



February 23, 2024

Dr. Nathalie Nérée  
Chief of Special Education & Diverse Learners  
Office of Diverse Learners  
School District of Philadelphia  
440 North Broad Street  
Philadelphia, PA 19130

Dear Dr. Nérée:

As the result of a Complaint Investigation Report (CIR) regarding Multiple Students dated March 17, 2023, the Bureau of Special Education (BSE) conducted a file review. The School District of Philadelphia (SDP) has been provided with an extension to submit the corrective action for this case until February 29, 2024.

As a follow-up, the BSE conducted a file review on January 30-31, 2024. The purpose of the file review was to ensure that the SDP is incorporating and working on the established processes for the following regarding evaluation/reevaluation 60-day and biennial/triennial timelines, annual Individualized Education Program (IEP) review timelines, Notices of Recommended Educational Placements/Prior Written Notices (NOREPs/PWNs), and progress reporting for each quarter of the 2023-2024 school year. Additionally, BSE reviewed to determine if SDP offered a remedy for any loss of free appropriate public education (FAPE) during the COVID-19 crisis time period.

The BSE reviewed 50 randomly selected students' files from the spreadsheet, which was provided to the BSE from the SDP, with the names of all students who were active and remained active after the COVID-19 crisis time period in Learning Network 2 (LN 2). These students attend the following schools: Alain Locke School, Allen M. Stearne School, Andrew Hamilton School, and F. Amedee Bregy School. The following is a summary of findings from the file review of annual IEP review timelines, NOREPs/PWNs, progress reporting, and the offerings of the remedy for the loss of FAPE during the COVID-19 crisis time period.

IEP Annual Timelines:

- 3 of 50 files reviewed, or 6 percent of the files reviewed, indicate that the annual review timelines of the IEPs were not in compliance.

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NOREPs/PWNs

- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that NOREPs/PWNs were present.
- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate a date the local educational agency (LEA) sent the current NOREPs/PWNs was present.
- 47 of 50 files reviewed, or 94 percent of the files reviewed, indicate a date the LEA received signed NOREPs/PWNs was present.

- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that a type of action taken was present on the reviewed NOREPs/PWNs.
- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that a description of the action proposed or refused by the LEA was present on the reviewed NOREPs/PWNs.
- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that an explanation of why the LEA proposed or refused to take the action was present on the reviewed NOREPs/PWNs.
- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that a description of each evaluation procedure, assessment, records, or report used as the basis for the proposed action was present on the reviewed NOREPs/PWNs.
- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that a description of other factor(s) relevant to LEA’s proposal or refusal was present on the reviewed NOREPs/PWNs.
- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that an educational placement recommendation (including amount and type) was present on the reviewed NOREPs/PWNs.
- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that a signature of a school district superintendent or charter school chief executive officer was present on the reviewed NOREPs/PWNs.
- 47 of 50 files reviewed, or 94 percent of the files reviewed, indicate that a parent signature or documentation of reasonable efforts to obtain consent was present on the reviewed NOREPs/PWNs.
- 41 of 50 files reviewed, or 82 percent of the files reviewed, indicate that a parent has selected a consent option on the reviewed NOREPs/PWNs.
- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that the NOREPs/PWNs reflect the educational placements indicated on the students’ IEPs.

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IEP Progress Reporting

- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that IEP progress reports were present in the students’ files for the 2023-2024 school year.
- 50 of 50 files reviewed, or 100 percent of the files reviewed, indicate that some type of progress (moderate, inconsistent, etc.) was being made by the identified students.
- 48 of 50 files reviewed, or 96 percent of the files reviewed, indicate some type of incompleteness.

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Remedy for the Loss of FAPE During the COVID-19 Crisis Time Period

- 44 of 50 files reviewed, or 88 percent of the files reviewed, indicate that the remedy or consideration for the loss of FAPE during the COVID-19 crisis time period were present in the students’ files for the 2023-2024 school year.

- 6 of 50 files reviewed, or 12 percent of the files reviewed, indicate that no remedy for the loss of FAPE during the COVID-19 crisis time period were present in the students' files for the 2023-2024 school year because these students did not have an IEP during that time period.
- 24 of 50 files reviewed, or 48 percent of the files reviewed, indicate that invitations were issued to signify that meetings were scheduled to discuss the remedy or consideration for the loss of FAPE during the COVID-19 crisis time period in the students' files for the 2023-2024 school year. Finally, only 4 of the students' files indicate documentation of meetings being held.
- 14 of 50 files reviewed, or 28 percent of the files reviewed, indicate that contact logs were present with regards to communications with parents referencing the remedy or consideration for the loss of FAPE during the COVID-19 crisis time period in the students' files for the 2023-2024 school year.
- 4 of 50 files reviewed, or 8 percent of the files reviewed, indicate that annual IEP team meetings occurred to discuss the remedy or consideration for the loss of FAPE during the COVID-19 crisis time period in the students' files for the 2023-2024 school year.
- 4 of 50 files reviewed, or 8 percent of the files reviewed, indicate that compensatory services were owed as a result of the COVID-19 crisis time period in the students' files for the 2023-2024 school year.

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**CONCLUSIONS/CORRECTIVE ACTION:**

Based on the file review, the SDP still needs to continue to improve in the area of ensuring that the review of the students' IEPs occur periodically, but not less than annually, to determine whether the annual measurable goals for the children are being achieved.

- The Superintendent or the Designee shall provide a training to relevant personnel within LN 2 on the requirements related to the review of students' IEPs to occur periodically, but not less than annually, to determine whether the annual measurable goals for the children are being achieved.
- The Superintendent or the Designee will hold IEP meetings for the students involved in the file review that were out of compliance with regard to convening an annual IEP meeting within the required timelines **on or before April 5, 2024**. (A confidential student list will be sent in a separate email to the SDP.) The identified students are owed compensatory education for the SDP's failure to convene annual IEP meetings within the specified timelines.
- The Superintendent or the Designee will convene meetings to develop compensatory education agreements and issue NOREPs/PWNs to the parent(s)/guardian(s) of the students listed in a separate confidential enclosure to approve or disapprove of the compensatory education agreement. The amount of compensatory education services to be provided will be the number of hours of special education and related service support per day as required in the student's IEP, which has been approved by the parent(s)/guardian(s), from the lapse in time between the annual IEP meetings.

The calculation for compensatory education services excludes student absences, holidays, and school closings. Compensatory education may take the form of any appropriate developmental, remedial, or enriching educational service, product, or device that furthers the goals of the student's program or otherwise assists in overcoming the effect of the disability. Compensatory education shall be in addition to, and shall not supplant educational services, products, and/or

devices that should appropriately be provided by the school district 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 the student's needs.

Should the parent(s)/guardian(s) and the SDP be unable to come to an agreement, the SDP will submit a written request for assistance from the BSE by **Friday, April 5, 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, Fax 717-783-6139.

With regard to NOREPs/PWNs, the SDP still needs to continue to improve in ensuring that issued NOREPs/PWNs are fully completed based on the students' IEPs. A variety of areas are still of concern, specifically in the following areas: date the LEA received a signed NOREP/PWN; parent signature or documentation of reasonable efforts to obtain consent; and consent options.

- Based on the NOREPs/PWNs reviewed, the BSE is requiring additional training of relevant personnel in the development and issuance of NOREPs/PWNs, specifically for LN 2, **on or before April 5, 2024**.

The findings from the file review also reveal that the SDP needs to continue to improve in the issuance of progress reports for each special education student.

- The BSE is requiring additional training of relevant personnel within LN 2 with regard to the collection of data, development, completion, and issuance of progress reports.
- The Superintendent or the Designee will issue the progress reports for the first two marking periods of the 2023-2024 school year to the parents/guardians of the students involved in the random sampling that were out of compliance **on or before April 5, 2024**, via email or certified mail. (A confidential student list will be sent in a separate email to the SDP.)

The findings from the file review revealed that 100 percent of the student files that required the remedy or consideration for the loss of FAPE during the COVID-19 crisis time period occurred with the issuance of a NOREP/PWN, but there was only evidence of four IEP team meetings actually occurring.

The CIR dated March 17, 2023, specifically states, "Based on the United States Department of Education (USDE) Guidance dated March 12, 2020, LEAs, in consultation with IEP teams, must make an individualized determination on how much compensatory services may be needed as a result of the extended school closure and provide evidence of any compensatory services determinations that were made. To expand upon USDE's guidance, the Pennsylvania Department of Education (PDE) issued its CCS [COVID-19 Compensatory Services] guidance, which was updated on June 15, 2021, that SDP may refer to as a resource in making compensatory services determinations.

The SDP will need to convene IEP meetings for all special education students enrolled at SDP during the mandated school closure time and throughout the 2020-2021 school year time period and provide evidence of the compensatory services determinations that were made.

The Superintendent or Designee shall reconvene the IEP teams, including the parents/guardians, as soon as possible to review the students' progress and make a proposed determination of compensatory services."

- The Superintendent or the Designee will provide a summary of each student's consideration and determinations being made to remedy FAPE during the COVID-19 pandemic. (A confidential student list will be sent in a separate email to the SDP.)

- The Superintendent or the Designee will convene IEP team meetings to document each student's consideration and determinations being made to remedy FAPE during the COVID-19 pandemic. (A confidential student list will be sent in a separate email to the SDP.)

As verification of the required corrective action from this file review, please forward the following documents:

- Copies of training agenda(s) and sign-in sheets/electronic attendance records of the participation of relevant personnel in training on the requirements related to the review of the students' IEPs periodically, but not less than annually, to determine whether the annual goals for the children are being achieved.
- With regard to annual IEP timelines, the Invitation, IEP, copy of the plan for compensatory education, and a copy of the Compensatory Education NOREP/PWN, which has been issued to the parent(s)/guardian(s) of the students listed in a separate confidential email.
- Copies of 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 understanding, development, and issuance of NOREPs/PWNs.
- Copies of 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.
- The emails or certified letter receipts to the parents/guardians with a copy of the first two marking periods of the 2023-2024 school year progress reports attached.
- A summary of each student's consideration and determinations being made to remedy FAPE during the COVID-19 pandemic.
- A copy of the documents generated as a result of scheduling the IEP team meeting to document each student's consideration and determinations being made to remedy FAPE during the COVID-19 pandemic. (A confidential student list will be sent in a separate email to the SDP.)

Please send these documents to the attention of Sherri L. Campbell at the Pennsylvania Department of Education, Bureau of Special Education, 607 South Drive, 5th Floor – East Wing, Harrisburg, PA 17120, Fax 717-783-6139, or by email to [shercampbe@pa.gov](mailto:shercampbe@pa.gov) **no later than the close of business on Friday, April 5, 2024.**

Additionally, the BSE will continue to monitor the 60-day evaluation timelines for initial evaluations and Early Intervention transition evaluations throughout the 2023-2024 school year for LN 2. The first summarized review will begin at the beginning of March 2024, but BSE will be reviewing the data monthly in January 2024. LN 2 emails will be sent to schools, identifying students who are out of compliance with regard to the completion of evaluations within the 60-day required timeline.

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 evaluation/reevaluation 60-day and biennial/triennial timelines, annual IEP review timelines, and progress reporting for each quarter of the 2023-2024 school year.

If you have any questions regarding the information in this letter you may contact me at 717-329-2251 or by email at [shercampbe@pa.gov](mailto:shercampbe@pa.gov).

Sincerely,

*Sherri L. Campbell*

Sherri L. Campbell  
Division of Monitoring and Improvement – East

Enclosures: Compensatory Education Plan Format  
Confidential SDP Annual Timelines, Progress Reporting, and Remediating of FAPE During  
the COVID-19 Crisis Time Period Corrective Action Student List (Enclosure sent in  
separate email)

cc: Dr. Tony B. Watlington Sr., Superintendent  
Kim Harris, Director of Operations, Office of Diverse Learners (ODL)  
Twain D. McLeod, Compliance Manager, ODL  
Lucia Granger, Director of Special Education  
Margaret Wakelin, Esquire  
Maura McInerney, Esquire  
Rebecca Preuss, Esquire  
Alyse M. Watson, Chief, Division of Monitoring and Improvement – East  
Casey B. Marsh, 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 School District of Philadelphia (SDP) met with the parent(s)/guardian(s) to determine compensatory education for the Student for the following reasons:

The IEP team convened as a result of a file review.

Source: January 2024 File Review

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The Student is owed compensatory education, as a result of an IEP meeting not being held within the compliant timelines.

The Superintendent or the Designee will convene meetings to develop compensatory education agreements and issue Notice of Recommended Educational Placements (NOREPs)/Prior Written Notices (PWNs) to the parent(s)/guardian(s) of the students listed in a separate confidential enclosure to approve or disapprove of the compensatory education agreement. The amount of compensatory education services to be provided will be the number of hours of special education and related service support per day as required in the student's IEP, which has been approved by the parent(s)/guardian(s), from the lapse in time between the annual IEP meetings.

The calculation for compensatory education services excludes student absences, holidays, and school closings. Compensatory education may take the form of any appropriate developmental, remedial, or enriching educational service, product, or device that furthers the goals of the student's program or otherwise assists in overcoming the effect of the disability. Compensatory education shall be in addition to, and shall not supplant educational services, products, and/or devices that should appropriately be provided by the school district 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 the student's needs.

Should the parent(s)/guardian(s) and the SDP be unable to come to an agreement, the SDP will submit a written request for assistance from the Bureau of Special Education by **Friday, April 5, 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, Fax 717-783-6139.

The SDP and the parent(s)/guardian(s) 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 the parent(s)/guardian(s):

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**MEETING ATTENDEE SIGNATURES**

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

***At the completion of this meeting, the SDP must issue a NOREP/PWN to provide the parent(s)/guardian(s) with an opportunity to approve or disapprove the compensatory education plan.***