

**PENNSYLVANIA DEPARTMENT OF EDUCATION
BUREAU OF SPECIAL EDUCATION
COMPLAINT INVESTIGATION REPORT**

LOCAL EDUCATION AGENCY: School District of Philadelphia

DATE RECEIVED: March 12, 2024

DATE OF REPORT: July 15, 2024

COMPLAINANT: Attorney

NAME: Ashli Giles-Perkins, Esquire
Maura McInerney, Esquire
Margaret Wakelin, Esquire

ADDRESS: Education Law Center
1800 John F. Kennedy Blvd.
Suite 1900A
Philadelphia, PA 19103

RE: Multiple Students

SPECIFIC COMPLAINTS:

- Issue 1: From March 12, 2023, through the present, the School District of Philadelphia (SDP) failed to provide Free Appropriate Public Education (FAPE) to multiple students who were placed in the Philadelphia Juvenile Justice Services Center (PJJSC) in Philadelphia, when SDP failed to implement the students' Individualized Education Plans (IEP), which included related services.
- Issue 2: From March 12, 2023, through the present, the SDP failed to meet the multiple students' reevaluation timelines.
- Issue 3: From March 12, 2023, through the present, the SDP did not fulfill and delayed its child find obligation when it did not evaluate the multiple students thought to have disabilities for an evaluation within a reasonable amount of time.
- Issue 4: From March 12, 2023, through the present, the SDP failed to provide an equal opportunity to participate and obtain the benefits of educational programming to the multiple students, while in Admissions and Quarantine.
- Issue 5: From March 12, 2023, through the present, the SDP failed to provide FAPE to multiple students who were placed in the PJJSC in Philadelphia, while in Admissions and Quarantine.
- Issue 6: From March 12, 2023, through the present, the SDP failed to include the parents/guardians of the multiple students within the PJJSC as members of the IEP team to address concerns and formulate individualized program determinations.
- Issue 7: From March 12, 2023, through the present, the SDP failed to adhere to requirements for issuing progress reports on the multiple students' IEP goals that were placed within PJJSC.

APPLICABLE REGULATORY AUTHORITY:

Issues 1 and 5:

34 CFR Individuals with Disabilities Education Act (IDEA) §300.101 FAPE.

- (a) General. A recipient that operates a public elementary or secondary education program or activity shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.
- (b) Appropriate education.
 - (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§ 104.34, 104.35, and 104.36.
 - (2) Implementation of an Individualized Education Program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.
 - (3) A recipient may place a handicapped person or refer such a person for aid, benefits, or services other than those that it operates or provides as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

34 CFR IDEA § 300.323 When IEPs must be in effect.

- (a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in § 300.320.

...

- (d) Accessibility of child's IEP to teachers and others. Each public agency must ensure that—
 - (1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and
 - (2) Each teacher and provider described in paragraph (d)(1) of this section is informed of—
 - (i) His or her specific responsibilities related to implementing the child's IEP; and
 - (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

34 CFR IDEA § 300.39 Special education.

- (a) General.
 - (1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—
 - (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - (ii) Instruction in physical education.
 - (2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section—
 - (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
 - (ii) Travel training; and
 - (iii) Vocational education.
- (b) Individual special education terms defined. The terms in this definition are defined as follows:
 - (1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.
 - (2) Physical education means—
 - (i) The development of—

- (A) Physical and motor fitness;
- (B) Fundamental motor skills and patterns; and
- (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and
- (ii) Includes special physical education, adapted physical education, movement education, and motor development.
- (3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—
 - (i) To address the unique needs of the child that result from the child's disability; and
 - (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

34 CFR IDEA § 300.320 Definition of Individualized Education Program.

- (a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324, and that must include—
 - (1) A statement of the child's present levels of academic achievement and functional performance, including—
 - (i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
 - (ii) For preschool as appropriate, how the disability affects the child's participation in appropriate activities;
 - (2)
 - (i) A statement of measurable annual goals, including academic and functional goals designed to—
 - (A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
 - (B) Meet each of the child's other educational needs that result from the child's disability;
 - (ii) For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;
 - (3) A description of—
 - (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and
 - (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
 - (4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child—
 - (i) To advance appropriately toward attaining the annual goals;
 - (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and
 - (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;
 - (5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;
 - (6)
 - (i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and

- (ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why—
 - (A) The child cannot participate in the regular assessment; and
 - (B) The particular alternate assessment selected is appropriate for the child; and
- (7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.
- (b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include—
 - (1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
 - (2) The transition services (including courses of study) needed to assist the child in reaching those goals.
- (c) Transfer of rights at age of majority. Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under § 300.520.
- (d) Construction. Nothing in this section shall be construed to require—
 - (1) That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or
 - (2) The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

22 Pa. Code § 14.131. IEP.

- (a) In addition to the requirements incorporated by reference (see 34 CFR 300.320—300.324), the IEP of each student with a disability must include:
 - (1) A description of the type or types of support as defined in this paragraph that the student will receive, the determination of which may not be based on the categories of the child's disability alone. Students may receive more than one type of support as appropriate and as outlined in the IEP and in accordance with this chapter. Special education supports and services may be delivered in the regular classroom setting and other settings as determined by the IEP team. In determining the educational placement, the IEP team must first consider the regular classroom with the provision of supplementary aids and services before considering the provision of services in other settings.
 - (i) Autistic support. Services for students with the disability of autism who require services to address needs primarily in the areas of communication, social skills or behaviors consistent with those of autism spectrum disorders. The IEP for these students must address needs as identified by the team which may include, as appropriate, the verbal and nonverbal communication needs of the child; social interaction skills and proficiencies; the child's response to sensory experiences and changes in the environment, daily routine and schedules; and, the need for positive behavior supports or behavioral interventions.
 - (ii) Blind-visually impaired support. Services for students with the disability of visual impairment including blindness, who require services to address needs primarily in the areas of accessing print and other visually-presented materials, orientation and mobility, accessing public and private accommodations, or use of assistive technologies designed for individuals with visual impairments or blindness. For students who are blind or visually impaired, the IEP must include a description of the instruction in Braille and the use of Braille unless the IEP team determines, after the evaluation of the child's reading and writing needs, and appropriate reading and writing media, the extent to which Braille will be taught and used for the student's learning materials.

- (iii) Deaf and hard of hearing support. Services for students with the disability of deafness or hearing impairment, who require services to address needs primarily in the area of reading, communication, accessing public and private accommodations or use of assistive technologies designed for individuals with deafness or hearing impairment. For these students, the IEP must include a communication plan to address the language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and assistive technology devices and services.
 - (iv) Emotional support. Services for students with a disability who require services primarily in the areas of social or emotional skills development or functional behavior.
 - (v) Learning support. Services for students with a disability who require services primarily in the areas of reading, writing, mathematics, or speaking or listening skills related to academic performance.
 - (vi) Life skills support. Services for students with a disability who require services primarily in the areas of academic, functional or vocational skills necessary for independent living.
 - (vii) Multiple disabilities support. Services for students with more than one disability the result of which is severe impairment requiring services primarily in the areas of academic, functional or vocational skills necessary for independent living.
 - (viii) Physical support. Services for students with a physical disability who require services primarily in the areas of functional motor skill development, including adaptive physical education or use of assistive technologies designed to provide or facilitate the development of functional motor capacity or skills.
 - (ix) Speech and language support. Services for students with speech and language impairments who require services primarily in the areas of communication or use of assistive technologies designed to provide or facilitate the development of communication capacity or skills.
- (2) Supplementary aids and services in accordance with 34 CFR 300.42 (relating to supplementary aids and services).
 - (3) A description of the type or types of support as defined in § 14.105 (relating to personnel).
 - (4) The location where the student attends school and whether this is the school the student would attend if the student did not have an IEP.
 - (5) For students who are 14 years of age or older, a transition plan that includes appropriate measurable postsecondary goals related to training, education, employment and, when appropriate, independent living skills.
 - (6) The IEP of each student shall be implemented as soon as possible, but no later than 10 school days after its completion.
 - (7) Every student receiving special education and related services provided for in an IEP developed prior to July 1, 2008, shall continue to receive the special education and related services under that IEP, subject to the terms, limitations and conditions set forth in law.
- (b) In addition to the requirements incorporated by reference in 34 CFR 300.324 (relating to development, review, and revision of IEP), each school entity shall designate persons responsible to coordinate transition activities.

Issue 2:

34 CFR IDEA §300.303 Reevaluations.

- (a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311 -
 - (1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
 - (2) If the child's parent or teacher requests a reevaluation.
- (b) Limitation. A reevaluation conducted under paragraph (a) of this section -

- (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and
- (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

22 Pa. Code § 14.124. Reevaluation.

- (a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.303 (relating to reevaluations), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, intellectual disability, multiple disabilities, other health impairment, specific learning disability and traumatic brain injury.
- (b) In addition to the requirements incorporated by reference in 34 CFR 300.303, the reevaluation time line will be 60-calendar days, except that the calendar days from the day after the last day of the spring school term up to and including the day before the first day of the subsequent fall school term will not be counted.
- (c) Students with disabilities who are identified as having an intellectual disability shall be reevaluated at least once every 2 years.
- (d) Copies of the reevaluation report shall be disseminated to the parents at least 10 school days prior to the meeting of the IEP team, unless this requirement is waived by a parent in writing.

Issue 3:

34 CFR IDEA § 300.111 Child Find.

- (a) General.
 - (1) The State must have in effect policies and procedures to ensure that -
 - (i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and
 - (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

...

- (c) Other children in child find. Child find also must include -
 - (1) Children who are suspected of being a child with a disability under § 300.8 and in need of special education, even though they are advancing from grade to grade; and
 - (2) Highly mobile children, including migrant children.
- (d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in § 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

22 Pa. Code § 14.121. Child find.

- (a) In addition to the requirements incorporated by reference in 34 CFR 300.111 (relating to child find), each school district shall adopt and use a public outreach awareness system to locate and identify children thought to be eligible for special education within the school district's jurisdiction.
- (b) Each school district shall conduct awareness activities to inform the public of its early intervention and special education services and programs and the manner in which to request services and programs. Written information shall be published in the school district handbook and school district web site. The public awareness effort must include information regarding potential signs of developmental delays and other risk factors that could indicate disabilities.
- (c) Each school district shall provide annual public notification, published or announced in newspapers, electronic media and other media, with circulation adequate to notify parents throughout the school district of child identification activities and of the procedures followed to ensure confidentiality of

information pertaining to students with disabilities or eligible young children in accordance with this chapter.

- (d) Intermediate units are responsible for child find activities necessary to provide equitable services consistent with 34 CFR 300.130—300.144, regarding children with disabilities enrolled by their parents in private schools.

22 Pa. Code § 14.123. Evaluation.

- (a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.306 (relating to determination of eligibility), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, mental retardation, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury.
- (b) In addition to the requirements incorporated by reference in 34 CFR 300.301 (relating to initial evaluations), the initial evaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60-calendar days after the agency receives written parental consent for evaluation, except that the calendar days from the day after the last day of the spring school term up to and including the day before the first day of the subsequent fall school term will not be counted.
- (c) Parents may request an evaluation at any time, and the request must be in writing. The school entity shall make the permission to evaluate form readily available for that purpose. If a request is made orally to any professional employee or administrator of the school entity, that individual shall provide a copy of the permission to evaluate form to the parents within 10-calendar days of the oral request.
- (d) Copies of the evaluation report shall be disseminated to the parents at least 10 school days prior to the meeting of the IEP team, unless this requirement is waived by a parent in writing.

34 CFR IDEA § 300.301 Initial Evaluations.

- (a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§ 300.304 through 300.306, before the initial provision of special education and related services to a child with a disability under this part.
- (b) Request for initial evaluation. Consistent with the consent requirements in § 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.
- (c) Procedures for initial evaluation. The initial evaluation -
 - (1)(i) Must be conducted within 60 days of receiving parental consent for the evaluation; or
 - (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and ...

Issue 4:

22 Pa. Code § 15.3. General.

A school district shall provide each protected handicapped student enrolled in the district, without cost to the student or family, those related aids, services or accommodations which are needed to afford the student equal opportunity to participate in and obtain the benefits of the school program and extracurricular activities without discrimination and to the maximum extent appropriate to the student's abilities.

Issue 6:

34 CFR IDEA § 300.321 IEP Team.

- (a) General. The public agency must ensure that the IEP Team for each child with a disability includes -
 - (1) The parents of the child;
 - (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

- (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
- (4) A representative of the public agency who -
 - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledgeable about the general education curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the public agency.
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;
- (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) Whenever appropriate, the child with a disability. ...

34 CFR IDEA § 300.322 Parent Participation.

- (a) Public agency responsibility - general. Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including -
 - (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
 - (2) Scheduling the meeting at a mutually agreed on time and place.
- (b) Information provided to parents.
 - (1) The notice required under paragraph (a)(1) of this section must -
 - (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
 - (ii) Inform the parents of the provisions in § 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and § 300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act).
 - (2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must -
 - (i) Indicate -
 - (A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with § 300.320(b); and
 - (B) That the agency will invite the student; and
 - (ii) Identify any other agency that will be invited to send a representative.
- (c) Other methods to ensure parent participation. If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with § 300.328 (related to alternative means of meeting participation).
- (d) Conducting an IEP Team meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as -
 - (1) Detailed records of telephone calls made or attempted and the results of those calls;
 - (2) Copies of correspondence sent to the parents and any responses received; and
 - (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- (e) Use of interpreters or other action, as appropriate. The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
- (f) Parent copy of child's IEP. The public agency must give the parent a copy of the child's IEP at no cost to the parent.

Issue 7:

34 CFR IDEA § 300.320 Definition of IEP.

(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324, and that must include—

...

(3) A description of—

- (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and
- (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

SOURCES OF INFORMATION:

This Special Education Adviser, Sherri L. Campbell:

- Reviewed the complaint letter sent by the Complainant and received by the Bureau of Special Education (BSE) on March 12, 2024.
- Corresponded via email with the Complainants; Alyse M. Watson, Division Chief; Casey B. Marsh, Special Education Adviser (Adviser A); and Janet L. Pelone, Special Education Adviser (Adviser B), on March 21-22, 2024, and March 25, 2024.
- Interviewed Maura McInerney, Esquire, and Ashli Giles-Perkins, Esquire, via Microsoft Teams on March 26, 2024. Division Chief, Adviser A, and Adviser B participated in the interview.
- Corresponded via email with the following individuals on April 1, 2024:
 - Dr. Tony B. Watlington Sr., Superintendent.
 - Dr. Nathalie Nérée, Chief of Special Education and Diverse Learners, Office of Diverse Learners (ODL).
 - Dr. Tora Evans, Deputy of Special Education and Diverse Learners (Deputy), ODL.
 - Kim Harris, Director of Operations, ODL.
 - Twain D. McLeod, Compliance Manager, ODL.
 - Nefertiti White, Director of Special Education (Director).
 - Deana Ramsey, Principal.
- Corresponded via email with Deputy; Heidi Hertzog, Special Counsel; Director; Principal; Brett Zaba, Innovation Network Case Manager (IN Case Manager); Division Chief; Adviser A; and Adviser B on April 16-19, 2024; April 22-23, 2024; and April 28-29, 2024.
- Corresponded via email with the Director and Principal on April 17, 2024.
- Corresponded via email with the Director on April 18, 2024, and June 12, 2024.
- Corresponded via email with the Director, Principal, Division Chief, Adviser A, and Adviser B on May 1, 2024, and May 20, 2024.
- Corresponded via email with the Director, Principal, and IN Case Manager on May 28, 2024.
- Corresponded via email with the Director, Principal, and Adviser A on June 3-4, 2024; June 11-12, 2024; and June 14, 2024.

- Interviewed the Principal and Jamie Henley, Special Education Compliance Monitor (SPECM), at PJJSC with Adviser A on June 6, 2024.
- Corresponded via email with the following individuals during the time period of June 13-28, 2024:
 - Renee Platz, Educational Decision Maker (EDM), Court Appointed Special Advocate (CASA).
 - Kunovenu Haimbodi, Client Advocate, Defenders Association of Philadelphia (DAP).
 - Adrienne Winney, Attorney, DAP.
 - [REDACTED], Parent A.
 - [REDACTED], Parent B.
 - Sydney Groll, Attorney, Support Center for Child Advocates.
 - Nicole El, Assistant Chief, Children & Youth (C & Y) Justice Unit at the DAP.
 - Sarah Morris, Executive Director, Youth Art & Self-Empowerment Project (YASP).
 - My Le, Participatory Defense Hub Facilitator, YASP.
 - Emily Robb, Director of Advocacy, Youth Sentencing and Reentry Project (YSRP).
 - Rhonda Brownstein, Litigation Counsel, Disability Rights Pennsylvania (DRP).
 - Malik Pickett, Staff Attorney, Juvenile Law Center.

Efforts were made to contact all individuals on the interview list.

- Interviewed the following individuals via telephone during the time period of June 13-28, 2024:
 - CASA EDM.
 - DAP Client Advocate.
 - DAP Attorney.
 - Parent A.
 - Support Center for Child Advocates Attorney.
 - DAP, C & Y Justice Unit Assistant Chief.
 - YASP Executive Director.
 - YSRP Director of Advocacy.
 - DRP Litigation Counsel.
 - Juvenile Law Center Staff Attorney.
- Interviewed the Director via Microsoft Teams on June 14, 2024.
- Corresponded via email with the Melissa Pergine, Special Education Director of Learning Network 4 (LN 4 Director); Director; Adam Buck, Hearing Support Coordinator (HS Coordinator); and IN Case Manager via email on June 24-25, 2024.
- Corresponded via email with the LN 4 Director; Director; HS Coordinator; IN Case Manager; Tara Toucheloskie, Deaf and Hard of Hearing Instructor (DHH Instructor); and Linda Raddi, SPECM, via email on June 27, 2024.
- Reviewed the following numbered documents:

Rec.	Document	Date	Source
1.	SDP School Board Policy (SBP) 200 Enrollment of Students	Adopted: December 15, 2016	SDP
2.	SDP SBP 113.3 Screening and Evaluations for Students with Disabilities	Adopted: August 24, 2011 Revised: April 21, 2021	SDP
3.	SDP Special Education Data Report	June 2022	BSE
4.	SDP Special Education Data Report	June 2023	BSE
5.	DRP Interview Excerpts	June 21, 2023	DRP
6.	DRP Letter	September 11, 2023	DRP
7.	PJJSC Facilitated Self-Assessment	December 4, 2023	BSE
8.	PJJSC Executive Summary	January 2024	BSE
9.	PJJSC Corrective Action Verification (CAV) and Improvement Plan	January 31, 2024	BSE
10.	PJJSC Individual Corrective Action Plan (ICAP) - Confidential	January 31, 2024	BSE
11.	Complaint Form	Received: March 12, 2024	Complainant
12.	Email: PJJSC Instructor, SDP Personnel, and DHS Personnel	April 23, 2024	SDP
13.	PJJSC Cottage List	April 23, 2024	SDP
14.	File Review Data Summary	April 23-24, 2024	BSE
15.	PJJSC Cottage List	April 24, 2024	SDP
16.	PJJSC Personnel Survey	May 1-20, 2024	BSE
17.	PJJSC Cottage List	June 6, 2024	SDP
18.	PJJSC Hybrid Instructional Protocol	2023-2024 School Year	SDP
19.	PJJSC Staff Handbook	2022-2023 School Year; 2023-2024 School Year	SDP
20.	Student Attendance Records	2022-2023 School Year; 2023-2024 School Year	SDP
21.	Student Enrollment Information	2023-2024 School Year	SDP
22.	Student Report Cards	2022-2023 School Year; 2023-2024 School Year	SDP
23.	Student Sections VI, VII, and VIII of Current IEPs	2023-2024 School Year	SDP
24.	SDP School Calendar	2022-2023 School Year; 2023-2024 School Year	SDP Website
25.	Annual Public Notice	Undated	SDP Website
26.	Office of Specialized Services Policies	Undated	SDP
27.	Orientation Assessment	Undated	SDP
28.	PJJSC Admission-Intake Process	Undated	SDP
29.	PJJSC and Henry House Academy Parent-Student Resource Guide	Undated	SDP
30.	PJJSC Student Pamphlet	Undated	SDP
31.	Process for Issuing a Permission to Evaluate	Undated	SDP
32.	Remote Learning Special Education Procedures and Protocol	Undated	SDP
33.	Records Request Form	Undated	SDP

INTRODUCTION:

The Special Education Data Report for School Year 2022-2023, dated June 2023, indicates 21,393 SDP students received special education services and that SDP's special education population was 18.3 percent of its total student population. In addition, the Special Education Data Report for School Year 2021-2022, dated June 2022, indicates 20,658 SDP students received special education services and that SDP's special education population was 17.6 percent of the total student population.

The PJJSC is licensed by Pennsylvania Department of Human Services (DHS) to hold 184 youth. The SDP provides the education of all youth within this facility. Based on the student enrollment list provided by SDP, approximately 401 special education students were enrolled for the time period of March 12, 2023, through April 1, 2024. One hundred and seventy-seven special education students, or 44 percent were enrolled on more than one occasion throughout the time period.

FINDINGS:

Issues 1, 4, and 5:

1. The PJJSC website (The Philadelphia Juvenile Justice Services Center (PJJSC) | Programs and initiatives | City of Philadelphia) includes a link which specifies the following information regarding the Educational Programming involving Juvenile Services:

"Our Mission

The heart of the educational mission for students at the Philadelphia Juvenile Justice Center School is to provide personalized learning for each student to achieve credits toward completing the Pennsylvania requirements for their High School Diploma, GED [General Educational Development] and Post-Secondary Success for the 21st Century learner.

Our educators strive to achieve this by creatively incorporating the Common Core Curriculum through real life experiences such as: Remedial and accelerated programming to build skills and credits; Career and technical training; character development through PBIS [Positive Behavior Interventions and Supports]; mentorship; Community Partnerships."

2. The PJJSC Admission-Intake Process includes:

"Background

The Philadelphia Juvenile Justice Services Center School (PJJSCS) is a 24-hour secure detention center. The Department of Human Services, the Juvenile Division, has operating/administrative responsibilities. The School District is responsible for providing all educational programs and services. Every student arrested in Philadelphia could be transferred to the detention center to be processed. The school's admission/enrollment process could take 24-48 hours.

Once a student is detained and arrives at the admissions unit, depending on the time of day, the student will appear on the detention center's Census Sheet, be labeled 'Admission,' and be housed in the Admissions Unit.

Also, a student can arrive at the Admissions Unit and be moved to a residential unit immediately. The detention center (the Department of Human Services) assigns students to residential units without consulting the School District of Philadelphia staff.

In other cases, children arrive at the detention center (in the admissions unit), and DHS releases them before the school can enroll them in the PJJSC School.

In the first 24 hours, the student must attend court, where someone will determine whether the student will return to PJJSC or the DHS will discharge the student.

The secretary and the roster chair use the following documents to determine what new students we have daily.

1. Resident Unit Record (Facesheet)
2. House/Cottage Sheet

DHS center staff could improve by promptly and efficiently sharing a daily list of new students.]

- Barriers that impact School staff's ability to provide FAPE promptly to PJJSC students:
 - Lack of a consolidated /efficient list within 12 hours of admission from PJJSC to School Staff

The school's roster chair must create a 'Student Movement' sheet that lets all teachers know which students are 'new' and which have moved to another unit by DHS. This student movement sheet also serves as a quality check to verify that the school has received a resident unit record for each new student.

The secretary verifies all information on the Facesheet on SIS [Student Information System], which includes the following:

1. School District Student ID number
2. Birthdate
3. Current/Former School
4. Grade (Current or previous grade if dropped)
5. Drop date/ Drop code (If the previous school drops the student from their rolls).

The following process is used to enroll students at PJJSC School:

1. PJJSC school secretary sends a request via email asking the sending school to release the student's records.
2. The sending school secretary releases the student.
3. The PJJSC School (receiving) secretary enrolls the student at PJJSC School.
4. The Roster chair runs the Student Gap Scheduler in SIS multiple times daily to detect newly enrolled and rostered students in the appropriate courses.
5. The Transition sheet gets updated with the student/students.

The following happens when a student is enrolled in a Charter School:

1. The school secretary emails the Office of Student Enrollment and Placement requesting the student's release from the Charter School.
 - a. Unfortunately, this process may take more than one day for the student to be released.
2. This request is also sent to the Charter School the student attends and the School District's Charter School Office (notifying them of the student's placement at PJJSC).

The following happens when we receive a student from an out-of-state school.

1. The student is enrolled immediately.
2. The school secretary emails the School District's Child Accounting Office.

Counselors/Teachers:

Orientation Assessment Form:

The Orientation Assessment Form is a requirement for every student entering PJJSC School. It is used for educational records to ascertain contact with previous schools or placements.

1. When students are enrolled and appear on the Student Movement Sheet, the student is added to the Orientation Assessment List, which is shared with the school staff.
 - a. [Somebody] must move students from admissions to receive the Orientation Assessment Form.
2. Teachers/school staff have students complete the Orientation Assessment Form during class.
3. Teachers and school staff will forward the completed Orientation Assessment Form to School Counselors.
4. School Counselors then request academic records from non-district-managed schools, out-of-state school districts, etc.
 - This includes transcripts, diplomas/GED transcripts, awards or certificates, and special education documents. These records are needed to ensure that students are on track and ready to graduate and to assist with post-secondary planning.
 - If the student attended an out-of-district school, records are requested.
 - Received records/transcripts are then forwarded to transcripts@philasd [sic] and uploaded to the SDP transcript. SPED [Special Education] records are sent to SPECM, [SPECM].
5. Step Team case manager will reach out to the parent to introduce and retrieve validate and receive additional information.
6. Once school counselors have completed the orientation assessment forms, they will conduct a credit audit.
 - School Counselors review ACT 1/ACT 158 guidelines, and associated steps are completed for compliance.
7. Once a credit audit is completed, the School Counselor makes every effort to meet one-on-one:
 - Barriers that may prevent a one-on-one meeting with each student within 24-48 hours:
 - Student(s) may be released before the School Counselor arrives at the unit
 - Student(s) is placed on lock-down protocol
 - The unit is on lock-down protocol
 - Student(s) may be identified as medical quarantine
 - Student(s) may not be available due to other Center requirements - for example, MH [Mental Health] appointment / Court appearance/Medical or Physical therapy.

Edgenuity Enrollment Protocol

- I. Eligibility:
 - Any senior needing four (4) or fewer credits (not including World Language, which can be waived for students at PJJSC).
 - Any senior needing a Senior Project/Multi-Disciplinary Project
 - Any senior needing ACT 158 credentials
- II. Identification:
 - [Somebody] will pull student records for the office file after receiving the Orientation Assessment.
 - [Somebody] will request Out-of-district/State student records, and upon receipt, [Somebody] will send transcripts and grade reports to ...
 - [Somebody] will add students meeting the eligibility requirements (outlined) above to the Edgenuity Candidates list.
 - [Somebody] will rank new additions to the Edgenuity Candidates list according to the number of credits/classes needed to graduate.

- As openings arise, [Somebody] will contact PJJSC social workers to discuss JJC criteria:
 - Expected length of stay
 - Stay away orders
 - Overall behavior in the unit
 - Extraneous factors

Special Ed Enrollment Process

1. Identify students on the SIS [Student Information System] report.
2. Assign case manager
 - a. Review Caseload (SPECM will disseminate caseload) (DAY 1-5)
 - i. SPECM will review if missing or outdated records exist (communicate with SPED Administrative Assistant) (DAY 1-5)
 1. Parents of students with out-of-compliant documentation will be contacted (Completed by the case manager)
 - a. Follow procedure (v. below)
 - ii. Check dates (IEP/RR [Reevaluation Report]) (DAY 1-5)
 - iii. Claim new special education students (DAY 1-5)
 - iv. Complete (check for existing data) WRAT [Wide Range Achievement] test/ IREADY/ STAR Assessments (DAY 1-10)
 - v. Case manager will start to contact the family (After 10 DAYS)
 - vi. Out of District documentation will be collected by the SPECM
 1. Uploaded to EasySystem (Day 1)
 2. Records obtained by SPECM/SPED Administrative Assistant (for all incoming students during first 10 Days of enrollment followed by a notice of recommended educational placement (NOREP) from Case Manager)
 3. Case Managers will create invites for NOREP meetings
 4. Develop an amended or updated IEP by 30 Days (Case Manager)
 - a. For students needing Prior Written Notice for Re-evaluation, communicate with SPECM/School Psychologist to determine the need for additional data
 - b. Case Manager complete above (obtain signatures/ communication with parents/team to ensure three attempts are documented and included in a confidential file and EasySystem)

Technology Timelines for Newly Admitted Students

1. The timeline starts with the SIS enrollment of the student.
2. Once a student is enrolled at PJJSCS in SIS, it interacts with the SDP Google system in one of three ways:
 - a. Existing SDP student: Once Google detects that a student account has been moved to the 2530 domain, the student loses access to their student email account and any Google Drive files that any other user has created besides themselves or a PJJSCS teacher. They also lose access to share files with other users. The synching of SIS and Google happens by the evening of enrollment.
 - b. Existing (but inactive) SDP students: The same process takes longer as the district must reactivate the Google account. It can take up to 72 hours for a student to clear.
 - c. New to SDP: The account is created first, then the restrictions apply. It takes up to 72 hours for the student to clear.
3. The roster chair enters the Student ID of each new student into GoGuardian at the time of enrollment. It then sets up student accounts in PJJSCS online intervention platforms—currently I-Ready and Lexia and adds students to the PJJSCS Google

Classrooms. If SIS does not sync with Google for a student, the student will be flagged with 'Monitoring Not Allowed.'

4. Ongoing
 - a. The Roster chair uploads the active student list from SIS into the 2530 Google Admin consoles as allowed users for the 2530 Chromebooks.
 - b. The Roster chair updates online platform registrations for student discharges and transfers.
 - c. The Roster Chair reviews the GoGuardian student classrooms and notes which students are no longer flagged as 'Monitoring Not Allowed.'
 - d. When students can be monitored by GoGuardian, the Roster chair performs the following tasks:
 - i. Resets the student password, creates a new permanent password, and accepts PJJSCS classroom invites
 - ii. The roster chair documents the student ID and password on a Chromebook login sheet for PJJSCS teachers. The login sheet is the most visible indicator that a student can utilize a Chromebook.
 5. Summary—Newly enrolled students cannot access online platforms for up to 72 hours due to logistical issues with PJJSCS's online content.”
3. As a part of a random sampling file review, this Adviser and other BSE Advisers reviewed an assortment of specially designed instruction (SDI) that was specified in the students' IEPs for the time period of March 12, 2023, through the present. The SDI was unique to each student's file that was reviewed.
 4. A random sampling review of files for 40 of the special education students was conducted on April 23-24, 2024. The results of the file review reveal:
 - Regarding the Special Education/Related Services/Supplementary Aids and Services/Program Modifications, the data reveals:
 - 24 of 40 files reviewed, or 60 percent of the files reviewed, indicate if related services are included in the IEP, the location, frequency, projected beginning date, and anticipated duration of services are present. (Some of these students had more than one related service specified in their IEPs.)
 - 9 of 40 files reviewed, or 23 percent of the files reviewed, did not indicate any related services.
 - 7 of 40 files reviewed, or 18 percent of the files reviewed, did not have files secured due to minimal days (under 12 days) of school enrollment.
 - With regards to the types of Related Services, the data indicates:
 - 19 of 24 files reviewed, or 79 percent of these files reviewed, indicate counseling services are included in the IEP.
 - 1 of 24 files reviewed, or less than 1 percent of these files reviewed, indicate occupational therapy (OT) services are included in the IEP.
 - 1 of 24 files reviewed, or less than 1 percent of these files reviewed, indicate social work services are included in the IEP.
 - 1 of 24 files reviewed, or less than 1 percent of these files reviewed, indicate speech and language support (SLS) services are included in the IEP.

- 7 of 24 files reviewed, or 29 percent of these files reviewed, indicate transportation services are included in the IEP.
 - 2 of 24 files reviewed, or less than 1 percent of these files reviewed, indicate 1:1 assistant services are included in the IEP.
 - 24 of 24 files reviewed, or 100 percent of these files reviewed with related services did not demonstrate compliance with these services. The required amount of counseling services was not met for the students reviewed. Based on the counseling log provided, counseling was provided, but the required number and duration of sessions were not achieved. Additionally, no provision of OT, SLS, or social work services was evidenced.
5. This Special Education Adviser surveyed the students' 2023-2024 school year instructors and classroom assistants about the implementation of the SDI. Fifteen individuals responded to the survey. The PJJSC Personnel Survey indicates the following:

<p>Upon the students' enrolling in PJJSC, did the LEA (local education agency) provide guidance with regards to the delivery of special education services to ensure that the students' IEPs were implemented?</p> <ul style="list-style-type: none"> • 15 out of 15 personnel, or 100 percent of the personnel, answered, "Yes."
<p>Did the LEA provide special education and related services to students from March 12, 2024, through the present?</p> <ul style="list-style-type: none"> • 15 out of 15 personnel, or 100 percent of the personnel, answered, "Yes."
<p>If you answered "yes" to Question 4, what related services were provided?</p> <ul style="list-style-type: none"> • "School based counseling, deaf and hard of hearing ..." • "Related services include: School Based Counseling, Deaf and Hard of Hearing ..." • "school-based counseling, deaf interpreter ..." • "ELL [English Language Learner] services, school based counseling, etc ..." • "We were able to receive School based counseling services and Grief Counseling - We were not able to receive Speech and Language ..."

6. The PJJSC Staff Handbooks for the 2022-2023 and 2023-2024 school years include:

"SPECIAL EDUCATION

The Philadelphia Juvenile Justice Service Center School, as all other Philadelphia Public Schools, services students of diverse learning styles. It is important that teachers adapt teaching strategies to meet the learning needs of IEP students; additional support and materials may be requested based on review of these IEPs. Regular education teachers will be asked for periodic input on the progress of these students.

... it is important that we identify and address all Special Education students' needs. Each PJJSCS SPED Teacher will be provided with an EASY IEP login to access all residential students' IEPs. Training will be held so that we are able to develop interim IEPs.

It is important that IEPs are implemented and developed in a timely manner. In keeping with student confidentiality policies and the FERPA Act (Family Education Rights and Privacy Act), information about PJJSCS students is to stay within the education team. Student information is not to be discussed in public areas or shared with non-school personnel."

7. A random sampling review of files for 40 of the special education students was conducted on April 23-24, 2024. The results of the file review reveal:

- Concerning the Progress Reporting, the data reveals:
 - 1 of 40 files reviewed, or less than 1 percent of the files reviewed, include documentation of progress reporting.
 - 7 of 40 files reviewed, or 18 percent of the files reviewed, did not indicate progress reporting due to the following: under 12 days of enrollment.

8. According to the PJJSC Staff Handbooks for the 2022-2023 and 2023-2024 school years, the following schedule is included:

"FULL-DAY SCHEDULE	
Monday-Thursday Instructional Block: 8:45 – 2:00	
Class	Time
[Pre-Instruction]	8:00-8:45
Period 1	8:45-10:00
Period 2	10:00-11:00
Period 3	11:00-1:00 ½ hour lunch break during the block, timing determined by the unit taught
Period 4	1:00-2:00
[Post Instruction]	2:00-3:04

HALF DAY SCHEDULE	
Friday or ½ Day Schedule Instructional Block: 9:00-11:30 Period 2 class omitted due to PYN work on Fridays	
Class	Time
[Pre-Instruction]	8:00-9:00
Period 1	9:00-10:00
Period 3	10:00-11:00
Period 4	11:00-11:30
[Post Instruction]	1:30-3:04 ½ hour lunch break scheduled during the block by administration"

9. As a part of the file review, 40 of the special education students were randomly chosen for the time period of March 12, 2023, through the present. The schedules of these students include a variety of classes, but is not limited to the following: Biology, Chemistry, College and Career Readiness, English 1, English 2, English 3, Geometry, Health, Introduction to Art, Mathematics 8, Physical Education, Reading 8, Social Studies 8, United States History, and Visual Arts.

A review of these schedules did not reflect the schedule listed in the Student Handbooks for the 2022-2023 and 2023-2024 school years.

10. As a part of the file review, 40 of the special education students were randomly chosen for the time period of March 12, 2023, through the present. The most recent report cards of these students included a wide variety of grades. A sampling of grades include:

- Student 1: English 1 - 86, World History - 100, Physical Education - 93, and College and Career Readiness - 75.

- Student 2: No grades, but enrolled for at least 75 days according to the Related Service Log Provision Worksheet provided by SDP.
- Student 3: English 3 - 80, United States History - 88, Geometry - 78, Health - 77, and Physical Education - 89.
- Student 4: Social Science - 81, Chemistry - 63, Health - 86, and Physical Education - 90.
- Student 5: English 3 - 90, United States History - 63, Algebra 2 - 80, and Home Entertainment Systems - 86.
- Student 6: English 3 - 97, United States History - 81, Algebra 2 - 89, and Chemistry - 87.

Grading Scale		
A+ 100-97	A 96-93	A- 92-90
B+ 89-87	B 86-83	B- 82-80
C+ 79-77	C 76-73	C- 72-70
D+ 69-67	D 66-63	D- 62-60
F – less than 60		
I – Incomplete		N/A – Not Scheduled

11. As a part of the file review, of the special education students who were randomly chosen for the time period of March 12, 2023, through the present, the enrollment information, most recent IEPs, and NOREPs indicate the following:

- IEPs reviewed indicate:
 - 0 of 40 files reviewed, or 0 percent of the files reviewed, indicate that the IEPs of the students were revised to reflect any updates in the educational placement, upon the student being enrolled in the school program.
 - 11 out of 40 files reviewed, or 28 percent of the files reviewed, indicate that the location of special education services reflect PJJSC, based on annual IEP team meetings that occurred.
 - 14 out of 40 files reviewed, or 35 percent of the files reviewed, indicate that the type of special education services reflect supplemental emotional support (ES).
 - 8 out of 40 files reviewed, or 20 percent of the files reviewed, indicate that the type of special education services reflect supplemental learning support (LS).
 - 2 out of 40 files reviewed, or 1 percent of the files reviewed, indicate that the type of special education services reflect supplemental ES and LS.
 - 1 out of 40 files reviewed, or less than 1 percent of the files reviewed, indicate that the type of special education services reflect supplemental life skills support.
 - 2 out of 40 files reviewed, or 1 percent of the files reviewed, indicate that the type of special education services reflect supplemental ES.
 - 6 out of 40 files reviewed, or 15 percent of the files reviewed, indicate that the type of special education services reflect itinerant ES, itinerant LS, or itinerant ES and LS.

- 1 out of 40 files reviewed, or less than 1 percent of the files reviewed, indicate that the type of special education services reflect full-time ES.
- 6 out of 40 files reviewed, or 15 percent of the files reviewed, indicate that the files of these students were not secured, due to minimal days of enrollment within the PJJSC.
- 16 out of 40 files reviewed, or 40 percent of the files reviewed, indicate that the IEP teams did not review the students' IEPs periodically, but not less than annually, to determine whether the annual goals for the children are being achieved.
- NOREPs/Prior Written Notices (PWNs) reviewed indicate:
 - 15 of 40 files reviewed, or 38 percent of the files reviewed, indicate that PJJSC issued new NOREPs/PWNs but in most cases, not within a reasonable amount of time, upon enrolling within the PJJSC School Program.

12. This Special Education Adviser surveyed the students' 2023-2024 school year instructors and classroom assistants about the implementation of the SDI. Fifteen individuals responded to the survey. The PJJSC Personnel Survey indicates the some of the following responses:

<p>Upon the students being admitted to PJJSC, are the students' IEPs reviewed and revised to provide comparable services?</p> <ul style="list-style-type: none"> ● 15 out of 15 personnel, or 100 percent of the personnel, answered, "Yes."
<p>If you answered "yes" to Question 6, are the services provided to students within PJJSC comparable to the previous students' IEPs? Please explain.</p> <ul style="list-style-type: none"> ● "Students are in classes with a special education co-teacher for the full length of the school day. Services within each class are differentiated to be comparable to IEPs depending on whether the student needs itinerant learning support or full-time emotional or learning support." ● "While we do not have full time or self contained classes, we offer emotional support and learning support for itinerant and supplemental students using a Co-Teaching model. There are both regular education and special education teachers in the classrooms." ● "While we make every effort to provide comparable services, we are unable to provide full-time or self-contained support." ● "We offer emotional support and learning support."
<p>Are NOREPs/PWNs issued to the parents' of the newly admitted students to signify the provision of services and the educational placement of the students?</p> <ul style="list-style-type: none"> ● 14 out of 15 personnel, or 93 percent of the personnel, answered, "Yes."

13. The PJJSC implements a school-wide positive behavior support program within the school program, as evidenced within the PJJSC Student Pamphlet:

"PBIS

Positive Behavior Intervention Support Program known as PBIS. We use the PBIS Program to recognize students that are putting their best foot forward and are earning grades/credits. Everyone can earn points based on our CARE model: Collaboration, Accountability, Respect and Engagement The skills are the expectations from the CARE model: Collaboration, Accountability, Respect and Engagement. Then one student will be chosen for Student of the Week for the class/unit. Our expectation is that students perform well in ALL classes because at

the end of the month the top unit is chosen. The unit with the highest average per student is celebrated for Unit of the MONTH.”

14. The DRP Interview Excerpts dated July 21, 2023, contains:

“(excerpts from interviews re: education)

1. In 9th grade; attends school every day 8AM – 12PM; currently on summer school schedule, which does not meet on Fridays. [The student]has an IEP and referenced it being for anger management. [The student] does not receive special services.
2. School is every day (M-Th in summer) 9am-2pm
 - They stay on the unit and the instructor comes there ([The student] referenced a smartboard. It was unclear how instruction occurred (e.g., virtually) or if an instructor brought a smartboard to use)
 - Has an IEP for reading, math, education
3. sometimes, if staff available
4. Attends school in the morning
Has a 1:1 (IEP teacher) for summer school 1-3PM daily except Fridays
[The student] does not know why [the student] has an IEP.
5. [The student] has school from 9 AM until 12 PM and then again from 1 PM to 3 PM. [The student] said that [the student] has never been downstairs to school. Only has school within the pod. Made mention of the packets that they are given but never complete because there is no teacher to assist with completion of the packet. Was unclear but [the student] seemed to suggest that in-person schooling was maybe on Wednesday and Thursday (‘likely to come’) and that on Mondays and Tuesdays they just stayed in their rooms. ...”

15. The DRP Letter dated September 11, 2023, includes:

“Education:

We were told by PJJSC staff that all youth attend summer school from 9 am to 12 pm and that eligible students also receive Extended School Year (ESY) from 1 pm – 3 pm from Monday to Thursday. But interviews with youth revealed that access to the actual classrooms are inconsistent and intermittent. Some youth have never been to the school and have only received instruction on the unit or via packets that are dropped off and then picked up later. Some reported going to the school once or twice a week; one said every other day.

All youth should be attending classes in the school rooms, where they can receive live instruction by teachers and get individualized support and services as mandated by their Individual Education Plans (IEPs).

As noted below, none of the youth in the Admissions unit have access to educational services.

...

None of the youth in Admissions have access to school, even if they have an IEP and are on Extended Year Services (we visited in the summer).

It is unclear why any youth are kept in the Admissions area, beyond the time needed to process them in or out of the facility. There are many rooms in the various units that have one youth in them but that could accommodate two if a mattress were put on the floor. (And there are some two-person rooms that can accommodate three youth.) In fact, there already are several cells on each unit that are designed for one youth but currently hold two (and some designed for two that currently house three). While not ideal, it certainly seems like a better option than the currently unacceptable conditions in the Admissions Unit. In addition, there are also large areas

in the PJJSC that are completely empty and could be potentially repurposed to accommodate youth who are currently crowded into Admissions. ...”

16. During the PJJSC personnel interviews at PJJSC and via Microsoft Teams, the team reported that the DHS is currently providing a House List, and the school program can't control when DHS releases to students. SDP has a Roster Person that compares the House List and discharge list. The Roster Person compares and makes a list of new students and discharged students. This list gets emailed to staff. The SDP Secretary enrolls the student right away. The SPECM then looks at the names and cross references with the system to find out who is special education or 504. (Examples of these emails and lists were provided.)

It was also explained that as of April 2024, a night school has been started to take care of the education for the students in Admissions.

Finally, PJJSC personnel explained that all of the classes are co-taught for the students with disabilities.

Issue 2:

1. The results of the random sampling file review of 40- PJJSC special education students enrolled during the time period of March 12, 2023, through the present, indicate the following regarding evaluation timelines, including biennial and triennial timelines:
 - 11 of 40 files reviewed or 28 percent of the files reviewed indicate that the students were out of compliance regarding the biennial and triennial timelines.
 - 7 of 40 files reviewed or 18 percent of the files reviewed indicate that the students were enrolled for minimal days and/or records not received within the enrollment period.
2. This Special Education Adviser surveyed the students' 2023-2024 school year instructors and classroom assistants about the implementation of the SDI. Fifteen individuals responded to the survey. The PJJSC Personnel Survey indicates the following:

Does the PJJSC School Program have procedures in place for an oral or written request for an initial evaluation or reevaluation? <ul style="list-style-type: none">• 15 out of 15 personnel, or 100 percent of the personnel, answered, "Yes."
Is a School Psychologist assigned to the PJJSC Program for the 2023-2024 school year? <ul style="list-style-type: none">• 15 out of 15 personnel, or 100 percent of the personnel, answered, "Yes."

3. During the PJJSC personnel interviews at PJJSC and via Microsoft Teams, the team reported that a school psychologist is shared between two other entities.

Issue 3:

1. The SDP publicizes the Annual Public Notice on the SDP website, which indicates procedures involving the referral of children for screening and evaluations. In addition, SDP has a policy, SBP 113.3 Screening and Evaluations for Students with Disabilities, adopted August 24, 2011, and revised April 21, 2021, outlining mandatory regulatory procedures involving procedures for the identification of students who may require special education services and programs and parent/guardian requests.
2. The SDP SBP Enrollment of Students adopted December 15, 2016, includes, "The district shall normally enroll a school age, eligible student by the next business day, but no later than five (5) business days after application."

3. The PJJSC Admission-Intake Process, includes new procedures, upon student admission to PJJSC, to ensure school enrollment and active participation in appropriate educational services. It also includes the Orientation Assessment Form and the Special Education Enrollment Process.
4. Based on Interviews with the DAP Attorney and DAP Client Advocate regarding a student identified to be deaf and hard of hearing, the student did not receive any type of services upon initial enrollment. The student was not evaluated until parent request, almost two months after initial enrollment in the SDP. The enrollment, evaluation report, and initial IEP were reviewed by this Adviser.
5. The DRP letter dated September 11, 2023, includes:

“Several youth told us that they were not asked any questions during admission about their mental health history or whether they were currently receiving treatment. Several reported that they did not speak with any mental health professionals upon admission.”

Issue 6:

1. The results of the random sampling file review of 40- PJJSC special education students enrolled during the time period of March 12, 2023, through the present, indicate the following regarding the inclusion of parents/guardians being involved in the IEP meetings being held with the SDP personnel at the PJJSC:
 - Eight parents/guardians participated via telephone or in person.
 - Seven parents/guardians did not participate. (Reasonable documented efforts were not present in most cases.)
 - Seven of the students did not have IEP meetings due to recently enrolling, minimal days enrolled and transitioned out of PJJSC already, or annual IEP is still within the annual timelines.
 - PJJSC did not hold IEP meetings for 28 of the students while they were enrolled in PJJSC.
2. This Special Education Adviser surveyed the students' 2023-2024 school year instructors and classroom assistants regarding parent participation in IEP team meetings. This PJJSC Personnel Survey indicates the some of the following responses:

What occurs to ensure the parents' participation in the students' annual IEP meetings and IEP team meetings? Please explain the process.

- “We consult with the STEP team for parents correct contact information, parents are invited to attend in person or virtually. Three attempts are made to contact parents, minimum. If parents want to attend the meeting in person, we help them get clearance with PJJSC center staff.”
- “Parents are invited to participate virtually or in person (going through the correct security measures to gain access to the students). We make three attempts to contact parents and utilize the members of the Step Case Managers.”
- “SEND 3 ATTEMPTS; REACH OUT TO CASE MANAGER AND/OR SOCIAL WORKER when unable to contact parent.”

- “Parents are invited to attend meetings virtually if they choose to attend in person necessary arrangements are made with the Center. We make three attempts and work with our Step Case Managers to obtain updated parent/guardian information.”

Issue 7:

1. The results of the random sampling file review of 40- PJJSC special education students enrolled during the time period of March 12, 2023, through the present, indicate the following regarding progress reporting:
 - 1 of 40 files reviewed, or less than 1 percent of the files reviewed, include documentation of progress reporting.
 - 7 of 40 files reviewed, or 18 percent of the files reviewed, did not indicate progress reporting due to the following: under 12 days of enrollment.
2. This Special Education Adviser surveyed the students’ PJJSC instructors regarding progress reporting. This survey indicates the following:

<p>How do you collect data to measure the progress towards the students' progress towards the annual measurable goals? Please explain.</p> <ul style="list-style-type: none"> • “Progress monitoring: STAR testing, iReady, Lexia, teacher-made assessments, behavioral observations.” • “Teacher made assessments, Research Based Reading and Math Probes (AIMS). Formal observations, and other teacher input.” • “Data collection is done in a variety of ways including: teacher made assessments, reading and math probes. Students with behavior goals are formally observed.” • “Data collection is obtained through teacher made assessments. Reading and math probes are given from teachers. Curriculum-based based [sic] measures and formal observations are obtained for students with behavior goals.”
<p>When are the students' progress reports issued to the parents and guardians?</p> <ul style="list-style-type: none"> • 15 out of 15 personnel, or 100 percent of the personnel, answered, “Quarterly.”
<p>How are the progress reports issued? Please explain.</p> <ul style="list-style-type: none"> • “Quarterly with report cards or at parent's request.” • “Progress Reports are provided to parents during Report Card Conferences.” • “Upon parent request, report card period, as needed.” • “Progress reports are sent digitally at parent request and/ or printed for in person meetings/report card conferences.”

CONCLUSIONS:

Issue 1:

SDP is unable to demonstrate compliance with the regulations cited above.

As evidenced by the review of the Student Enrollment for the 2022-2023 and 2023-2024 school years; Student Progress Reports for the 2022-2023 school year; and related services information available, the students’ IEPs were not implemented fully, or at all in some cases. The students are eligible for compensatory education to remedy the educational loss.

Issue 2:

SDP is unable to demonstrate compliance with the adherence to the reevaluation timelines, as per 34 CFR IDEA § 300.303.

The random student file review revealed 11 out of 40, or 28 percent, of the files demonstrated non-compliance with the biennial and triennial timelines.

Issue 3:

SDP is unable to demonstrate compliance with the adherence to the child find, specifically regarding 34 CFR IDEA § 300.111 and 22 Pa. Code § 14.121.

Even though SDP has a public outreach awareness system to locate and identify students who were eligible for special education services within their jurisdiction, the random student file review revealed that there was a significant delay in the identification of one particular student upon the SDP's child find responsibility being triggered (i.e., upon enrollment into the SDP, the student presented with deaf and hard of hearing).

Issue 4:

SDP is unable to demonstrate compliance regarding and 22 Pa. Code § 15.3.

The SDP failed to provide the necessary supports and other special education services, to aid the students in attending a defined school program, when the students were maintained in Admissions or Quarantine for extended periods of time. The students are eligible for compensatory education to remedy the educational loss.

Issue 5:

SDP is unable to demonstrate compliance with the regulations cited above.

As evidenced by the DRP Letter dated September 11, 2023, and the PJJSC interviews, the SDP failed to provide the necessary special education supports, including related services, when the students were maintained in Admissions or Quarantine for extended periods of time. The students are eligible for compensatory education to remedy the educational loss.

Issue 6:

SDP is unable to demonstrate compliance with the regulations cited above.

Based on the random student file review, several parents/guardians were not involved/included in IEP meetings and reasonable documented efforts were not made to obtain their involvement/inclusion.

Issue 7:

SDP is unable to demonstrate compliance with 34 CFR IDEA §300.320 (a)(3).

Based on the random student file review, with regards to adherence to the issuance of progress reports, SDP has met this requirement for 1 of 40 files reviewed, or 1 percent of the files reviewed, which includes documentation of all aspects of the progress reporting. Each IEP of the students contained a description of how the students' progress will be measured and when the progress reports will be provided, but SDP did not demonstrate how data was obtained and when it was provided to the parents/guardians.

DISCUSSION:

To ensure that SDP is implementing the strategies learned in the required trainings and corrective action, the BSE will be conducting a file review specifically regarding the evaluation/biennial/triennial timelines, annual IEP review timelines, NOREPs/PWNs, progress reporting, and review of the delivery of related services during the 2024-2025 school year.

Based on these ongoing oversight efforts, the BSE will determine if any further corrective action is warranted.

CLOSURE/CORRECTIVE ACTION:

Issues 1 and 5:

The Superintendent or Designee is directed to convene IEP team meetings to review the related service logs and determine for the students identified on the confidential student list a determination of the compensatory education owed to remedy educational loss of these services, and to issue a NOREP/PWN to the parents to approve or disapprove of the compensatory education agreement. Additionally, all students with related services identified in their IEPs, during the identified time period of March 12, 2023, through the present, need related service provider logs reviewed, and an IEP team decision needs made regarding the determination of the compensatory education owed to remedy any educational loss of the identified related services, and to issue a NOREP/PWN to the parents to approve or disapprove of the compensatory education agreement.

Additionally, students are owed special education and related services for the time periods that students spent in Admissions and Quarantine, which includes units that denied the students access to FAPE.

The students are eligible for compensatory education services to remedy the educational loss from March 12, 2023, through the present, for no provision or lack of special education and related services.

The Superintendent or Designee is directed to convene an IEP team meeting for the purpose of developing a plan for compensatory education to remedy educational loss, and to issue a NOREP/PWN to the Parent to approve or disapprove of the compensatory education agreement.

The calculation for compensatory education services excludes holidays and school closings. The compensatory education shall be in addition to and shall not supplant special education services that should appropriately be provided by the SDP through the student's IEP to assure a meaningful educational process. The exact nature, delivery schedule and logistics of the compensatory education are to be determined at the meeting, based on student need.

Should the parent and the SDP be unable to come to an agreement, the SDP will submit a written request for assistance from the BSE by the close of business on **October 25, 2024**, to include a list of the proposals for compensatory education from each party and signed by both parties. This request is to be sent to Alyse M. Watson, Chief, Division of Monitoring and Improvement – East, Pennsylvania Department of Education, Bureau of Special Education, 607 South Drive, 5th Floor – East Wing, Harrisburg, PA 17120.

Issues 1 and 5:

The Superintendent or Designee is required to review and revise its procedure with regards to the transition of students with disabilities into the PJJSC and implementation of their IEPs while at PJJSC. A training must occur with all relevant staff, specifically those staff within the PJJSC facility. A follow-up

memorandum/email must occur which communicates these procedures to all relevant staff. The procedure must include collaboration with DHS to ensure that the special education services are being provided to students in areas of Admissions and Quarantine.

Issue 2:

The Superintendent or the Designee shall provide training to all relevant personnel and issue a follow-up memorandum/email to all relevant staff to ensure compliance, as per 34 CFR IDEA § 300.303 and 22 Pa. Code § 14.124. Specifically, the training and follow-up memo/email must address biennial/triennial timelines.

Any students who have had a delayed reevaluation process are eligible to be considered for compensatory education services to remedy any educational loss that occurred as a result of SDP's failure to ensure a timely reevaluation process.

Issue 3:

The Superintendent or Designee shall develop, or review and revise, child find requirements, as per 34 CFR IDEA § 300.111 and 22 Pa. Code § 14.121; train relevant staff; and issue a follow-up memorandum/email to all relevant staff to ensure compliance.

The Superintendent or Designee shall initiate the child find process for all students at PJJSC who are suspected of being a child with a disability and in need of special education.

Any students who have not been identified as a student with a disability and eligible for special education services but should have been and any students who have not been identified as a student with a disability and eligible for special education services but should have been in a timely manner should be considered for compensatory education services to remedy the educational loss for SDP's failure to implement its child find policies/procedures.

The Superintendent or Designee is directed to convene an IEP team meeting for the purpose of developing a plan for compensatory education to remedy educational loss, and to issue a NOREP/PWN to the Parent to approve or disapprove of the compensatory education agreement.

The calculation for compensatory education services excludes holidays and school closings. The compensatory education shall be in addition to and shall not supplant special education services that should appropriately be provided by the SDP through the student's IEP to assure a meaningful educational process. The exact nature, delivery schedule and logistics of the compensatory education are to be determined at the meeting, based on student need.

Should the parent and the SDP be unable to come to an agreement, the SDP will submit a written request for assistance from the BSE by the close of business on **October 25, 2024**, to include a list of the proposals for compensatory education from each party and signed by both parties. This request is to be sent to Alyse M. Watson, Chief, Division of Monitoring and Improvement – East, Pennsylvania Department of Education, Bureau of Special Education, 607 South Drive, 5th Floor – East Wing, Harrisburg, PA 17120.

Issue 4:

The Superintendent or Designee is required to establish a procedure to ensure that students are afforded equal opportunity to participate and obtain benefits of educational programming, as per 22 Pa. Code §15.3. Additionally, a training must occur with all relevant staff, specifically those staff who service students residing at the PJJSC facility. A follow-up memorandum/email must occur which entails these procedures.

Issue 6:

The Superintendent or Designee shall develop, or review and revise, procedures on the IEP Team and parent participation requirements, as per 34 CFR § 300.321(a); train relevant staff; and issue a follow-up memorandum/email to all relevant staff to ensure compliance with the regulation cited above.

Issue 7:

The Superintendent or Designee shall provide training to all relevant personnel on the requirements for progress reporting, as per 34 CFR § 300.320(a)(3), regarding the collection of data along with the development and issuance of progress reports and issue a follow-up memorandum/email to all relevant staff to ensure compliance with this regulation.

VERIFICATION OF COMPLETION OF CORRECTIVE ACTION:

As verification of completion, the Superintendent or Designee will forward the following documents to Sherri L. Campbell, Pennsylvania Department of Education, Bureau of Special Education, 607 South Drive, 5th Floor, Harrisburg, PA 17120, shercampbe@pa.gov, on or before **October 25, 2024**:

- Copy of the procedure with regards to the transition of students with disabilities into the PJJSC and implementation of their IEPs while at PJJSC.
- Copies of the memorandum/email, training agenda(s), and sign-in sheets/electronic attendance records of the participation of all relevant staff within the PJJSC facility regarding the procedure involving the transition of students with disabilities into the PJJSC and the implementation of their IEPs while at PJJSC.
- Copies of the memorandum/email, training agenda(s), and sign-in sheets/electronic attendance records of the participation of relevant personnel in training on adherence to the requirements for reevaluations.
- Copies of the memorandum/email, training agenda(s), and sign-in sheets/electronic attendance records of the participation of all relevant personnel in training on the child find requirements, as per 34 CFR IDEA § 300.111 and 22 Pa. Code § 14.121.
- Copies of the memorandum/email, training agenda(s) provided to the relevant personnel, and sign-in sheets/electronic attendance verification pertaining to those who attended the training(s) in the procedure that students are afforded equal opportunity to participate and obtain benefits of educational programming, as per 22 Pa. Code §15.3.
- Copies of the memorandum/email, training agenda(s), and sign-in sheets/electronic attendance records of the participation provided to all relevant personnel on adherence to the requirement of the IEP Team and parent participation requirements, as per 34 CFR § 300.321(a).
- Copies of the memorandum/email, training agenda(s), and sign-in sheets/electronic attendance records of the participation of all relevant personnel in training on the requirements for progress reporting, including the collection of data, understanding, development, completion, and issuance of progress reports, as per 34 CFR § 300.320(a)(3).
- Copies of the student lists for each sub-group, plans for compensatory education, and copies of the compensatory education NOREPs/PWNs which have been issued to the parents of students confined to PJJSC from March 12, 2023, through the present:

- For all special education students, reviewing the related service provider logs and determining any compensatory education owed to remedy any educational loss of the identified related services, including counseling.
- For all special education students that were held in Admissions and Quarantine, and any other unit in which a student was denied access to FAPE, reviewing the special education and related services identified in the IEPs and determining any compensatory education owed to remedy any educational loss of the identified special education and related services.
- For all special education students who did not receive a timely reevaluation, reviewing any revisions to the special education and related services set forth in the IEPs as a result of their reevaluations and determining any compensatory education owed to remedy any educational loss that occurred due to SDP's failure to conduct timely reevaluations.
- For all students who have not been identified as a student with a disability and eligible for special education services but should have been and any students who have not been identified as a student with a disability and eligible for special education services but should have been in a timely manner, reviewing the special education and related services set forth in the IEPs and determining any compensatory education owed to remedy any education loss that occurred due to SDP's failure to initiate the child find process.

Sherri L. Campbell

Sherri L. Campbell
 Special Education Adviser
 Division of Monitoring and Improvement – East
 717-329-2251
shercampbe@pa.gov

NOTICE: In accordance with federal regulations, this report constitutes the Pennsylvania Department of Education's final decision with regard to this complaint.

If either party disagrees with the conclusions in the Complaint Investigation Report (CIR), the party has the right to submit a written request for reconsideration with additional information either not considered or not available at the time of the investigation. The written request for reconsideration must be submitted within 10-calendar days of the date of the CIR. The BSE will determine if the additional information is sufficient to warrant a review of the conclusions reached as a result of the investigation. Upon determining the sufficiency of the information, the BSE will notify the parties in writing of its decision to reconsider the conclusions reached. The BSE will issue its decision on the request for reconsideration within 30-calendar days from BSE's receipt of the request.

An LEA must implement any corrective actions ordered in the CIR without waiting for the BSE's decision on the request for reconsideration.

ENCLOSURES: Form – Compensatory Education Plan Format
 Form – Completion of Corrective Action
 BEC – Special Education Compliance
 Confidential Student List, Inclusive, individual corrective action involving non-compliant annual IEP timelines, biennial/triennial timelines, and loss/lack of special education services (sent in a separate email)

cc: Dr. Tony B. Watlington Sr., Superintendent
Dr. Anh Nguyen, Assistant Superintendent
Dr. Nathalie Nérée, Chief of Special Education & Diverse Learners, ODL
Dr. Tora Evans, Deputy of Special Education & Diverse Learners, ODL
Kim Harris, Director of Operations, ODL
Twain D. McLeod, Compliance Manager, ODL
Nefertiti White, Director of Special Education
Deana Ramsey, Principal
Alyse M. Watson, Chief, Division of Monitoring and Improvement – East
Casey B. Marsh, Special Education Adviser, Division of Monitoring and Improvement – East
Janet L. Pelone, Special Education Adviser, Division of Monitoring and Improvement – East
Central file

COMPENSATORY EDUCATION PLAN FORMAT

Individualized Education Program (IEP) Team Meeting Date: _____

Student Name: _____ DOB: _____ Age: _____

School: _____ Grade: _____

The Philadelphia Juvenile Justice Services Center in the School District of Philadelphia (SDP) met with the Parent/Guardian to determine compensatory education for the Student for the following reasons:

Source: Complaint Investigation Report of July 15, 2024

The SDP and the Parent/Guardian have agreed to the following compensatory education for the Student:

Compensatory Education Services/ Programs	Total Hours	Projected Beginning Date	Projected Ending Date

Other Terms and Conditions determined by the SDP and Parent/Guardian:

MEETING ATTENDEE SIGNATURES

NAME (typed or printed)	POSITION (typed or printed)	SIGNATURE
_____	Parent/Guardian	_____
_____	Parent/Guardian	_____
_____	Student	_____
_____	Local Educational Agency	_____
_____	Representative	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

At the completion of this meeting, the SDP must issue a Notice of Recommended Educational Placement/Prior Written Notice to provide the Parent/Guardian with an opportunity to approve or disapprove the compensatory education plan.

Completion of Corrective Action

Dear Complainant:

This form provides you with the opportunity to notify Bureau of Special Education staff if you believe that the corrective action specified in the complaint investigation report was not completed. If you believe that the corrective action was not completed, please complete the form and return it to the Bureau of Special Education. This form must be received in the Bureau of Special Education no later than 10-calendar days after the due date of the corrective action. Please address and send this form to:

Attn: Sherri L. Campbell
Corrective Action Verification Form
Bureau of Special Education
Pennsylvania Department of Education
607 South Drive, 5th Floor
Harrisburg, PA 17120

1. Child's name: Multiple Students
2. Name of complainant: Ashli Giles-Perkins, Esquire; Maura McInerney, Esquire; and Margaret Wakelin, Esquire
3. Name of school district/charter school: School District of Philadelphia
4. Date of complaint investigation report (CIR): July 15, 2024
5. Date of corrective action:

Issue 1: **October 25, 2024**
Issue 2: **October 25, 2024**
Issue 3: **October 25, 2024**
Issue 4: **October 25, 2024**
Issue 5: **October 25, 2024**
Issue 6: **October 25, 2024**
Issue 7: **October 25, 2024**

Other Issues:

6. Specifically for each issue, what part of the corrective action was not completed?

Signature _____ Date _____

Special Education Compliance

22 Pa. Code §14.102. (a)(4)

22 Pa. Code §711.4

Date of Issue: Sept. 1, 1997 (formerly 22 Pa. Code §14.8)

Date of Review: Nov., 30, 2009, June, 2002 (revised), Oct. 27, 2011 (Revised)

Purpose

The Pennsylvania Department of Education (PDE) is responsible for developing and maintaining a system that ensures that each child with a disability receives a free appropriate public education (FAPE) and that each family has access to a system of procedural safeguards. While Local Education Agencies (LEA) (including charter and cyber charter schools) and Mutually Agreed Upon Written Arrangement (MAWA) holders have the primary and direct responsibility for providing FAPE, federal law places upon the PDE a general supervision responsibility; as well as an obligation to directly provide special education and related services to children with disabilities when it has determined that the LEA is unable to establish or maintain FAPE.

State and federal laws call upon the Secretary to oversee the system and enforce the special education requirements. To accomplish this oversight, the PDE created a comprehensive system that coordinates various planning, monitoring, funding and compliance elements. The PDE makes determinations annually about the performance of each LEA, MAWA holder, or other public agency using the following categories: meets requirements; needs assistance; needs intervention; needs substantial intervention. The PDE also reports the performance of each LEA, MAWA holder, or other public agency annually, and enforces the one-year timeline for correction of any identified noncompliance issues.

LEA or MAWA Holder Compliance with Special Education Statutes and Regulation

The PDE recognizes that the creation of quality programming and successful outcomes for students with disabilities requires more than technical compliance with procedural rules. The PDE believes, however, that legal compliance is the base on which high quality programs are built. Conflict between parents and LEAs, MAWA holders, or other public agencies over unresolved compliance issues diverts energy from other educational tasks that deserve our attention. Similarly, the need to provide compensatory education, to reimburse parent expenses, and to pay attorney's fees at the end of a long conflict divert resources from direct educational services. In an

attempt to avoid these diversions of resources, the PDE promotes and ensures compliance with special education statutes and regulations through its coordinated program of plan review, complaint management, monitoring, technical assistance and funding decisions.

When compliance issues arise, they are almost always resolved amicably and without undue delay. Thus, the main task for the PDE is to address compliance issues clearly and promptly, to take action to ensure compliance and to enforce the one-year correction timeline.

PDE Response

Noncompliance Issues

In particular, the following will be treated as compliance problems that warrant a prompt response:

- failure to submit an acceptable local plan, or in the case of a charter school, an acceptable annual report;
- failure to implement any component of the corrective action required through the complaint process of the Bureau of Special Education (BSE) within applicable times; (including, but not limited to, the failure to submit compliant procedures and protocols or the failure to provide compensatory education services as directed) as per 34 CFR § 300.151-153;
- failure to implement the corrective action required through BSE monitoring;
- failure to submit required reports, including the reports regarding a need for intensive interagency coordination; and
- failure to comply with due process decisions.

PDE's General Procedures for Addressing Noncompliance

In an effort to expedite compliance with the applicable regulations, if corrective action required by targeted, focused or cyclical monitoring, through BSE's complaint process, or by court order has not been implemented in a timely manner, BSE in collaboration with the PDE's Office of Chief Counsel will implement the following procedures:

- Within 10 calendar days after the due date for completing corrective action, the Special Education Advisor will contact the LEA, MAWA holder, or other public agency to determine the status of any incomplete corrective action and forward a summary to BSE's Division Chief.
- The Division Chief will contact the Superintendent, Chief Executive Officer or Executive Director to determine the actions needed to implement the required corrective action and assign a due date for reaching

compliance.

- Continued noncompliance will result in a recommendation to the Bureau Director to schedule a meeting in the PDE which the Superintendent, Chief Executive Officer, or Executive Director will be required to attend to address the noncompliance and, if necessary, the enforcement mechanisms that will be utilized to obtain compliance.
- Within 10 calendar days of this meeting, the PDE will issue a letter summarizing the results of the meeting (i. e., either confirming the LEA's, MAWA holder's, or other public agency's agreement to expeditiously complete the corrective action and explaining the penalty for failing to adhere to the agreement or, in the absence of an agreement, setting forth the enforcement remedy the PDE has decided is appropriate for the noncompliance).

The specific action chosen by the PDE will vary from case to case. This process is intended to ensure compliance rather than to be punitive. The main features of the PDE's efforts will be to explain the problem, call upon the LEA, MAWA holder, or other public agency to implement the corrective action, including corrective action specified in a CIR, and assist the LEA, MAWA holder, or other public agency in achieving compliance. If compliance is not obtained within 30 calendar days of the deadline for the corrective action specified in a CIR, the PDE will take enforcement action.

PDE's Procedures for Addressing Noncompliance Related to the State Complaint System.

The PDE, through the BSE and Office of Child Development and Early Learning (OCDEL), Bureau of Early Intervention, administers a complaint system in which it investigates allegations of noncompliance by LEAs, MAWA holders, or other public agencies and orders corrective action to address the needs of the child and the future provision of services for all children with disabilities. BSE/OCDEL orders corrective action, if appropriate, in the Complaint Investigation Report (CIR). The complainant and/or LEA, MAWA holder, or other public agency may seek reconsideration of the CIR with BSE/OCDEL within 10 calendar days of the CIR. The CIR, or amended CIR if a timely request for reconsideration is made, is the PDE's final decision regarding the complaint and will be enforced. Final CIRs will not be revised or amended by the PDE and are not appealable.

- Ten calendar days prior to the due date of corrective action, BSE will send a letter to the LEA, MAWA holder, or other public agency reminding them of the deadline.
- Within five calendar days after the due date for corrective action, the Special Education Advisor will contact the complainant (by telephone and in writing) and the LEA, MAWA holder, or public agency to verify completion of the corrective action and to obtain written assurance and documentation from the LEA, MAWA holder, or public agency. This documentation will be described in a letter to the complainant and the

complainant will be provided with information about how to contact BSE if the complainant believes the corrective action has not been implemented.

- Within 10 calendar days after the due date of corrective action, the Division Chief will contact the Superintendent, Chief Executive Officer, or Executive Director of the LEA, MAWA holder, or other public agency in writing to determine the actions needed to implement the required corrective action and assign a due date for finalizing corrective action. Proposals made by the LEA, MAWA holder, or other public agency related to compliance with corrective action mandated by a CIR will be shared with the complainant.

Within 20 calendar days after the due date of corrective action, the Bureau Director will schedule a meeting in PDE, which the Superintendent, Chief Executive Officer, or Executive Director will be required to attend to address the noncompliance and, if necessary, the enforcement mechanisms that will be utilized to obtain compliance. Bureau personnel in attendance at this meeting will include the Bureau Director (or designee), Special Education Advisor, Division Chief, and if requested, an attorney from the Office of Chief Counsel. At the discretion of the Bureau Director, other individuals may be required or invited to attend, including the complainant. The complainant will be informed of this meeting.

- Within 10 calendar days of this meeting, the PDE will issue a letter summarizing the results of the meeting (i. e., either confirming the LEA's, MAWA holder's, or other public agency's agreement to expeditiously complete the corrective action and explaining the penalty for failing to adhere to the agreement or, in the absence of an agreement, setting forth the enforcement remedy the PDE intends to impose). The PDE will send a copy of the letter to the complainant.
- If compliance is not obtained within 30 calendar days of the deadline for the corrective action specified in the CIR, the PDE will take enforcement action.

PDE Resolution if Noncompliance Continues and Enforcement Actions

If, however, the PDE does not succeed in obtaining prompt compliance, the PDE takes more rigorous steps to ensure that the compliance issue is resolved within 30 calendar days of the deadline specified for the corrective action. Such enforcement action may include, but is not limited to, the following measures:

- a local special education plan or annual report may be disapproved and, in the case of a charter school, the chartering entity will be notified of the noncompliance;
- consistent with state and federal law, the disbursement of funds, including basic education funding, may be deferred pending resolution of the issue, and, in the case of a charter school, the PDE may direct the chartering entity to take appropriate action;

- action consistent with state and federal law may be taken to reduce the amount of funds paid to the LEA, MAWA holder, or other public agency to offset the amount of money needed to provide an education to a particular child or children if an LEA, MAWA holder, or other public agency is unwilling or unable to provide services;
- the PDE may seek court action against the LEA, MAWA holder, or other public agency to obtain an order requiring it to take specific actions consistent with state and federal law;
- the PDE may join in legal action initiated by parents; or
- The PDE may take action affecting the commission of the superintendent or other commissioned officer responsible for administering the educational program.

Prior to imposing sanctions upon an LEA, MAWA holder, or other public agency for failure to implement corrective action resulting from cyclical or target monitoring regarding a child with a disability whom the LEA, MAWA holder, or other public agency is responsible to educate, the PDE will provide the LEA, MAWA holder, or other public agency the opportunity to request a hearing under the *Administrative Agency Law*, 2 Pa.C.S. §§501-508. A hearing under the *Administrative Agency Law*, 2 Pa.C.S. §§501-508 is not available to either party to challenge the corrective action ordered via a CIR.

Violations of federal laws and regulations governing children with disabilities can form the basis of the nonrenewal or termination of a charter.

None of these steps is desirable, and none should be necessary if each LEA, MAWA holder, or other public agency is familiar with and attentive to the laws governing special education and complies with corrective action within set time periods. It is PDE's goal that consultation between the PDE and LEAs, MAWA holders, or other public agencies will avoid the need to take any of the compliance and enforcement actions described above. It is the obligation and the policy of the PDE however, to use these compliance and enforcement measures whenever necessary to ensure that the rights of Pennsylvania's children with disabilities are met in accordance with the state's obligations.

Direct Services to Students Pending Enforcement Procedures

If necessary, the PDE may take additional steps to ensure that student services are provided during the appeal, enforcement or reconsideration process, which may include the PDE providing and/or arranging for student services at the expense of the LEA, MAWA holder, or other public agency.

References

Purdon's Statutes

24 P.S. Section §13-1357

24 P.S. Section §13-1372

24 P.S. Section §17-1729-A(a)(5)

24 P.S. Section 17-1728-A(b)

24 P.S. Section 17-1732-A(c)(1)-(2)

24 P.S. Section §25-2552

State Board of Education Regulations

[22 Pa. Code Chapter 14](#)

[22 Pa. Code Chapter 711](#)

Federal Statute

20 U.S.C. Section 1412 20 U.S.C. Section 1416 20 U.S.C. Section 1232d

Federal Regulation

34 CFR Part 300

Bureau/Office Contact

Bureau of Special Education

Pennsylvania Department of Education

Forum Building

607 South Drive

Harrisburg, PA 17120

Phone: 717-783-6134