state special education school for Massachusetts publicly funded students. Massachusetts local educational agencies (LEAs) that have placed publicly funded students at SOIS will have until **June 30, 2024** to transition their students to a different school or make alternative arrangements.

Pursuant to 603 CMR 28.09(1)(a), DESE may grant "limited approval" to public and private day and residential schools providing special education services in states other than Massachusetts. The out-of-state program must have documentation "that the host state has approved the program to provide services to students with disabilities." It has come to DESE's attention that SOIS does not have the required approval from its host state.

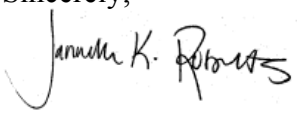
During DESE's onsite visit on November 1 and 2, 2023 and through subsequent emails, SOIS leaders explained that SOIS is in the process of seeking approval from New York State. To clarify the exact type and nature of the approval sought by SOIS, DESE requested evidence of the application SOIS reported as having submitted to New York State Education Department (NYSED). In response, SOIS provided DESE with information that the program filed an application with NYSED for what the checklist that SOIS referenced to DESE refers to as "a petition for incorporation or consent to incorporation." SOIS informed DESE that its application with NYSED has not been "approved" yet. Even if it had been, however, this more general form of "approval" does not meet DESE's standard that "the host state has approved the program to provide services to students with disabilities." 603 CMR 28.09(1)(a)1.b. By contrast, NYSED's Office of Special Education (OSE) maintains an approval process for private special education schools that would more likely meet DESE's standards for a residential school for students with

disabilities. SOIS has clarified with DESE that it does not intend to seek this form of approval from OSE and instead will only seek the New York "Commissioner's Consent." As such, DESE can no longer have SOIS listed as having limited "approval" as an out-of-state provider. If SOIS chooses to apply for approval with OSE and obtains it, SOIS may submit an application for limited approval to OASES.

Throughout the remainder of the 2023-2024 school year, DESE's OASES liaisons will continue to be in communication with SOIS regarding the health, safety, and educational needs of all Massachusetts publicly funded students through June 30, 2024. SOIS must continue to send all incident reports to students' LEAs and OASES. SOIS must also ensure that each Massachusetts publicly funded student it serves "is provided special education and related services in conformance with an IEP that meets the requirements of 34 C.F.R. 300.320 through 300.325." 34 C.F.R. 300.146(a).

Thank you for your attention to this matter.

Sincerely,



Jannelle Roberts
Assistant Director, Office of Approved Special Education Schools

Cc: Jeffrey C. Riley, Commissioner of Elementary and Secondary Education
Russell Johnston, Deputy Commissioner
Jacquiline Brown, Director of Special Education Pricing, Operational Services Division
Kate Ryan Vokes, Director of Pupil Personnel Services Northbridge Public School
Nathan Loux, Director of Student Services, Central Berkshire Regional School District
Danielle Wetmore, Director of Student Services, Milton Public Schools
Jessica DeLorenzo, Director of Student Services, Pembroke Public Schools
Gerard Coughlin, Director of Special Education, Westford Public Schools
Antigoni Lively, Director of Special Education, Easthampton Public Schools
Alice Brown-LeGrand, Director of Special Education, Wilmington Public Schools

Appendix D:

Letter from Disability Rights Connecticut (DRCT) and Office of the Child Advocate (OCA) to Connecticut State Department of Education (CSDE) Commissioner dated August 27, 2024.

Disability Rights Connecticut
Connecticut's Protection and Advocacy System
75 Charter Oak Avenue
Suite 1-101
Hartford, CT 06106

By Electronic Mail

August 27, 2024

Commissioner Russell-Tucker
Connecticut Department of Education
450 Columbus Blvd.
Hartford, CT 06103
charlene.russell-tucker@ct.gov

Re: Urgent Safety Concerns Regarding Connecticut Students Placed at the Gow School in New York State and Other Unlicensed and/or Unapproved Out-of-State Residential Educational Placements for Students in Special Education.

Dear Commissioner Russell-Tucker:

We write to you to alert you to serious concerns that Disability Rights Connecticut (DRCT) and the Office of the Child Advocate (OCA) have regarding the safety of Connecticut students who have been placed at the Gow School and other unlicensed and/or unapproved out-of-state schools. The Gow School is a private residential school for children with learning disabilities located in South Wales, New York. See About - Private School for Learning Disabilities | Gow. The Gow School is *unapproved* by Connecticut and *unlicensed* and *unapproved* by the State of New York.

These concerns arise out of reports about which we have recently become aware of a long history of sexual abuse by and employment of alleged sex offenders at the Gow School. These reports include, for example, an announcement from the United States Department of Justice of the November 2023 arrest of the former Gow School administrator for having numerous images of children sexual abuse material on his laptop computer. D.O.J. Press Release, 2023 WL 7684820 (D.O.J.)(Western District of New York | Former Gow school administrator charged with possession of child pornography | United States Department of Justice). In another example, a former counselor at the Gow School was also arrested in November of 2023 for soliciting child sexual abuse material. Former Gow School counselor accused of soliciting inappropriate photos from children | News 4 Buffalo (wivb.com). These are just two examples of the allegations of sexual abuse and related crimes of staff who work at the Gow School. It is our understanding that at least one school district—the Monroe Public Schools—has placed and/or funded a student with disabilities in special education at the Gow School.

The Gow School is just one of four *unlicensed*[1] and at least 17 other *unapproved* out-of-state residential schools where numerous Connecticut students with disabilities have been placed and/or funded by their school districts and other local education agencies (LEAs).

DRCT and OCA are extremely concerned about Connecticut LEAs placing and/or funding students with disabilities at out-of-state residential schools that are unlicensed and/or unapproved for a host of reasons, but particularly because of the high risk of, and the substantiated, abuse and neglect of these vulnerable students due to the lack of oversight and accountability of these schools. For example, as you are aware, DRCT and OCA have been investigating suspected widespread abuse and neglect at the Shrub Oak School International (SOIS), a privately operated school for students with autism, also in New York, that is not approved by Connecticut or New York State or licensed by New York State. Other entities, including *Pro Publica* and the *Boston Globe*, have reported this suspected abuse and neglect as well. *See* CT, MA, WA Warn Against Sending Autistic Students to Shrub Oak International School — ProPublica; https://www.bostonglobe.com/2024/08/26/metro/massachusetts-autism-shrub-oak-school-neglect/.

Both DRCT and OCA have raised with CSDE the systemic issue of LEAs placing and/or paying for students with disabilities to attend unlicensed and/or unapproved out-of-state residential schools. CSDE, however, has denied that it has responsibility or authority to prevent such placements. Despite CSDE's contentions otherwise, it has the legal responsibility and authority under Connecticut state law to determine whether a student may be placed in a private school outside of Connecticut prior to such placement taking place. Specifically, under Conn. Gen. Stat. § 10-76d(f), CSDE is responsible for making such a determination as the statute, in relevant part, states:

> (f) No children placed out primarily for special education services **shall** be placed in a private school, agency or institution outside of the state, except when in the opinion of the **Commissioner of Education** it is determined that: (1) No public or approved private facility which can reasonably provide appropriate special education programs for such children is available in the state; (2) no public or approved private facility which can reasonably provide appropriate special education programs for such children is available in the state and the out-of-state placement is required for a period of time not to exceed two years, during which time the local or regional board of education responsible for providing such children with a special education shall develop an appropriate special education program or cause such program to be developed within the state; or (3) an out-of-state placement is more economically feasible than an existing special education program in the state or any such program that could be developed within the state within a reasonable period of time. No placement in an out-of-state private special education

[1] The four unlicensed schools include: the Gow School in New York, Shrub Oak International School in New York, the Fulshear Treatment to Transition School in Texas, and the Oliverion School in New Hampshire.

> school, agency or facility shall be approved unless such school, agency or facility first agrees in writing to submit to the state Department of Education any such financial program and student progress reports as the commissioner may require for the purpose of making an annual determination as to the economic feasibility and program adequacy of the special education program provided. The provisions of this subsection shall not apply to children placed out primarily for services other than educational services as described in subsection (d) of this section.

Conn. Gen. Stat. § 10-76d(f) (**emphasis added**); Moreover, Connecticut regulations clearly prohibit the placement of students in out of state programs that do not have "standards" approval from the receiving state, where such standards exist. *See* Conn. Agencies Regs. §10-76d-17(6) (requiring that "**All out-of-state private programs shall meet the educational standards for private special education programs in the state it is located**. If no such standards exist, the sending board of education **shall** provide the Department of Education with documentation that the private placement is appropriate to the child's need as set forth in the child's individualized education program.")(**emphasis added**).

DRCT and OCA have been informed by CSDE representatives that CSDE does not receive requests from LEAs for out-of-state placement approval and does not require such approval despite the requirements of Connecticut law that CSDE do so. Additionally, despite state regulatory requirements, CSDE has not taken any steps to prohibit LEAs from supporting placement of students in non-approved settings, like the Gow School and Shrub Oak. CSDE is therefore not fulfilling its statutory obligations to oversee and determine whether out-of-state placements are appropriate as required by Connecticut state law.

With this letter, DRCT and OCA respectfully request that CSDE immediately take the following steps:

1) Immediately direct each LEA to ensure that any students who are placed in out-of-state education programs are only placed at approved and licensed schools.
2) Require each LEA with students currently enrolled at any out-of-state unlicensed and/or unapproved schools, including but not limited to the Gow School and Shrub Oak, for which public funds are being expended to:
    a. Timely notify each parent/guardian in writing of the school's lack of licensure and/or approval in the state in which it is located where relevant, and the school's lack of approval by the State of Connecticut and the state in which the school is located. This notice should explain clearly and in plain language what the lack of licensure and lack of approval mean.
    b. Promptly convene a PPT meeting to work with each parent/guardian and student to promptly find a new appropriate placement for each student currently attending any out-of-state unlicensed and/or unapproved school, including but not limited to, the Gow School, starting in the fall of 2024.

c. Review each student's IEP and progress report(s) and determine whether the student is entitled to compensatory education for any portion of the time that the student spent at an out-of-state unlicensed and/or unapproved school, including but not limited to the Gow School.

3) *Immediately* and *fully* investigate the conditions of care and educational programs at the Gow School.
4) Immediately comply with the requirements of Conn. Gen. Stat. § 10-76d(f) and require all LEAs to immediately comply with Conn. Gen. Stat. § 10-76d(f).
5) Take any other necessary remedial actions CSDE deems necessary to ensure the safety of any Connecticut students attending any unlicensed and/or unapproved school, including but not limited to the Gow School.

Please advise us whether you will agree to take the above-requested steps no later than the close of business on September 6, 2024. If you would like to discuss our concerns and remedial requests set forth in this letter, please let us know as we would be happy to meet with you as soon as possible.

Sincerely,

Disability Rights Connecticut

/s/
Deborah A. Dorfman
Executive Director/Attorney
Kasey Considine
Jennifer Jenkins
Tom Cosker

Office of the Child Advocate

/s/
Sarah Eagan
Child Advocate
Virginia Brown
Attorney

Cc: The Honorable Ned Lamont, Governor
Thea Montanez, Senior Advisor, Office of the Governor
William Tong, Attorney General
Daniel Shapiro, Deputy Associate Attorney General
Mike McKeon, Legal Director, CSDE
Brian Klimkiewicz, Special Education Division Director, CSDE