

Complaint Form

Please feel free to make copies of this form, use additional paper, or call the ConsultLine at 1-800-879-2301 or the Bureau of Special Education (BSE) at 717-783-6913 for additional copies.

My preferred method of contact by the Advisor assigned to this complaint would be (Optional):

- ☐ **By phone (please provide number):**
Best time during normal business hours to call:
- ☒ **By email (please provide email address):**
- ☐ **In person at a public facility during normal business hours.** The location would probably be a school or Intermediate Unit building to permit duplication of documents.

Are you filing this complaint on behalf of a specific child? ☒ Yes ☐ No

Please provide your contact information, relationship to child, and signature.

Name: Margaret M. Wakelin

Address: Education Law Center - PA, 1800 JFK Blvd., Suite 1900A, Philadelphia, PA 19103

Phone Number: 215-800-0349

Home:

Work:

Cell:

E-mail: mwakelin@elc-pa.org

Relationship to child or children:

- ☐ Parent ☒ Attorney ☐ Advocate ☐ Other

The name and address of the residence of the child, school, and school district.

Child's Name: Multiple Children, see attached

Date of Birth:

Address:

Is the child currently in school? ☐ Yes ☐ No

If so, where is the child's current program:

School Building: Multiple, see attached

School District: School District of Philadelphia

Charter School:

Is the child publicly placed in the educational program by a Judge or Child Welfare Agency?*

☐ Yes ☐ No

If so, where is the child's current program:

Contact Person:

Telephone:

Complete *only* if the complaint is filed on behalf of a highly mobile student.

Contact Person:

Telephone:

Did the violation occur within the past year? If so, on or about what date?

Date: Approximately March 15 to the present

**To clarify my allegations, I would like the Advisor to interview the following person(s):
(Optional)**

Name	Occupation/Title	Phone Number/E-Mail Address
See attached		

*This information is not required by IDEA.

Please provide a statement about the violation or issue, which you believe has occurred. Please include a description about the nature of the problem.

See attached

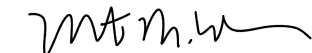
Please list the facts that support your statement.

See attached

To the best of your knowledge, please suggest a solution to this problem if one is known and available.

See attached

This complaint must be signed for BSE to investigate. You must also send a copy of this complaint to the Local Educational Agency (LEA). By signing below, you indicate to BSE that you have provided a copy of the complaint to the LEA.



12/4/25

Signature

Date

Please return the form to:

PDE/BSE

Division of Compliance Monitoring and Planning - East

607 South Drive, 3rd Floor

Harrisburg, PA 17120

E-mail: ra-pdespecialized@pa.gov

ConsultLine – CRP

Initials

Date



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December 4, 2025

Pennsylvania Department of Education
Bureau of Special Education
Division of Compliance, Monitoring, and Planning
607 South Drive, 3rd Floor
Harrisburg, PA 17120
ra-pdespecial@pa.gov

***RE: Complaint on Behalf of Young Children Inappropriately Transitioned from
Preschool Early Intervention to School-Age Programming in the School District of
Philadelphia***

Dear Bureau of Special Education:

The **Education Law Center – PA** files this Complaint as an organization¹ and on behalf of individual students [REDACTED] (“O.M.”), [REDACTED] (“Y.B.”), [REDACTED] (“S.B.G.”), and similarly situated children against the **School District of Philadelphia** (“District”) for discrimination on the basis of disability regarding the failure to appropriately transition young children with disabilities from Preschool Early Intervention (“EI”) to special education programming and the failure to provide a Free Appropriate Public Education (“FAPE”) to eligible students with disabilities in violation of Part B of the Individuals with Disabilities Education Act (“IDEA”) and its implementing regulation, 34 C.F.R. Part 300, Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and its implementing regulation, 34 C.F.R. Part 104, Chapter 14 of the Pennsylvania Code, 22 Pa. Code Chapter 14 (“Chapter 14”), and Chapter 15 of the Pennsylvania Code, 22 Pa. Code Chapter 15 (“Chapter 15”).

Pursuant to the IDEA and Section 504, the District is obligated to provide appropriate educational services to all students with disabilities. These obligations are further governed by 22 Pa. Code Chapters 14 and 15. The District must ensure that eligible students receive a FAPE, which includes appropriately transitioning children from EI to school-age programming in the District and ensuring that children begin school with appropriate Individualized Education Programs (“IEPs”) in placements that allow them to receive a FAPE in the least restrictive environment (“LRE”) on the first day of kindergarten. The District also bears responsibility for ongoing progress monitoring, timely reevaluations, and ensuring that students’ IEPs are

¹ See 34 C.F.R. § 300.153(a) (“An organization or individual may file a signed written complaint under the procedures described in §§ 300.151 through 300.152.”).

developed and implemented in full compliance with state and federal law. *See* 20 U.S.C. § 1414; 34 C.F.R. §§ 300.320–300.324; 22 Pa. Code §§ 14.124, 14.131.

Here, in violation of these laws, hundreds of young students with disabilities failed and continue to fail to receive a FAPE upon transition due to systemic deprivations that remain unaddressed by the District. In addition, the Pennsylvania Department of Education (“PDE”) has failed to ensure that young students with disabilities transition to the District and continuously receive a FAPE in the LRE. We request that the Bureau of Special Education (“BSE”) investigate this matter and issue corrective action as soon as possible as needed to remedy the violations described herein for individually-named students and similarly situated children across the District.

I. INTRODUCTION

The District has failed to comply with legally-mandated transition processes for many young children transitioning from EI to kindergarten in the District, and as a direct result, has denied many young children transitioning from EI to school-age programming in the District a FAPE. In 2025, 3,413 children transitioned from Early Intervention to kindergarten in the District – an 87% increase from the 1,826 children who transitioned in 2024, underscoring the need for procedures that ensure children are properly transitioned and that appropriate IEPs are created and implemented on the first day of school so children are not discriminatorily deprived of a FAPE.² Systemic transition concerns include the District’s failure to: hold transition meetings that include required attendees; comply with legally-mandated timelines; timely initiate and complete reevaluations when appropriate; and ensure parents are included in decisions relating to classroom placement and services. Further, the District maintains a practice of unilaterally determining children’s placement and services, as well as unilaterally creating interim IEPs that significantly reduce services and change placements, without properly engaging parents, reevaluating the child, or reviewing recent data. As a result, in violation of the children’s rights, many young children begin kindergarten in the District without an appropriate IEP in place; in inappropriate placements that will necessitate disruptive classroom or school changes months later, once a reevaluation is finally, and often belatedly, completed. In addition, many children may not begin kindergarten on time because an appropriate program was not timely identified, despite parents complying with transition timelines and advocating for their children. As a result, many young children are deprived of a FAPE once they begin school, and their families experience significant anxiety, uncertainty, and concern for their children’s wellbeing in the months prior.

² Kristen A. Graham, *Special Education Students Face Speech Therapy Shortages*, Phila. Inquirer (Nov. 10, 2025), <https://www.inquirer.com/education/special-education-students-speech-pathology-20251110.html>.

Due to intersecting and compounding systemic inequities across systems arising from dire economic conditions, critical shortages of safe and affordable housing, and inadequate school funding impacting both staffing and resources, students harmed by the District's failure to properly transition students from EI to kindergarten are not equally represented across student populations.³ Rather, young children with disabilities subject to repeated denials of a FAPE, including during this critical transition period, are disproportionately Black and Brown young learners. Even with the greater likelihood that their children are subjected to the failures of the special education system, the impacts of institutional and individual racism create conditions where Black and Brown parents and caregivers are afforded even more limited access to channels to challenge special education decision—despite their best efforts.⁴ The ongoing disproportionate impact of FAPE denials on Black and Brown students requires immediate and targeted redress to prevent future long-term harm and remedy ongoing injury.

In light of the ongoing and systemic nature of the deprivation, we also assert claims against the Pennsylvania Department of Education for its failure to ensure a FAPE to students in the District and its failure to ensure that these students are not discriminatorily denied access to education due to their disabilities. We specifically allege that through its lack of oversight, effective monitoring, and intervention, PDE has failed to ensure that O.M., Y.B., S.B.G., and other similarly situated students across the District were appropriately transitioned to school-age programming and provided with a FAPE on the first day of kindergarten and beyond in compliance with federal and state law. The District has not taken action to remedy these system-wide ongoing violations. We request a finding that the District and PDE violated not only the rights of the Named Complainants, but the rights of all similarly situated students across the District who have been denied a FAPE and denied meaningful educational opportunities on the basis of their disabilities. We further request a remedy for Named Complainants and all similarly situated students whose educational rights have been systematically denied and whose deprivations have not been appropriately and comprehensively addressed.

³ See, e.g., Alfredo J. Artiles et al., *Justifying and explaining disproportionality, 1968-2008*, 76 *Exceptional Children* 279 (2010); Russell J. Skiba et al., *Risks and consequences of oversimplifying educational inequities*, 45 *Educational Researcher* 221 (2016); Hani Morgan, *Misunderstood and Mistreated: Students of Color in Special Education*, 3 *Voices of Reform* 71 (2020), available at <https://www.voicesofreform.com/article/18595-misunderstood-and-mistreatedstudents-ofcolor-in-special-education>.

⁴ Torin D. Togut, *The Gestalt of the School-to-Prison Pipeline*, 20 *Am. U. J. Gender, Soc. Pol'y & L.* 163, 164 (2011) (describing the role of bias and power differentials); Patricia A. Massey & Stephen A. Rosenbaum, *'Disability Matters': Toward a Law School Clinical Model for Serving Youth with Special Education Needs*, 11 *Clinical L. Rev.* 271, 281 (2005).

As part of its investigation, we request that the BSE interview the following persons:

Name	Occupation/Title	Phone Number and Email
[REDACTED]	Y.B. Parent	[REDACTED]
[REDACTED]	O.M. Parent	[REDACTED]
[REDACTED]	S.B.G. Parent	[REDACTED]
[REDACTED]	Director of Community and Family Engagement at Elwyn Early Learning Services	[REDACTED]
[REDACTED]	Family Navigator, PHLpreK, PHMC	[REDACTED]
[REDACTED]	Deputy Chief of Specialized Services at the District	[REDACTED]
[REDACTED]	Special Education Executive Director at the District	[REDACTED]
[REDACTED]	Child Advocacy Director for The Arc of Philadelphia	[REDACTED]
[REDACTED]	Eastern PA Regional Program Manager, PEAL Center	[REDACTED]
[REDACTED]	Parent of similarly situated child improperly transitioned to kindergarten in District	[REDACTED]
[REDACTED]	Parent of similarly situated child improperly transitioned to kindergarten in District	[REDACTED]
[REDACTED]	Eastern PA Intake Coordinator, Education Law Center	[REDACTED]

Complainants

Education Law Center - PA (“ELC”) is a non-profit, legal advocacy organization dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, and policy advocacy, ELC advances the rights of

underserved children, including children with disabilities, children experiencing poverty, children of color, children in the foster care and juvenile justice systems, multilingual learners, LGBTQ+ students, and children experiencing homelessness.

Y.B. and **O.M.** are both students with autism, and **S.B.G.** is a student with a hearing impairment including deafness. As such, the Named Complainants are all students with qualifying disabilities under Section 504 and are eligible for special education services under the IDEA. *See* 34 CFR 104.3(j) and 34 CFR § 300.8.

Similarly situated students are all students who qualified for Preschool Early Intervention and had an IEP developed by Elwyn Early Learning Services who transitioned to the District to begin kindergarten during the 2025-2026 school year. Upon information and belief, during the 2025-2026 school year, more than 2000 students were eligible to transition to the District for kindergarten.

Respondents

Respondent School District of Philadelphia is the Local Educational Agency (“LEA”) for qualified students with disabilities seeking relief. *See* 20 U.S.C. § 1401(19); 34 CFR § 300.28. Respondent District qualifies as a recipient of federal financial assistance within the definition of 34 CFR § 104.3(f).

Respondent PDE is the State Educational Agency (“SEA”) charged with responsibility to ensure that all eligible children receive a FAPE. *See* 20 U.S.C. § 1412(a)(11)(A) (SEA responsible for ensuring the requirements of the IDEA are met); 34 C.F.R. § 300.149 (delineating SEA responsibilities for general supervision). Respondent PDE qualifies as a recipient of federal financial assistance within the definition of 34 CFR § 104.3(f).

II. Transition from EI to Kindergarten in Philadelphia

Legal Requirements for Transition from EI to Kindergarten

Young children with disabilities must have continuous access to a FAPE under Part B of the IDEA, federal and state law, including regulations under 34 C.F.R. § 300, Chapter 14 of the Pennsylvania Code, Act 212 of 1990 (“Act 212”), as made clear by guidance issued by the Office of Child Development and Early Learning (“OCDEL”) and PDE. Moreover, these laws stipulate strict transition timelines and reevaluation requirements to ensure this provision of a FAPE to all children with disabilities. For all children who are within one year of a child’s transition to a school-age program, their IEP must specify the goals and objectives for transition. 22 Pa. Code 14.154(e). The EI program must convene a transition meeting to include the parents and the school district of residence prior to the end of February for all children approaching the age of kindergarten or first grade. Basic Education Circular, *Early Intervention Transition*:

Preschool Programs to School-Aged Programs, at <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/EITransitionPreschool.aspx>. The EI program must transfer records to the local school district by this meeting or at the time the child registers for school. *Id.*

At the transition meeting, the parents are presented with the *Intent to Register* (“ITR”), Completion of the Intent to Register by the parent initiates the “school districts’ or charter schools’ responsibilities for the transition process for the new school year.” *Id.* During the transition meeting, “the parents and the school district team” must consider and determine the following options:

- Agree to adopt and implement the child’s EI IEP for the new school year;
- Agree to adopt the EI IEP with revisions;
- Agree that a reevaluation is necessary;
- Agree to waive a required reevaluation that is allowed under 34 C.F.R. §300.303(b)(2). *Id.*

Once an option is selected, the school district must provide one of the following documents:

- *Prior Written Notice for a Reevaluation* form to the parent to begin the reevaluation process;
- *Agreement to Waive Reevaluation* (“PTRE”) form to the parent if the reevaluation will be waived;
- *Notice of Recommended Educational Placement* (“NOREP”) to the parent if it will adopt the EI IEP with or without revisions. *Id.*

No later than April 15, the school district will notify the parent in writing and begin the transition to school-age services process. *Id.* An IEP meeting will be held within 30 calendar days of the completed *Reevaluation Report*, and a new IEP and NOREP will be issued. *Id.* Importantly, “[r]egardless of which option is chosen, an IEP will be implemented no later than 10 school days after its completion, in order to ensure that the special education programs of young children with disabilities are not interrupted when they transition from Preschool Early Intervention programs to school age programs.”

District Procedures for EI Transition

The District has developed procedures for EI transition that have been recorded in the District’s EI Transition Manual (“Manual”).⁵ On its face, the Manual is not compliant with federal and state law for this transition from EI to kindergarten for several reasons. Most importantly, the procedures deny parents the opportunity for meaningful participation in the transition process, while ultimately leading to a denial of FAPE for students when they enter kindergarten.

⁵ *Early Intervention Transition Procedures for Special Education Compliance Monitors*, School District of Philadelphia, revised May 2025, attached as Exhibit A.

The Manual directs that students will be added to an EI Database, which will be distributed to Special Education Compliance Monitors (“SPECMs”) at each school who will only have access to children in their catchment area. The SPECMs are asked to “please share” the database with registration secretaries at their schools. Registration secretaries are responsible for logging address changes and providing them to the Early Intervention Team through a Google form. SPECMs are responsible for flagging issues of accuracy in the EI Database.

For children entered in the EI Database, SPECMs are responsible for contacting parents to notify them that the Intent to Register and EI records have been received and confirm that they will be enrolling in the District. There is no timeline for this point of contact. During this contact, the SPECM is also supposed to notify the parent that there are three possible options for transition.

The Manual directs that, by April 15th, the District will initiate one of the three Transition Options. The District’s procedures allow school teams alone to identify transition options *without* participating in a Transition Meeting with the parent and EI agency. The District has explained that transition options are determined by the student’s school team with a phone call to the parent for input. If the District does not reach the parent by phone, a decision is made *without any* parental input. Although not stated in the Manual, the District practice is that the school team’s selected transition option is then communicated to the parent by phone. The Manual then identifies the documents that will be provided to parents, including relevant NOREPs and PTREs.

The Manual does not provide a path for procedures if a child is entered into the EI Database after April 15th or registers after April 15th. In addition, the Manual does not provide direction for how SPECMs and other relevant staff will ensure that parents are notified of and understand their rights, how to respond to a parental/caregiver disagreement, how to ensure a student’s right to pendency with the EI IEP, or the right to compensatory education for students whose transition did not properly occur. In addition, the Manual does not address the need to provide interpreters at meetings and in other communication when parents communicate in a language other than English. The Manual also does not address the ability for parents who have disabilities to request reasonable accommodations to ensure their right to participate in decision making.

III. Factual Background

O.M., DOB: 05/17/2020

O.M. is a happy and loving 5-year-old student who is excited by music and loves playing at the park with his sister. O.M. identifies as being Hispanic Latino. He is eligible for special education under the disability category of Autism and speech/language impairment. Despite O.M.’s

Parent's advocacy and compliance with the District's current transition process, the District failed to appropriately transition O.M. to school-age programming and denied him a FAPE. As described below, the District failed to:

- timely hold a transition meeting for O.M.;
- comply with legally-mandated transition timelines;
- include O.M.'s Parent in the decision-making processes, including unilaterally changing his placement multiple times and failing to provide appropriate interpretation and translation services;
- timely initiate a school-age evaluation; and
- create an interim IEP that addressed O.M.'s needs without unilaterally reducing his services without a meeting or data.

O.M. currently attends kindergarten at [REDACTED] School [REDACTED] in the District and is placed in an Autistic Support ("AS") program. Prior to beginning kindergarten, O.M. attended preschool at a Head Start program at [REDACTED] School in the District, an inclusive preschool program where he received EI services from Elwyn. O.M. communicates nonverbally, uses an Augmentative and Alternative Communication ("AAC") device to communicate, and has significant disability-related communication and behavioral needs. While O.M.'s Parent is a native Spanish speaker, she has not been able to access interpretation services because the interpretation services provided by the District have been so wholly insufficient and inappropriate to such a degree that using them has posed more barriers to her participation than navigating the conversation in English, which is not her native language. As a result of these barriers and the District's process, O.M.'s Parent was denied her legal right to meaningful participation. In accordance with her rights, O.M.'s Parent requests that documents be provided to her in Spanish so that she can meaningfully participate.

Elwyn first determined O.M. eligible for EI services on April 18, 2024, due to concerns regarding his speech and behavior. However, prior to enrolling in a District preschool program, O.M. was subject to multiple exclusions from preschool programs, which served as his service sites, based on his disability-related behaviors. On May 14, 2024, Elwyn developed O.M.'s initial IEP, which entitled him to weekly specialized instruction, twice weekly occupational therapy ("OT"), and twice weekly speech therapy. O.M. also received Personal Care Assistant ("PCA") services over scheduled breaks due to challenging behaviors in the classroom that presented safety concerns. O.M.'s most recent EI IEP was developed on February 19, 2025, and entitled him to one hour per week of specialized instruction, three hours per week of speech therapy, ten hours per month of behavior support, two hours per week of OT, and daily PCA services.

On May 14, 2024, Elwyn provided O.M.'s Parent with an Intent to Register form, which she signed promptly and then returned. On October 18, 2024, Elwyn followed transition procedure and transferred O.M.'s records to the District, placing the District on notice of O.M.'s anticipated enrollment, EI participation, and learning needs. On January 21, 2025, O.M.'s mother took affirmative steps to transition him into kindergarten for the 2025-26 school year by registering him for kindergarten online. On March 31, 2025, the District emailed O.M.'s mother that his application for transition into kindergarten had been approved and a school team would contact her. Notably, the application approval email provided the phone and email for Office of Student Enrollment and Placement ("OSEP"), but no information regarding children with disabilities, or how to contact a SPECM, or any explanation of what a SPECM was.

Throughout the Spring 2025, O.M.'s Parent received conflicting and confusing information about O.M.'s kindergarten enrollment. The District did not conduct a transition meeting for the family at any point or contact them about O.M.'s special education needs, despite knowledge and possession of EI records. The District did not contact O.M.'s Parent to discuss transition options or seek permission to conduct a reevaluation. However, a District Family Engagement Liaison from [REDACTED], where O.M. attended preschool, discussed the programming at [REDACTED] School [REDACTED] with the Parent and notified her that he had been accepted to kindergarten. When O.M.'s mother asked about whether he was accepted into a program for children with autistic support needs, the Liaison responded that [REDACTED]'s program was full for the next year. As a result, O.M.'s Parent believed that O.M. would not be placed into a program that would meet his needs and would be placed in a general education classroom without supports at [REDACTED].

On May 19, 2025, O.M.'s Parent's counsel contacted the District regarding O.M. and his transition from EI to kindergarten. On May 27, 2025, the District issued a PTRE, which the Parent signed and returned the next day.⁶ On May 30, 2025, the District asked if O.M.'s Parents would waive a meeting with counsel, which Parent declined to do.

On June 3, 2025, the District shared a proposed interim IEP pending O.M.'s reevaluation, which would not be completed by the time O.M. started kindergarten, and asked again if the Parent would agree to the IEP without a meeting. In the interim IEP, the District identified O.M.'s significant disability-related needs, including communication needs, but proposed significant reductions to the special education services that had previously been determined necessary for O.M. to receive a FAPE under Part B of the IDEA. Specifically, the interim IEP recommended

⁶ The District did not provide a justification to the Parent regarding why it was electing to reevaluate O.M. Elwyn had last evaluated O.M. on April 18, 2024, and provided this evaluation when it transferred records to the District. As EI LEAs are only required to re-evaluate children every two years, the District was not obligated to re-evaluate O.M. and could have accepted his EI IEP rather than issuing a PTRE for a reevaluation that was not completed until after the beginning of the school year and served as a barrier to O.M.'s transition.

that O.M. receive 1:1 assistance, 90 minutes per month of OT, and 150 minutes per month of speech therapy – a significant reduction from his EI services with which his Parent did not agree.

The IEP did not provide any discussion as to O.M.’s academic progress that could serve as a basis for this reduction in services. The interim IEP stated that O.M. would be placed in an Autism Support (“AS”) classroom for 1500 minutes per week, but did not identify a school. The family wanted to further discuss the District’s basis for such significant reductions as well as O.M.’s programming and placement but were not provided with the opportunity for this discussion. Through counsel, on June 9, 2025, the family explained they would not accept the reduction in services and continued to request a meeting.

Additionally, the family expressed their concerns to the District that they had received no information on O.M.’s transition and their concern that appropriate programming and a school placement would not be in place for him in time for the start of the school year. On June 9, despite making no mention of its necessity to the family or in the IEP, the District responded that it was working to identify a Verbal Behavior Milestones Assessment and Placement Program (“VB-MAPP”) placement, which is a supplemental AS program, for O.M. No reevaluation or meeting had been conducted to determine whether a VB-MAPP program was appropriate for O.M., and O.M.’s Parent did not understand what a VB-MAPP program was. The District then proposed a time for a meeting, and when the Parent informed them that she would not be available, stated that it was the only available time. Shortly thereafter, on June 11, the District informed the Parent that a seat in the VB-MAPP program at [REDACTED] School [REDACTED] [REDACTED] was available.

As O.M. was attending an inclusive preschool program in the District at the time, the decisions to change his placement to an AS program and then to a VB-MAPP program both constituted a change of placement. The District did not hold a meeting or seek the Parent’s input in making this decision, despite her requests to be included. These decisions were not based on a District reevaluation, and, as the District does not currently have a process to request summative data from Elwyn, were not made using any data more recent than October 2024, when Elwyn initially shared his records. The District made O.M.’s placement and programming decisions without seeking information regarding his progress or challenges experienced in the prior six months or conducting a reevaluation. Furthermore, O.M.’s mother was not provided with any information on future supports or other matters related to his transition, and did not have the opportunity to give input regarding his placement or to ask questions.

The District thwarted all of O.M.’s Parent’s efforts to learn more about the program at [REDACTED] [REDACTED] to determine its appropriateness for O.M. On June 11, 2025, the District asked if the family would like to schedule a call with [REDACTED]’s Director on June 20, which the Parent accepted. The District cancelled the call days before. When the Parent prompted the District to

reschedule the call, it scheduled a meeting at a time when the Parent's counsel was not available. Although the Parent expressed her willingness to proceed without counsel at this meeting, the District declined to hold it, and requested that the Parent email her questions instead, as the school did not believe a meeting would be productive at that time. The Parent submitted questions on July 8, including questions asking why the [REDACTED] program was chosen for O.M.; how the program would help him to communicate; who would work with O.M. and whether they were trained to support nonverbal children with autism; how often progress would be reported; whether the school had sensory spaces or behavioral supports; what information was available about the speech therapy or AS programs; how the school would support O.M.'s transition; what could be done to find a better fit if the program did not work for O.M.; and how the Parent could work with the school to make sure her son received the support he needed. The District never responded.

On July 29, 2025, the District notified the family that [REDACTED] was no longer an option, partially because it had a new teacher with limited AS experience. Instead, and again without a determination of O.M.'s individual needs, the District offered a VB-MAPP placement at [REDACTED] School, which it cautioned was over 6 miles from his home, or a standard Autistic Support placement at [REDACTED]. On August 4, 2025, O.M.'s mother accepted the [REDACTED] seat, but reiterated that she had questions about the program and requested a meeting with the IEP team.

On August 19, 2025, the District shared an IEP and NOREP in English only placing O.M. in an AS classroom for 1245 minutes per week and entitling him to the same services he received in EI pending completion of its Reevaluation Report. The District also notified the Parent that it could not hold an IEP meeting until it completed a Reevaluation Report, for which the Parent had given consent in May, but could hold a "meet and greet" with the school team. The Parent again requested that the meeting be an IEP meeting, but the District was only willing to schedule a tour and opportunity to meet the teachers and principal. Given that O.M. was set to start kindergarten in this program the following Monday, O.M.'s mother agreed to tour and did tour the program on August 22, 2025.

On August 26, 2025, O.M. began kindergarten at [REDACTED]. On September 16, 2025, the District provided a finalized Reevaluation Report only in English despite O.M.'s Parent's request that the Report be provided in Spanish. The District did not provide a translated Reevaluation Report until 23 days later on October 9, 2025. The District's failure to provide translated documents further excluded the Parent from any participation in deciding O.M.'s educational program and placement, including the services he would receive in kindergarten.

On October 14, 2025, many weeks into the new school year, the District held its first school-age meeting for O.M, which also served as his Reevaluation Report review and his Functional Behavior Assessment ("FBA") and Positive Behavior Support Plan ("PBSP") review. The FBA

and PBSP were not provided until during the meeting, and were not provided in Spanish until many days after the meeting on October 27. At the meeting, the District proposed reducing O.M.'s services from 480 minutes per month of OT to 90 minutes and 720 minutes of speech to 120 minutes. At the meeting, providers acknowledged that O.M. had no functional communication system and had extremely significant sensory needs, and when asked for the basis for the reduction of services, the District shared that 120 minutes of speech is the maximum that can be provided and that EI follows a developmental model and does not use related services or an educational model. This is inaccurate and not an appropriate basis for reducing services. EI is authorized under Part B of the IDEA and uses the same educational model used for K-12 education.⁷ Additionally, the District added a disability category of Intellectual Disability, with which the Parent disagreed, based solely on a checklist she had completed. When asked about the basis for this category, the District shared that it was not aware that this was O.M.'s first transition or IEP meeting and incorrectly believed the family had already met with the school psychologist. As a result, that provider did not attend, and the family's questions again went unanswered, and O.M. failed to receive sufficient services and supports to confer a FAPE. Later in November, the District agreed to increase O.M.'s speech services to 240 minutes per month.

Y.B., DOB: 03/16/2020

Y.B. is a 5-year-old student who is affectionate with his family and enjoys playing with model trucks and exploring sensory bins. Y.B. identifies as being ethnically Latino. Y.B. is eligible for special education under the disability category of Autism and speech and language impairment. He attends kindergarten at [REDACTED] School in the District and is placed in an AS program. Prior to beginning kindergarten, Y.B. attended [REDACTED], an inclusive preschool program where he received EI services from Elwyn. Y.B. communicates nonverbally, uses an AAC device to communicate, and he has significant disability-related communication and behavioral needs. Even though Y.B.'s Parent complied with the District's current transition process and advocated for Y.B.'s needs, the District failed to appropriately transition Y.B. to school-age programming and denied him a FAPE. As described below, the District failed to:

- hold a transition meeting for Y.B.;
- comply with legally-mandated transition timelines;
- include Y.B.'s Parent in decision-making processes, including unilaterally changing his placement and failing to provide appropriate interpretation and translation services; and
- timely initiate a school-age evaluation.

⁷ Preschool EI is authorized under Part B of the IDEA and uses the same educational model used for K-12 education. Individuals with Disabilities Education Act § 619, 20 U.S.C. §1419 (2018). The Third Circuit has specifically recognized that while Part C programs use Individualized Family Service Plans and follow developmental models, Part B programs utilize IEPs and are educational models. *Pardini v. Allegheny Intermediate Unit*, 420 F.3d 181, 184; 190; 454 (3d Cir. 2005).

Elwyn first determined Y.B. eligible for EI services on June 20, 2023, after he was referred due to concerns regarding his speech and behavior. On July 17, 2023, Elwyn developed Y.B.'s initial IEP, which entitled Y.B. to 45 minutes weekly of speech therapy, specialized instruction, and OT. On April 11, 2025, in recognition of Y.B.'s significant needs, Elwyn created an IEP that increased services to include full-time Personal Care Assistant ("PCA") services and behavior support. Y.B. was provided with EI services over scheduled breaks due to safety concerns and the likelihood that he would experience regressions without appropriate services.

Throughout Y.B.'s eligibility for EI, he was subject to significant educational deprivations, including lack of speech services, which did not occur for more than two years, and Elwyn's failure to identify or evaluate for behavioral needs. As a result, Y.B. was subject to exclusion from multiple preschool programs on the basis of his disability-related behaviors.

Y.B.'s mother consistently made clear to both Elwyn and the District that she intended for Y.B. to transition to kindergarten for the 2025-26 school year. Y.B.'s mother is a native Spanish speaker and cannot communicate in English. Elwyn documents reflect that Elwyn received a signed Intent to Register from Y.B.'s mother, which had been issued in English only, on February 19, 2025, and shared Y.B.'s records including his Intent to Register with the District on February 28, 2025. His mother then registered Y.B. for kindergarten at his catchment school on approximately April 11.

At no point after Elwyn transferred Y.B.'s records and/or Y.B.'s mother registered him in the District did the District convene a transition meeting or discuss transition options with the Parent. On May 19, 2025, the District issued a Permission to Re-Evaluate form ("PTRE") in Spanish, which the Parent signed and returned on May 22, 2025.

On July 9, 2025, through counsel, the family expressed its concern to the District that a placement had not yet been identified for Y.B. to begin in August 2025, and that an appropriate program would not be identified for him in time for the start of the school year. The District responded that Y.B. would be placed at [REDACTED] School [REDACTED], which is not Y.B.'s neighborhood school because [REDACTED] has a K-2 AS classroom. Y.B.'s Parent requested an IEP meeting to discuss this placement recommendation, which would constitute a change of placement from an inclusive general education program to an AS classroom, and shared that she has not been included in this process and needed an opportunity to provide input and ask questions. In response, the District clarified that despite its placement of Y.B. at [REDACTED], it had not yet recommended a program placement for him. It explained only that [REDACTED] would have the resources to provide AS support. Y.B.'s Parent again requested an IEP meeting and shared her concern that she had not been provided any opportunity to participate. His Parent was not provided with any information on future support or other matters related to his transition.

The District also did not timely initiate a reevaluation for Y.B.'s disability-related needs. On July 22, 2025, the District completed a Reevaluation Report for Y.B. but did not provide a Reevaluation Report translated into Spanish until 28 days later on August 19, 2025. The District did not provide any additional recommendations for Y.B.'s placement or services and did not hold a meeting with Y.B.'s mother and team, despite multiple requests, until an IEP meeting on August 21, 2025.

At the IEP meeting, the District proposed significantly reduced services. Specifically, it recommended that Y.B. receive 900 minutes per week of AS, 30 minutes per week of OT, and 120 minutes per IEP term of speech therapy. The family shared input regarding Y.B.'s individual needs and successfully advocated for changes such as increased OT and group and individual speech therapy.

The August 21, 2025, IEP meeting was the first time the District discussed Y.B.'s placement with his mother despite her communicating her concerns on several occasions to the District. The District did not provide a draft IEP that included related service recommendations in advance of the meeting but reviewed a copy of an IEP during the meeting. Without a copy translated into Spanish, Y.B.'s mother was excluded from fully preparing for the meeting or following written recommendations to support her child.

Y.B. began kindergarten at [REDACTED] on August 25, 2025. Following the meeting, on August 28, the District provided an IEP in English and Spanish alongside a NOREP in English and Spanish that did not include the increased levels of services agreed upon at the IEP meeting. On September 5, 2025, the District provided an updated NOREP with the correct level of services, which Y.B.'s mother returned that day. Despite Elwyn sharing Y.B.'s records with his mother in February and despite his mother taking all necessary steps for Y.B. to be appropriately transitioned to kindergarten, the District did not have an appropriate IEP in place for Y.B. until more than a week after the school year had already begun. The District's documents acknowledge its own assessments of Y.B.'s significant educational needs, including language needs and disability-related challenging behaviors.

Since beginning kindergarten after being inappropriately transitioned by the District, Y.B. has experienced behavioral regressions and an onset of new challenging disability-related behaviors that greatly concern his Parent. His Parent requested a meeting to discuss behavioral supports pending the completion of an FBA after the Parent returned a PTRE on September 24, 2025, but no meeting was scheduled. An FBA and PBSP in English only were shared by counsel on November 12, 2025, but despite continued requests, upon information and belief, the District has not held a meeting to discuss these concerns or review the FBA, nor has it translated the documents so that the family can access them.

S.B.G. (DOB: 12/12/2018)

S.B.G. is a six-year-old boy who enjoys story time, riding a tricycle, and building blocks. He attends kindergarten at [REDACTED], an Approved Private School (“APS”), through the District. S.B.G. identifies as being ethnically Hispanic/Latino. Prior to becoming a student in the District in August 2025, S.B.G. received EI services through Elwyn, which placed him at [REDACTED] for preschool. S.B.G. is a child with multiple disabilities including deafness and qualifies as a child with disability under the IDEA and Section 504. S.B.G. was diagnosed with “bilateral sensorineural profound hearing loss” following auditory testing in December 2020, which was found to impact his access to language and education. He was first evaluated and found eligible for Part C EI services in May 2019, and he has received EI services ever since to address his disability-related needs. S.B.G.’s mother speaks Spanish and requires interpretation and translation in order to participate in his educational planning. Despite S.B.G.’s Parent’s advocacy, the District failed to appropriately transition him to school-age programming and denied him a FAPE. As described below, the District failed to:

- hold a transition meeting for S.B.G.;
- comply with legally-mandated transition timelines;
- include S.B.G.’s Parent in decision-making processes, including unilaterally changing his placement and failing to provide appropriate interpretation and translation services;
- timely initiate a school-age evaluation;
- create an interim IEP that addressed S.B.G.’s needs without unilaterally reducing his services without a meeting or data; and
- implement S.B.G.’s IEP or provide a FAPE or any related services until more than a month after school began.

Elwyn first determined S.B.G. eligible for EI services on October 25, 2021, pursuant to a referral from ChildLink. In November 2021, Elwyn developed an initial IEP for S.B.G. that included speech therapy and hearing services in the home and issued a NOREP referencing a meeting with [REDACTED]. On January 4, 2022, following a referral from Elwyn after it determined that S.B.G. required a specialized placement in order to receive a FAPE, [REDACTED] sent a letter notifying Elwyn that it could provide S.B.G. with an appropriate public education in its Early Childhood Education Program with a start date of January 10, 2022. S.B.G. also participated in [REDACTED]’s two-year-old playgroup during this period. The primary language of instruction in [REDACTED]’s 3-to-5-year-old program is American Sign Language (“ASL”), and classes featured a very small teacher-to-student ratio. The instructional content was presented at a developmentally appropriate level at a slower pace, with opportunities for instructional modes such as modeling, hand-over-hand demonstration, picture support, and repetition that have helped S.B.G. to

improve his language acquisition and communication skills and that are necessary for children like S.B.G. who experience communication delays due to hearing loss.

Although S.B.G. was eligible for school-age programming in the District at the beginning of the 2024-2025 school year, his Parent chose to have him remain in EI at [REDACTED] for an additional year. The District was aware of the Parent's decision, as was reflected in a letter sent to her from the Office of Diverse Learners ("ODL") in June 2024, in which the District acknowledged the Parent's decision to have her child "remain in PreK for another year." The letter was issued in English only, despite the District's possession of S.B.G.'s EI records, which made clear that the family communicated in Spanish only.

During the 2024-2025 school year at [REDACTED], S.B.G. received 1725 minutes of specialized instruction per week, 30 minutes per week of physical therapy ("PT"), 60 minutes per month of PT consultation ("PT consult"), 60 minutes per week of OT, 30 minutes per month of OT consultation ("OT consult"), 60 minutes per week of individual speech therapy, and 30 minutes per week of group speech therapy – all of which Elwyn determined were necessary for S.B.G. to receive a FAPE and make progress pursuant to Part B of the IDEA. S.B.G. made documented progress in communication, gross motor skills, following directions, and focusing on tasks while receiving this needed and appropriate level of services.

In preparation for S.B.G.'s transition to the District for the 2025-2026 school year, Elwyn provided the family with an Intent to Register in Spanish which was returned to the District on August 12, 2024. S.B.G.'s Parent listed the family's then-current physical address [REDACTED] in the appropriate fields on the form. There was not a field on this Intent to Register for her to include her email address. Elwyn provided the District with S.B.G.'s records on December 31, 2024. Notably, the records packet provided to the District stated on the very first page that the family communicates in Spanish and would require language access supports. These records also included IEPs that listed the family's phone number and email address for the family.

On January 16, 2025, after S.B.G.'s records were shared with the District, the Parent signed a second Intent to Register form in English and returned it to Elwyn the same day. The Intent to Register form requires Parents to agree that they understand that "within a reasonable period of time from the receipt of this signed form, the school district or charter school will notify me in writing and initiate the transition process." The Parent also included her then-current address and phone number on the second Intent to Register. Like the first Intent to Register she completed in Spanish, the Intent to Register in English also did not ask for her email address.

The Parent was not notified during the completion of either of the Intent to Registers about how she should inform the District if her physical address or phone number changed, despite being new to the District.

In the spring of 2025, S.B.G.'s family was displaced from their home and began residing at a new home. While the family's physical address changed, S.B.G.'s Parent's phone number remained the same phone number listed on the records transmitted by Elwyn to the District. The District also had the Parent's email address, which was listed on a prior record received from Elwyn in December 2024. However, the District neglected to use this email address to get in touch with S.B.G.'s Parent, despite having access to it.

Despite its advance knowledge that S.B.G. would be attending kindergarten for the 2025-2026 school year and having the contact information for the family in its possession, the District did not reach out to the family in writing to explain the transition process or engage in any transition planning. The District also made no effort to contact the family by phone or by email.

On June 9, 2025, unbeknownst to the Parent, the District generated a PTRE and an Invitation to Participate in an IEP meeting scheduled for the next day. Both of these documents were only generated in English, despite the District's knowledge that the family required written communications to be in Spanish. The Parent did not receive these documents and was not made aware that a meeting was taking place. As a result, she did not attend.

In addition, on June 9, 2025, without holding a meeting with the Parent, the District generated a NOREP in English only stating that it would adopt and implement S.B.G.'s EI IEP from December 13, 2024, with a revision to add transportation services. However, the NOREP significantly reduced speech and OT services; removed PT, all consultations, and group speech services; rejected full-time deaf and hard of hearing ("DHH") support; recommended a supplemental deaf and hard of hearing support program; and changed S.B.G.'s placement to such a program at [REDACTED]. The District proposed 1484 minutes per week of supplemental DHH instruction, 120 minutes per month of speech, and 120 minutes of OT per month. Notably, [REDACTED] is a catchment school, which does not offer a supplemental deaf and hard of hearing support program. Further, the Parent never received a copy of the NOREP in English, because it was sent to the address that the family lived at prior to moving in the spring.

S.B.G.'s Parent did not have an opportunity to provide input or disagree with the decision to unilaterally change her son's placement, remove services, and reduce services without a reevaluation or meeting, all of which the Parent strongly disagreed. An LEA had previously determined that under Part B of the IDEA, S.B.G. required an APS and comprehensive related services in a specialized setting to receive a FAPE. Instead, without ever speaking to the family and without conducting a reevaluation, the District removed S.B.G. from the [REDACTED] and placed him in a public school without a DHH program, inconsistent with its own placement recommendations, in addition to reducing speech therapy and OT services and discharging his physical therapy and group speech services entirely. The District explained that it was discharging PT services based on a review of EI records from the December 2024, despite

the fact that S.B.G.'s most recent IEP continued to recommend PT through both weekly direct services and monthly consult to develop his coordination, timing, and manipulation of large objects.

The District did not provide a basis in the documents for reducing speech therapy from 60 minutes per week to 120 minutes per month and for removing group speech services, which had been occurring for 30 minutes per week. Despite this, the District's proposed IEP from June continued to note significant difficulties in speech for S.B.G. The District's proposed IEP noted that S.B.G. could not use 2-word phrases and was still practicing 1-step directions in ASL, could not count in ASL, and still needed to develop a formal means of communication. As noted in S.B.G.'s EI IEP, he demonstrates signs of anxiety when unable to communicate or understand language even while in a specialized setting with instruction entirely in ASL.

The District also did not provide a basis for reducing OT from 120 minutes per week to 120 minutes per month and removing OT consult services but still acknowledged continuing and specific OT needs. S.B.G. is still developing the fine motor dexterity and bilateral coordination needed to functionally use ASL or an AAC device accurately, proportionately copy his name, and perform foundational adaptive self-care skills like putting on his jacket and zipping it or buttoning it on his own.

S.B.G.'s Parent enrolled him in kindergarten on July 9, 2025. Prior to registering him, she received no communication from the District about his transition or otherwise. When, as directed by kindergarten application approval notices, the Parent reached out to the District's Office of Student Enrollment and Placement ("OSEP")—the office that parents are directed in kindergarten application approval notices to reach out to if they have any questions—she was told that S.B.G. would be placed at [REDACTED] and would be re-evaluated in the fall of 2025. On July 16, 2025, the Parent received an email from the District stating that S.B.G. would be placed at [REDACTED] [REDACTED] was the catchment school for S.B.G.'s new address, but also did not offer supplemental DHH support. The Parent never received a NOREP reflecting this placement. The following day, July 17, 2025, the Parent received a phone call from the District informing her that as S.B.G. had already been re-evaluated, and he would be placed at a school called [REDACTED] where he would receive the same services he received at [REDACTED]. There is no school called [REDACTED] within the District. The inaccurate, inconsistent, and contradictory information the family received from the District regarding S.B.G.'s placement and the services that he would receive caused great confusion, as well as uncertainty as to whether he would receive the services necessary for him to access a FAPE and to be safe, which deeply and negatively affected the family.

The Parent's concern over the District's inappropriate and unilateral placement for S.B.G., its unilateral reduction of his services, and its failure to meaningfully include her in decisions regarding S.B.G.'s placement and services led her to submit a request for mediation with the Office of Dispute Resolution on July 28, 2025. In this request, the Parent raised these issues and also explained why S.B.G. required a full-time DHH placement in order to receive a FAPE and to be safe. On August 6, 2025, the District declined to participate in mediation. On August 11, 2025, the District issued a NOREP in English and Spanish placing S.B.G. at [REDACTED] School [REDACTED] and proposed that he receive 1405 minutes of supplemental DHH support – even less than it had proposed in the previous NOREP – and services including 60 minutes per week of OT, 30 minutes per month of OT consult, 60 minutes per week of speech therapy, 30 minutes per week of group speech therapy, 30 minutes per week of PT, and 60 minutes per month of PT consult. S.B.G.'s Parent continued to believe that S.B.G. required a full-time DHH placement and did not agree to this NOREP.

On August 21, 2025, just four days before the start of the school year, the District arranged a tour of [REDACTED] for the Parent, at which time she was informed that a NOREP accepting the District's recommendation to place S.B.G. at [REDACTED] had been filled out on her behalf. The District did not provide this NOREP when requested. After touring [REDACTED], the Parent continued to believe and express that S.B.G. required more support and that the [REDACTED] program could not appropriately address S.B.G.'s needs or provide a FAPE. The Parent requested a due process hearing on August 25, 2025, which was the first day of school in the District.

On September 2, 2025, a week after the school year had already started, the District issued a NOREP in Spanish and in English placing S.B.G. at [REDACTED] and determining that he required full-time DHH support in an APS to receive a FAPE. Because the District did not arrange for transportation to start despite the Parent's requests, S.B.G. could not begin kindergarten until September 29, 2025, over a month after the start of the school year. He was deprived of an entire month of kindergarten and all services due to an inappropriate transition, despite the fact that the District was aware that he was taking an additional year of EI and that his records had been transferred in December 2024, as well as the year before. Upon information and belief, the District still has not conducted a school-age evaluation for S.B.G. which was necessary to identify his learning needs.

Similarly Situated Students

The educational deprivations that Y.B., O.M., and S.B.G. experienced were not isolated incidents, but rather reflect systemic failures that have impacted the education of many more children. Based on other intakes to our Helpline and conversations with other advocates, ELC is aware of many other children who are experiencing issues and deprivations stemming from the

District's failure properly transition them. First, as detailed above, due to systemic failures across the District, these inequities fall harshest on Black and Brown children.

The types of education rights violations arising from improper transition, like those of Y.B., O.M., and S.B.G., all of whom identify as Hispanic or Latino, as well as their Parents, mirror harmful patterns throughout the District. Black and Brown children are subjected to more educational deprivations and disruptions than their white peers. Due to the District's failures with transition to kindergarten, Black and Brown children with disabilities, like Y.B., O.M., and S.B.G., are placed in inappropriate school-aged programs that cannot address their disability-related needs, and their caregivers are deprived of their rights to meaningfully participate in their children's education. Here, each of the Named Complainants experienced deprivations that were exacerbated based on the District's failure revise their policies and practices to both comply with the law and specifically remedy known system-wide racial inequities. This failure is particularly egregious in light of the District's stated commitment in its Guardrail 4 to ensure that "our students' potential will not be limited by practices that perpetuate systemic racism and hinder student achievement." See School District of Philadelphia, *Goals and Guardrails*, available at <https://www.philasd.org/schoolboard/goals-and-guardrails/>. The policies and practices documented in this Complaint are precisely the types of systems that undermine this commitment.

In addition, the District fails to hold timely individual transition meetings that materially include parents to determine the transition option, as required by the EI Transition Basic Education Circular ("BEC"). This failure excludes the parents from decision-making about their children, which leads to great confusion and disruption during the transition to kindergarten and initial period in kindergarten. Furthermore, the District fails to ensure meaningful participation of families who require interpretation and translation in their native and preferred languages and do not communicate in English. These systemic failures have led to a denial of FAPE for students with disabilities transitioning from EI into kindergarten within the District. They have also frustrated the District's stated commitment under Guardrail 3 to ensure that "every parent and guardian will be welcomed and encouraged to be partners in their child's school community," which explicitly references language access as being benchmark of success. See School District of Philadelphia, *Goals and Guardrails*, available at <https://www.philasd.org/schoolboard/goals-and-guardrails/>.

Next, the District fails to timely identify children in need of reevaluations and fails to timely complete reevaluations. The District does not have a process for determining when transitioning children from EI are in need of reevaluation. Historically, the District has required reevaluations for all children transitioning from EI even when a child may not need a reevaluation. While there is no legal prohibition against reevaluating students with disabilities, the District lacks capacity to timely complete reevaluations for every child transitioning to school-age programming, and it

has no process to determine which children should be reevaluated. The practice of requiring reevaluations during the EI transition has led to significant delays in the creation of school-aged IEPs and the appropriate placement of children in kindergarten. As a result, children are denied a FAPE.

Furthermore, the District also fails to implement EI IEPs with comparable services when necessary. When a child's reevaluation is pending at the start of the school year, the District will typically issue a NOREP that proposes to implement the EI IEP. However, the resulting IEP fails to ensure the existence and implementation of comparable related services for students when they enter kindergarten. Instead, the IEP includes significant reductions in related services that are not made based on parental input or any data that could indicate a decrease in need. In addition, the IEPs unilaterally change students' placement. As a result, children are denied a FAPE.

Importantly, all of the District's failures have been exacerbated for children within the District who are highly mobile. Upon information and belief, the District does not have a universal process to screen children transitioning from EI to identify eligibility under the McKinney-Vento as a student experiencing homelessness or children in the legal custody of a child welfare agency which would enable it to properly identify those children who should receive expedited evaluations and other necessary supports to address barriers stemming from their mobility.⁸ As a result, children transitioning from EI to kindergarten who are highly mobile are denied a FAPE.

The District's failures during the transition from EI to kindergarten are serious and pervasive, as well as entirely preventable. Because transitioning students enter kindergarten with IEPs that are not based on their current needs, they experience regression, challenges with their behaviors, and are stymied in their academic and social progress. These systemic deprivations deny students transitioning to kindergarten a FAPE, sometimes for up to a year. Ultimately, the District is depriving students of a FAPE by denying students the services they are legally entitled to and depriving them of an opportunity to make meaningful progress through the implementation of their IEPs. In addition to depriving children of a FAPE, the District has failed to remedy these ongoing violations.

Liability of PDE

Additionally, upon information and belief, PDE was and is well aware of the District's failure to provide the necessary services as required by law, conduct timely reevaluations, and meaningfully communicate with parents about the transition process. PDE has failed to address

⁸ See OSEP Letter to State Special Education Directors, OSEP Policy Support 22-02 (Nov. 10, 2022) available at <https://sites.ed.gov/idea/idea-files/letter-to-state-directors-of-special-education-on-ensuring-a-high-quality-education-for-highly-mobile-children-november-10-2022/>.

these ongoing systemic issues despite knowing the LEA has failed to appropriately transition students from EI to school-age programming and ensure students are provided appropriate IEPs and related services. Without any intervention from the PDE, students, including O.M., Y.B., and S.B.G. have been deprived of the services they require to meaningfully access their education in violation of their rights under the IDEA, and parents have been denied their right to meaningful participation. PDE is ultimately responsible for eliminating and remedying these violations but has not attempted to do so, either by working with the District or intervening on their own. Similarly Situated children in the District and individually-named students Y.B., O.M., and S.B.G. have been and may continue to be deprived of a FAPE due to the District's failure to conduct timely reevaluations, failure to draft and implement students' IEPs, including providing related services, failure to adequately and meaningfully communicate with families, and the failure to remedy violations.

IV. LEGAL ANALYSIS

A. The Bureau of Special Education ("BSE") Has Jurisdiction Over This Complaint.

BSE has jurisdiction over this Complaint because it alleges that the District and PDE discriminated against qualified students on the basis of their disabilities and denied them a FAPE in violation of Part B of the IDEA, Section 504, 22 Pa. Code Chapter 14, and 22 Pa. Code Chapter 15, all of which BSE enforces.

This Complaint is timely because the alleged violations of IDEA and Section 504 have occurred within one year of the filing of this Complaint and are ongoing. Specifically, the District has discriminated against students with disabilities in the past year by failing to provide Y.B., O.M., S.B.G., and similarly situated students with disabilities in District schools with an appropriate transition from EI to school-age programming in the District and depriving them of a FAPE through delayed evaluations, inappropriate placements, and inappropriate related services, through and unilateral service reductions and changes in placement, among other violations. The District has also failed to communicate with students' families in their native and preferred language, depriving them of critical language access supports and meaningful participation in the decision-making process.

Specifically, the District failed to schedule timely transition meetings for O.M., Y.B., or S.B.G. In the case of O.M. and S.B.G., the District unilaterally reduced the students' services significantly, and for all three children, unilaterally changed the placement without giving the family any opportunity for input, among other violations, all of which have resulted in a denial of meaningful educational access.

B. The District Discriminated Against Students with Disabilities by Failing to Provide a FAPE in Violation of the IDEA and Section 504.

Part B of the IDEA requires that a FAPE must be available to all children with disabilities residing in the State between the ages of 3 and 21. 20 U.S.C. § 1412(a)(1). Section 504 of the Rehabilitation Act prohibits discrimination against persons on the basis of their disabilities. 29 U.S.C. § 794(a). School children who are deemed to have a qualifying impairment under Section 504 are entitled to a FAPE. A FAPE under Section 504 is an education that is “designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met.” *See Mark H. v. Lemahieu*, 513 F.3d 922, 933 (9th Cir. 2008). The failure of an LEA to ensure a FAPE to a qualifying student constitutes a violation of Part B of the IDEA, as well as discrimination under Section 504.5. When a student is denied FAPE, this constitutes a violation of Part B of the IDEA. To establish a violation of Section 504, a student must demonstrate: (1) the student has a disability, as defined by the Act; (2) the student otherwise qualified to participate in school activities; (3) the school or board of education receives federal financial assistance; and (4) the student was excluded from participation in, denied the benefits of, or subject to discrimination at, the school. *C.G. v. Pennsylvania Dep’t of Educ.*, 888 F. Supp. 2d 534, 573 (M.D. Pa. 2012).

Here, students transitioning from EI to school-aged programs in the District, including Y.B., O.M., and S.B.G., have disabilities as defined under the IDEA and Section 504, as the District has already determined that they have impairments that “substantially limit one or more major life activities,” and require an IEP or a Section 504 Plan. The students are qualified to participate in school activities, and the District receives federal financial assistance. The students have been excluded from participation in, denied the benefits of, and subject to discrimination at school as a result of the District’s actions.

1. The District Failed to Comply with Mandated Timelines for the Transition Process Under State Law.

The District failed to conduct the required activities to ensure that the Named Complainants transitioned appropriately from EI to school-age programs according to the timelines imposed under Pennsylvania law. The IDEA and its implementing regulations under 34 C.F.R. § 300, Chapter 14 of the Pennsylvania Code, Act 212 of 1990 (“Act 212”), as well as guidance issued by the Office of Child Development and Early Learning (“OCDEL”) and PDE stipulate strict transition timelines and reevaluation requirements to ensure the provision of a FAPE to all children with disabilities.

Within one year of a child's transition to a school-age program, the IEP must specify the goals and objectives for transition. 22 Pa. Code 14.154(e). The EI Transition Basic Education Circular ("BEC") specifies that the EI program must convene a transition meeting to include the parent(s) and the school district of residence before the end of February of the year the child will be transitioning. Basic Education Circular, *Early Intervention Transition: Preschool Programs to School-Aged Programs*, at <https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-beecs>.

At the transition meeting, the parent(s) and the District decide whether to adopt the student's EI IEP for the new school year, whether to adopt the EI IEP with revisions, whether a reevaluation is necessary, or whether to waive the required reevaluation. Basic Education Circular, *Early Intervention Transition: Preschool Programs to School-Aged Programs*, at <https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-beecs>. The Intent to Register will initiate the reevaluation process, if determined appropriate for the student. *Id.* Once the reevaluation is completed, an IEP meeting must be convened within 30 days. The District is required to notify the family in writing of which transition option has been chosen and begin the transition to school-age services within a reasonable period from receipt of the signed Intent to Register, but no later than, April 15 of the year immediately preceding a child's transition. *Id.* The IEP for the new school year must be implemented no more than 10 school days after its completion to ensure that students can transition from EI programs to school-age programs without interruption to their services. *Id.*

These strict timelines were adopted to ensure a smooth transition from EI to school-age programming, recognizing that a new evaluation may need to be conducted and that parents would need time to be notified of their options, participate in the process, and work with the District to determine their child's placement. The timeline recognizes the importance of a young child entering school with an appropriate school-age placement and program identified and in place.

However, here, the District did not convene transition meetings for any of the Named Complainants at all, thus denying the families any meaningful opportunity to have any input into the students' placement and services for the upcoming year. Moreover, it did not identify and communicate to parents which transition option would be chosen by April 15 of the year immediately preceding the child's transition, as required.

In the case of S.B.G., the District made the unilateral decision to adopt his EI IEP with revisions without the Parent's input. Furthermore, the District did not issue the revised IEP until June 10, 2025, after the previous school year in the District had ended. S.B.G.'s Parent did not receive written notice of his placement, nor was his new IEP implemented prior to the start of the new school year so as to ensure a smooth transition without interruption of services.

In the case of Y.B., the District made the unilateral decision to seek reevaluation, issuing a PTRE on May 19, 2025. Y.B.'s Parent did not receive any prior written notice of Y.B.'s placement. The Parent reached out to the District to express their concern on July 9, 2025, at which point they were told that Y.B. would be placed at [REDACTED], but that the District had not yet settled on a program placement for Y.B. The District also did not complete a Reevaluation Report for Y.B. until July 22, 2025, and it did not provide Y.B.'s Parent with a copy translated into the Parent's native language of Spanish until August 19, 2025, a mere six days before the beginning of the 2025-2026 year in the District.

The District further did not convene an IEP meeting with Y.B.'s Parent until August 21, 2025, just four days before the start of the new school year on August 25, 2025. Meanwhile, a revised IEP and NOREP were not provided to Y.B.'s Parent until August 28, 2025, neither of which reflected the appropriate level of services agreed on by the Parent and by the District at the IEP meeting convened seven days earlier. Y.B.'s revised IEP did not reflect the appropriate and agreed-upon level of services until September 5, 2025, two weeks after the new school year had already begun.

The District did not issue a PTRE for O.M. until May 27, 2025, which it issued without the transition meeting having taken place, and the reevaluation had not taken place by the start of the new school year. The District unilaterally placed O.M. at [REDACTED] on June 11, 2025, and unilaterally changed it again July 29, 2025, offering a seat at [REDACTED] or in the AS classroom at [REDACTED]. Although O.M.'s Parent accepted the seat at [REDACTED], the District failed to provide notice of O.M.'s placement as required by the April 15 deadline. The District also did not hold an IEP meeting for O.M. until after the school year had already begun, despite the Parent's continued requests beginning in May.

2. The District Improperly Excluded Students' Families from the Decision-Making Process.

Under the IDEA, parents of students with disabilities must have the opportunity to examine all records pertaining to their children and to participate in meetings regarding their children's evaluation and educational placement, as well as meetings regarding the provision of a FAPE to their children. 20 U.S.C. § 1415(b)(1). LEAs must have in place procedures ensuring that parents are afforded such opportunities, as well as procedures to ensure that parents receive prior written notice of any initiation of or change to a child's educational placement or provision of a FAPE. 20 U.S.C. § 1415(b)(3)(A) - (B). LEAs must also have in place procedures ensuring that any written notice of initiation of or change to a child's placement or provision of a FAPE is provided in the parent's native language, "unless it clearly is not feasible to do so." 20 U.S.C. § 1415(b)(4). During the transition process, a district's proposed IEP must include the type of

transition plan that the district and the student's parent agree that the student requires in order to ensure that the student's needs are adequately met. *A.P. v. Avon Grove Sch. Dist.*, No. 19455-17-18 (Pa. ODR Sep. 11, 2017).

Here, the District failed to hold transition meetings for any of the Named Complainants or to otherwise provide Parents an opportunity to voice their input regarding their children's placement. In the case of Y.B., the District did not propose a placement until August 21, 2025, four days before the new school year was due to begin.

In the case of O.M. and S.B.G., the District provided different information regarding the Named Complainants' placements at multiple different times during the summer leading up to the Named Complainants starting kindergarten in the District. In all three cases, the District issued the proposed placements without first holding a meeting that included the Parent, thus preventing the Parents from voicing their opinion and sharing their expertise as a required member of their children's IEP Teams regarding appropriate placements that could would best meet their children's needs before the placements were proposed, and in in the case of Y.B. and S.B.G., unilaterally made by the District.

In all cases, the District also failed to provide the Parents of any of the Named Complainants with a meaningful opportunity to provide input on how a FAPE would be provided to their children.

In the case of Y.B., the District did not convene an IEP meeting until four days before the start of the new school year on August 21, 2025. This delay occurred despite several requests for an IEP meeting made by the Parent, the first one on July 9, 2025. Not only was this not sufficient time to implement any new services before the new school year began, but the District did not incorporate the services agreed upon at the IEP meeting into the NOREP until September 5, 2025, a week after the school year started.

In the case of O.M., the District did not hold an IEP meeting prior to start of the new school year despite repeated requests from May 2025 onward and despite the Parent even sending in lists of questions upon request at the District's direction, thus depriving the Parent of a meaningful opportunity to ask questions, voice concerns, or provide input on how services might be properly provided and implement to ensure O.M. an appropriate transition.

In the case of S.B.G., the District issued notice – though it never actually reached the Parent – of an IEP meeting scheduled for June 10, 2025, on June 9, 2025, depriving S.B.G.'s Parent of sufficient notice to prepare for and attend the meeting. S.B.G.'s Parent thus likewise had no opportunity to contribute to any discussion regarding how a FAPE would be provided to her child in the District.

3. The District Unilaterally Changed Students' Placements.

The District violated the Parents' right to meaningfully participate in the decision regarding the Named Complainants' placements by unilaterally determining those placements. Parental involvement is a central mandate of the IDEA. *Hoelt v. Tucson Unified Sch. Dist.*, 967 F.2d 1298, 1305 (9th Cir. 1992). The IDEA requires that districts afford parents an opportunity to participate in meetings with respect to: 1) the identification, evaluation, and educational placement of the child; and 2) the provision of FAPE to the child. 34 CFR 300.501(b). Parents are mandatory members of the IEP team. 34 CFR 300.321 (a)(1). Districts must ensure that the parent is a member of any group that makes decisions on the educational placement of the child. 34 CFR 300.501(c)(1); 34 CFR 300.327

Here, the District changed the program placements for all Y.B., O.M., and S.B.G. without involving the Parents in the decision. In the cases of Y.B. and O.M., the District indicated that it intended to place both children in an Autistic Support or V.B. MAPP program, and with regard to O.M., then changed his placement again from a V.B. MAPP program to an AS program with no meeting held for either. Y.B.'s Parent alone was able to provide input on this placement change at an IEP meeting days before the school year started, and even then, the District had indicated that it would change his placement to an AS classroom months prior. Both children had previously attended inclusive classrooms for preschool. Regarding S.B.G., the District unilaterally changed S.B.G.'s placement from a full-time DHH program at [REDACTED] to his catchment school two separate times before placing him in a supplemental DHH program at [REDACTED] and then placing him back at [REDACTED]. The District did not hold a meeting to discuss any of these options.

4. The District Unilaterally Reduced Special Education Services.

Under the IDEA, every eligible student with a disability is entitled to a FAPE. 20 U.S.C. § 1400(d)(1)(A). A student also has a right to a FAPE under Section 504. 34 C.F.R. § 104.33. To provide a FAPE, an LEA must implement an IEP that affords the student the necessary and requisite services to enable the student to make progress and to access the general education curriculum to the greatest extent possible. 20 U.S.C. § 1412(a)(1)(A); *Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176, 203 (1982). An appropriate education for a student with a disability includes specialized instruction and related services that are provided in conformity with the IEP. 20 U.S.C. § 1400(d)(1)(A); *Rowley*, 458 U.S. at 203. The notion of "appropriate" cannot be distilled to a single standard, but "must be gauged in relation to a particular child's potential." *Ridgewood Bd. of Educ. v. N.E. ex rel. M.E.*, 172 F.3d 238, 239 (3d Cir. 1999) (quoting *Polk v. Cent. Susquehanna Intermediate Unit 16*, 853

F.2d 171, 185 (3d Cir. 1988). To this end, the IEP and the services mandated therein must provide “significant learning . . . and confer meaningful benefit,” beyond a “trivial educational benefit.” *Ridgewood*, 172 F.3d at 239 (citing *Polk*, 853 F.2d at 182-84). Any reduction to services mandated in a student’s EI IEP needs to be based on evidence that the services are no longer needed. *A.P.*, No. 19455-17-18 (Pa. ODR Sep. 11, 2017).

Here, the District unilaterally reduced children’s special education services, all of which had previously been determined necessary for the children to receive a FAPE. Regarding O.M. and S.B.G., the District issued initial proposed IEPs in June 2025, which significantly reduced or removed the children’s services, which had been deemed necessary under Part B for them to receive a FAPE. The District did so without having conducted its own reevaluation, without involving the Parents in decision-making, without convening an IEP team meeting, and without having even requested updated educational records from the EI LEA. In addition, it did so without providing any basis or data-driven evidence to support the reduction or elimination in services.

ELC has represented many young children in their transition from EI to school-age programming and is aware that children’s related services are often reduced significantly on the basis that the child will be in a program that provides more support, or that EI is a medical or developmental model and school-age special education is an educational model. This reasoning does not support reduction of services under the IDEA. EI is authorized under Part B of the IDEA and uses the same educational model used for K-12 education. Individuals with Disabilities Education Act § 619, 20 U.S.C. §1419 (2018). The Third Circuit has specifically recognized that while Part C programs use Individualized Family Service Plans and follow developmental or medical models, Part B programs utilize IEPs and are educational models. *Pardini v. Allegheny Intermediate Unit*, 420 F.3d 181, 184; 190; 454 (3d Cir. 2005). Regardless of any demarcation between Part C and Part B, as the Third Circuit has held, “Instead of noting the differences between the Part B and Part C programs, we must remember that Congress sought to ensure continuity in the education of each under the IDEA.” *Id.* at 191. Transitions from Part B EI to kindergarten are intended to be smooth and to respect parental choices. Basic Education Circular, *Early Intervention Transition: Preschool Programs to School-Aged Programs*, Pa. Dep’t of Educ., <https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-beecs/purdons-statutes/early-intervention-transition-preschool-programs-to-school-aged-programs>. This goal requires school districts to “work cooperatively and be flexible in planning.” *Id.*

5. The District Failed to Timely Determine the Need for and Initiate School-Age Reevaluations.

The District denied Y.B., O.M., and similarly situated students a FAPE by failing to timely determine their need for a reevaluation and seek consent from the Parents for the reevaluation. The District's practices violate the strict timelines for provision of the PTRE form and violate federal law for timely determination of reevaluation. As a result, students transitioning to the District have been denied a FAPE.

Both SEAs and LEAs have legal obligations to ensure that children with disabilities who require education are identified and served. Children with disabilities "who are in need of special education and related services," must be "identified, located, and evaluated" under the IDEA's Child Find mandate. 34 CFR §300.111(a)(1). To effectuate these obligations, "the State must have in effect policies and procedures" to ensure that this occurs. *Id.* The IDEA also obligates LEAs to "ensure that a reevaluation of each child with a disability is conducted" if "the local educational agency determines that the education or related services needs... of the child warrants a reevaluation." 20 U.S.C. §1414 (a)(2)(A).

As part of "any reevaluation" process, LEAs are required to "review existing data on the child," including "evaluations and information provided by the parents of the child," classroom observations, assessments performed at the classroom, local, and state level, and the "observations by teachers and related service providers." 20 U.S.C. §1414 (c)(1)(A). Additionally, LEAs must consider input from the "child's parents" in addition to the review of available data to consider "whether any additions or modifications to the special education and related services are needed to enable the child to meet measurable annual goals set out in the individualized education program of the child." 20 U.S.C. §1414 (c)(1)(B); 34 CFR §300.305(a)(2)(iv).

Children who are already eligible for special education may, and often do, have additional and distinct disability-related needs that are discovered or substantiated through the reevaluation process. See *Brandywine Heights Area Sch. Dist. v. B.M.*, 248 F.Supp.3d 618, 628-29 (E.D. Pa. 2017) (affirming hearing officer's finding that a district "had ample notice" of the student's disability-related challenging behaviors and the need to address them based on his records from EI, but delayed in completing the reevaluation and developing a plan to address them); see also *L.E. v. Methacton Sch. Dist.*, No. 20-2096, 2024 WL 1804392, at *2 (E.D. Pa. Apr. 25, 2024) (finding that a child, who was already eligible for special education due to "hearing impairment and gross motor weaknesses" and "speech language deficits," should have also been identified through reevaluation as a child who had Other Health Impairment and required supports for this additional disability); see *Phyllene W. v. Huntsville City Bd. of Educ.*, 630 F. App'x 917, 927-28 (11th Cir.) (2015) (concluding that a student originally found to be eligible for special education under Specific Learning Disability, should have also been determined to be eligible for special education on the basis of her hearing impairment and language needs through the reevaluation process). In making these important reevaluation assessment decisions and determinations

regarding additional eligibility, LEAs must consider information in a student's education record as part of its required review of existing data as set forth in 20 U.S.C. §1414 (c)(1)(A).

A child must be reevaluated if the "local education agency determines that the education or related service needs...of the child warrant a reevaluation," or at the request of a parent or teacher. 20 U.S.C. § 1414(a)(2)(A). Generally, reevaluations must "occur at least every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary." 20 U.S.C. § 1414(a)(2)(B)(ii); 34 CFR § 300.303(b)(2). However, children with Intellectual Disabilities in Pennsylvania are entitled to a shorter 2-year reevaluation timeline. 22 Pa. Code §14.124(c). In Pennsylvania, Districts must complete reevaluations upon receipt of parental consent within 60 calendar days. 22 Pa. Code § 14.124(b). The 60-calendar-day timeline excludes "the last day of the spring school term up to and including the day before the first day of the second fall term." *Id.* Once a district is on notice that a child requires reevaluation, merely issuing a report within the 60-day timeline does not inoculate a district from liability arising from deprivations of a FAPE because a child's program must be appropriate.

In *Brandywine*, the district court affirmed the finding of a hearing officer that a district delayed too long in issuing a PTRE for a student transitioning from Preschool EI in Berks County to kindergarten in the district. 248 F.Supp.3d at 628-29. There, the district waited more than three months from the date when the parents signed the intent-to-register in January before it sought permission from the parents to initiate the reevaluation on April 24. *Id.* at 630. The court affirmed the hearing officer's finding that "if the District had commenced the reevaluation timely, and if the reevaluation had assessed B.M.'s history of behaviors comprehensively and accurately, a new IEP could have been in place by his first day of kindergarten that could have afforded him a meaningful educational benefit from the start." *Id.* The Court affirmed findings that the District's reevaluation should have included behavioral assessments, due to EI records from Berks County IU that documented a history of concerning behaviors. The court awarded compensatory education from the beginning of kindergarten until an appropriate IEP was put in place for the student.

Here, similar to the student in *Brandywine*, Y.B. and O.M. were directly harmed and deprived of a FAPE by the District's failure to initiate a reevaluation within a reasonable time period and provide an appropriate program upon their transition into the District. The District was on notice in each case that the child would need to be reevaluated, and in fact took the step of initiating each reevaluation on its own before the three-year reevaluation period lapsed for each child. This action further underscores the District's own acknowledgment that each of these young children would not have an appropriate program without additional programmatic modifications. First, with O.M., the District was on notice of O.M.'s anticipated enrollment, EI participation, and learning needs on or after October 18, 2024, when Elwyn transferred his EI file to the District. O.M.'s records from Elwyn documented a history of significant educational difficulties

and disruption, including disability-related behaviors for which he was subject to exclusion from preschool programs. However, the District delayed more than seven months determining it needed to reevaluate O.M. based on his additional, unidentified learning needs. It issued a PTRE to his Parent on May 27, 2025, which she promptly signed and returned the following day. The District completed O.M.'s Reevaluation Report on September 16, 2025, which found that O.M. was eligible under a new disability category of Intellectual Disability. The District did not convene an IEP meeting to review this reevaluation report until October 14, 2025. As a result of the District's failure to timely initiate a reevaluation of O.M., he was denied a FAPE from the beginning of the school year through the date of the IEP meeting.

Similarly, with Y.B., the District was on notice of Y.B.'s intent to register in the District, his EI involvement, and his academic difficulties beginning on February 28, 2025, when Elwyn provided Y.B.'s EI records. In addition to Y.B.'s significant unmet learning needs, the records from Elwyn documented that Y.B. had been subject to exclusion from multiple preschool programs on the basis of his disability-related behaviors. The District delayed in determining that it needed to reevaluate Y.B. until May 19, 2025, when it issued a PTRE identifying Y.B.'s additional learning needs, including communication needs, as a basis for the reevaluation. His Parent timely signed and returned the PTRE on May 22, 2025. The District completed the reevaluation on July 22, 2025, which it provided only in English to his Parent. The RR was provided in Spanish nearly a month later on August 19, 2025. The District held an IEP meeting for Y.B. on August 21, 2025, just four days before the start of the new school year. His Parent was not able to meaningfully participate in the transition process. As a result of the District's failure to timely initiate a reevaluation of Y.B., he was denied a FAPE.

ELC is aware that Similarly Situated students have been denied a FAPE based on the District's failure to determine the need for and timely initiate reevaluations upon notice that young children transitioning from EI had additional learning needs requiring reevaluation. ELC has learned of other students whose reevaluations were initiated months after the transfer of records from Elwyn and, as a result, they did not have appropriate IEPs when the school year began. For some students, once the reevaluation report is completed, the determination of needs requires transfer to new classrooms and schools that causes significant disruption for kindergarten students. For example, ELC is aware of students who initially start in kindergarten classrooms with itinerant services, who transition once the reevaluation is complete to supplemental autistic support classrooms where instruction is solely provided in that classroom.

6. The District Failed to Ensure Language Access.

The District failed to ensure that the Parents of the Named Complainants had language access to make decisions regarding their children's placement and how a FAPE would be provided. The purpose of the IDEA is to ensure that all children have access to a FAPE "that emphasizes

special education and related services designed to meet their unique needs” and to ensure that the rights to such of all children and their parents are protected, including those from families wherein English is not fluently spoken. 20 U.S.C. § 1400(d)(1)(A) - (B). Under the IDEA, LEAs must have in place procedures ensuring that any written notice of initiation of or change to a child’s placement or provision of a FAPE is provided in the Parent’s native language, “unless it clearly is not feasible to do so.” 20 U.S.C. § 1415(b)(4). An LEA must also obtain a Parent’s informed consent before that LEA performs an evaluation or provides special education and related services to a child with disabilities. 20 U.S.C. § 1414(a)(1)(D)(i)(II); 20 U.S.C. § 1414(c)(3). Consent requires that the Parent has been fully informed of all information relevant to the activity for which their consent is sought, either in the Parent’s native language or in another form of communication. 34 C.F.R. § 300.322(b)(1)–(2).

Here, with regard to all Named Complainants, the District failed to provide documents relating to the provision of a FAPE, including Reevaluation Reports, ITRs, NOREPs, and IEPs, in the Parents’ native language despite awareness of their language needs and their obligations to provide such services . In the case of Y.B. and O.M., their reevaluation reports were only issued in English, despite the fact that the Parents are native Spanish speakers. Y.B.’s Parent did not receive a reevaluation report in Spanish until August 19, only six days before the start of the new school year. O.M.’s Parent was not provided a reevaluation report in Spanish despite her requests until October 9, and was thus been deprived of the opportunity to fully understand the changes in O.M.’s educational needs and advocate accordingly for more than a month after the beginning of the year. Y.B.’s Parent was also not provided with an IEP in Spanish until August 28, 2025, three days after the new school year had started, and Y.B.’s Intent to Register form (“ITR”) was issued only in English. In the case of S.B.G., all documents issued to the Parent, with the exception of the NOREP placing S.B.G. at Pennsylvania School for the Deaf in September 2025, were in English.

7. The District’s Failure to Identify Highly Mobile Students Exacerbated FAPE Denials.

Under the IDEA, all eligible students with a disability “including children with disabilities who are homeless children,” are entitled to a FAPE. *See* 20 U.S.C. § 1400(d)(1)(A); 20 U.S.C. § 1412(a)(3)(A); 34 C.F.R. § 300.111. Students experiencing homelessness must be afforded “equal access to the same, free, appropriate, public education” as their permanently and adequately housed peers and the opportunity to “meet the same challenging state academic standards to which all students are held,” as set forth in the federal McKinney-Vento Act. 42 U.S.C. § 11431(1)-(4).

The McKinney-Vento Act specifically requires SEAs to ensure that students experiencing homelessness have the same access to a FAPE as other students, including both a public

preschool education and publicly-funded school-age programming. 42 U.S.C. § 11431(1). Similar obligations are placed on LEAs by the Act, as they are charged with removing barriers to ensure that McKinney-Vento eligible students can “attend school and participate fully in school activities,” which is inclusive of special education. 42 U.S.C. §11433(d)(16). Moreover, school personnel are explicitly prohibited from discriminating against, segregating, or stigmatizing students because they are experiencing homelessness. 42 U.S.C. § 11432(e)(3)(C)(III).

The McKinney-Vento Act requires LEAs to designate an appropriate staff person to serve as a liaison, often called a McKinney-Vento liaison, to conduct a range of important duties, such as identifying such eligible youth through outreach efforts; ensuring that students have “a full and equal opportunity to succeed in school;” informing the youth’s parents or guardians of the student’s educational rights, including their right to immediately enroll into school without ordinarily required documentation; informing the parents or guardians of the educational opportunities available to the student; ensuring that students are able to fully participate in their education, including having access to services necessary to provide the child with a FAPE, including special education services; and ensuring that the parent or guardian has “meaningful opportunities to participate in the education of their children”. 42 U.S.C. § 11432(g)(6)(A)(i)-(v). To ensure that all children who are eligible are protected and to avoid stigmatization, the United States Department of Education has recommended through its Non-Regulatory Guidance that all LEAs universally screen children for McKinney-Vento eligibility at registration. U.S. Dep’t of Educ., *Educ. for Homeless Children and Youth Program Non-Regulatory Guidance, Title VII-B of the McKinney-Vento Homeless Assistance Act as amended by Every Student Succeeds Act*, 17 (July 27, 2016) (referred to hereinafter as McKinney-Vento Non-Regulatory Guidance). These duties are not optional and are essential to ensuring that students are afforded equal access to school to which they are entitled under the law.

Despite these robust protections, children experiencing homelessness and other student cohorts who are considered to be “highly mobile,” such as children in foster care, often encounter additional systemic barriers to accessing needed special education and related services.⁹ Therefore, the United States Department of Education’s Office of Special Education and Rehabilitative Services (OSERS) issued specific guidance reiterating the need for “all school administrators and teachers” to comply with their “responsibilities to make a free appropriate public education (FAPE) available to highly mobile children with disabilities under the IDEA,”

⁹ The United States Department of Education’s Office of Special Education and Rehabilitative Services (OSERS) use of the term “highly mobile children” includes “children and youth experiencing frequent moves into new school districts such as military-connected children, migratory children, children in the foster care system, and children who are homeless.” See United States Department of Education Office of Special Education and Rehabilitation Services, OSEP Policy Support 22-02, 1 (Nov. 10, 2022) available at: <https://sites.ed.gov/idea/files/Letter-to-State-Directors-of-Special-Education-on-Ensuring-a-High-Quality-Education-for-Highly-Mobile-Children-11-10-2022.pdf>.

and acknowledging “that special education and related services available under IDEA are critical to helping highly mobile children with disabilities.” United States Department of Education Office of Special Education and Rehabilitation Services, *OSEP Policy Support 22-02*, 1, 4 (Nov. 10, 2022) available at: <https://sites.ed.gov/idea/files/Letter-to-State-Directors-of-Special-Education-on-Ensuring-a-High-Quality-Education-for-Highly-Mobile-Children-11-10-2022.pdf>. This guidance includes the specific recommendation to all State Special Education Directors that “school districts to complete their evaluations of highly mobile children within expedited time frames (e.g., within 30 days to the extent possible), consistent with each highly mobile child’s individual needs, whenever possible” to ensure that children are promptly identified and connected to the special education services to which they are legally entitled. United States Department of Education Office of Special Education and Rehabilitation Services, *OSEP Policy Support 22-02*, 4 (Nov. 10, 2022) available at: <https://sites.ed.gov/idea/files/Letter-to-State-Directors-of-Special-Education-on-Ensuring-a-High-Quality-Education-for-Highly-Mobile-Children-11-10-2022.pdf>. Similarly, the United States Department of Education through its Non-Regulatory Guidance, explicitly permits LEAs to undertake “expedited evaluations of eligible students” including to determine their eligibility for special education and/or as “qualified students with disability under Section 504.” *U.S. Dep’t of Educ., Educ. for Homeless Children and Youth Program Non-Regulatory Guidance, Title VII-B of the McKinney-Vento Homeless Assistance Act as amended by Every Student Succeeds Act*, 21 (July 27, 2016).

Children who are “highly mobile,” including students experiencing homelessness and those in foster care, are disproportionately Black and Brown students due to intersecting and compounding systemic inequities across systems, including limited economic opportunities, critical shortages of safe and affordable housing, underfunded and under-resourced schools, as well as systems of surveillance, policing, and punishment that disproportionately target Black and Brown families. These conditions result in a disproportionate number of Black and Brown students becoming involved in the child welfare system, being impacted by law enforcement, and disproportionately higher numbers of Black and Brown students experiencing homelessness.¹⁰

¹⁰ Cenat, J. M., McIntee, S. E., Mukunzi, J. N., & Noorishad, P. G, *Overrepresentation of Black Children in Child Welfare System: A Systematic Review to Understand and Better Act*. CHILDREN AND YOUTH SERVICES REVIEW 120 (2020) available at <https://www.sciencedirect.com/science/article/abs/pii/S019074092032137X?via%3Dihub> (explaining how presence of “racial bias” throughout “all levels of child welfare involvement” causes “overrepresentation of Black youth,” and characterizing the impact of this discrimination” being that a child’s race becomes a “main factor” in determining whether they will have contact with the child welfare system.). See Violet Cromber-Wilen, *For Students Experiencing Hopelessness There Are Challenges-and Help*, BILLYPENN at WHYY, (May 27 2025), available at <https://billypenn.com/2025/05/27/valley-youth-house-philadelphia-schools-homelessness-children-housing-insecurity> (explaining how disparities in resource allocation, including due to “housing segregation,” and school segregation” contribute to racially disparate experiencing with homelessness for Black families).

For example, Black students represent only 13% of the total population of children in the Commonwealth yet they comprise “35 percent of the foster care population.” As has been recognized by Pennsylvania’s Department of Human Services, “this disproportionality is the result of centuries of systemic racism.”¹¹ Among children experiencing homelessness, 32% of children were identified as being “Black or African American,” and 25% of children were identified as being “Hispanic/Latino.”¹² Importantly, an analysis by the District indicated that approximately 84% of all children identified as experiencing homelessness in the District identify as being Black or Brown children.¹³

These racial disparities are apparent in intersections with disability status. In the 2023-2024 school year, 20.1% of all school-aged children in Pennsylvania were identified as being eligible for special education.¹⁴ However, the percentage of children who are eligible for special education and experiencing homelessness is notably higher at 27%.¹⁵ Similarly, “over 40% of the students in foster care are identified as receiving special education compared to just 19% of their peers in the general population.”¹⁶

Upon information and belief, similarly situated students who are transitioning into the District and are who also highly mobile due to homelessness or involvement in the child welfare system encounter additional impermissible barriers to accessing a FAPE, which are not being addressed. Based on ELC’s past experience, parents of these children are often not informed of their educational rights and deprived of the support needed to navigate the transition from EI to school-age programming in a way that enables these students to receive a FAPE at the start of the new school year. Specifically, in contravention of their obligations under the IDEA, the

¹¹ Pennsylvania Department of Human Services, *Racial Equity Report 2021*, 2 (2021) available at <https://www.pa.gov/content/dam/copapwp-pagov/en/dhs/documents/about/documents/2021%20DHS%20Racial%20Equity%20Report%20final.pdf>.

¹² Pennsylvania Department of Education, *Education for Children and Youth Experiencing Homelessness Program 2023-24 State Evaluation Report*, 33 (May 2025), available at <https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/homeless-education/reports/2023-24%20ecyeh%20evaluation%20report.pdf>.

¹³ Michael Fristone, Melissa Karakus, *Education of Children and Youth Experiencing Homelessness in the School District of Philadelphia, Analysis of 2023-24 Data*, 5, (April 2025), available at https://www.philasd.org/research/wp-content/uploads/sites/90/2025/04/ECYEH-in-SDP-Analysis-of-2023-24-Data_April-2025.pdf.

¹⁴ Pennsylvania State Data Center, *Special Education Data Report School Year 2023-2024*, (Aug. 2024), available at https://penndata.hbg.psu.edu/penndata/documents/BSEReports/Data%20Preview/2023-2024/Speced_Quick_Report_PA_Final_2023-2024.pdf.

¹⁵ Pennsylvania Department of Education, *Education for Children and Youth Experiencing Homelessness Program 2023-24 State Evaluation Report*, 14 (May 2025), available at <https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/homeless-education/reports/2023-24%20ecyeh%20evaluation%20report.pdf>.

¹⁶ Education Law Center & Pennsylvania Partnerships for Children, *Supporting Success for Pennsylvania's students in Foster Care, Data, Outcomes, and Stories from the Field*, 5, 2025, available at <https://www.papartnerships.org/wp-content/uploads/2025/05/Supporting-Success-for-Pennsylvanias-Students-in-Foster-Care.pdf>.

District fails to properly 1) identify highly mobile students who should be evaluated and served; (2) fails to conduct expedited evaluations; (3) fails to comply with applicable transition timelines as required; (4) fails to ensure meaningful parent participation; and (5) deprives students of a FAPE due to delayed evaluations, inappropriate school placements, and unilateral reductions in services.

Upon information and belief, the District is not adhering to OSERS Guidance on *Ensuring a High Quality Education for Highly Mobile Students* by its failure to expedite evaluations of highly mobile children and complete evaluations for these children within 30 days “whenever possible.” The failure to follow this important guidance preserves the barriers that prevent these students from being promptly identified and provided with the special education supports for which they are disproportionately eligible. We are deeply concerned that these systemic failures have and will continue to fall most harshly on highly mobile children who are Black and Brown and students with disabilities.

C. PDE Failed to Ensure that Eligible Students in the District Were Appropriately Transitioned from EI to Receive Required Education Services, Resulting in a Denial of FAPE.

PDE, as the SEA, is ultimately responsible for ensuring the provision of a FAPE to all Pennsylvania children eligible for special education services under the IDEA. 20 U.S.C. §1412(a)(11). Although the LEA is the entity that provides services to children under the IDEA, it is the SEA that “retains primary responsibility to ensure that all children with disabilities receive the education that is their right under the IDEA.” *Charlene R. v. Solomon Charter Sch.*, 63 F. Supp. 3d 510, 513 (E.D. Pa. 2014) (holding that an SEA must step in where a local education agency cannot or will not provide a child with a FAPE); *see also* 20 U.S.C. § 1412(a)(11)(A), § 1413(g)(1); *Kruelle v. New Castle Cty. Sch. Dist.*, 642 F.2d 687, 696 (3d Cir. 1981). The SEA may be held responsible for violations of the IDEA. *Price v. Commonwealth Charter Acad. Cyber Sch.*, No. CV 17-1922, 2018 WL 1693352, at *7 (E.D. Pa. Apr. 6, 2018). PDE has “an overarching responsibility” to ensure that students with disabilities receive a FAPE, regardless of the local school’s actions. *Cordero by Bates v. Pennsylvania Dep’t of Educ.*, 795 F. Supp. 1352, 1360 (M.D. Pa. 1992) (“the fact that local agencies are not performing up to par...becomes irrelevant...[i]t is the state’s obligation to ensure that the systems it put in place are running properly and that if they are not, to correct them”). When PDE fails to ensure a FAPE it violates Section 504 because “the denial of an education that is guaranteed to all children [] forms the basis of the claim.” *Andrew M. v. Delaware Cnty. Off. of Mental Health & Mental Retardation*, 490 F.3d 337, 350 (3d Cir. 2007); *see also CG v. Pennsylvania Dep’t of Educ.*, 734 F.3d 229, 235 (3d Cir. 2013) (holding viable claims may exist against PDE under Section 504).

Here, PDE has not met its obligations as an SEA under the IDEA to ensure that eligible students transitioning from EI to school-age programs in the District receive a FAPE, including ensuring that children are appropriately transitioned from EI to school-age programming and are provided appropriate IEPs and related services among others. Upon information and belief, PDE was or should have been aware of the District's failure to comply with mandated transition timelines, unilateral decision making regarding the students' placements and services, and exclusion of families from participation in or providing a meaningful opportunity to provide input regarding transition plans, their child's placement, and services. PDE also knew or should have known that the District failed to ensure that children's IEPs were reasonably calculated for them to make progress and that the District failed to provide timely appropriate reevaluations. Students, including O.M., Y.B., and S.B.G., have not received an adequate education or services in violation of their right to a FAPE. PDE is ultimately responsible for ensuring that these violations are addressed and corrected, whether by the District or through its own intervention.

V. SUMMARY OF ISSUES

Complainants seek resolution of the following issues as described in the Complaint:

Individual Student O.M.

Issue 1: The School District of Philadelphia ("SDP") failed to hold a transition meeting for O.M. as required by law.

Issue 2: SDP failed to comply with legally-mandated transition timelines.

Issue 3: SDP failed to timely initiate a school-age evaluation.

Issue 4: SDP failed to afford the Parents an opportunity for parent participation in an IEP team meeting regarding the implementation of the Student's IEP, including by unilaterally changing his placement multiple times, which denied O.M. provision of Free Appropriate Public Education ("FAPE").

Issue 5: SDP failed to provide O.M.'s Parent critical special education documents, including IEPs, Evaluation Reports, and Notices of Recommended Educational Placement, in the Parents' native language, prohibiting them from meaningfully participating in the IEP process.

Issue 6: SDP denied O.M. a FAPE by failing to create an interim IEP that addressed O.M.'s needs without unilaterally reducing his services without a meeting or data.

Issue 7: SDP discriminated against O.M. based on his disability during the 2025-2026 school year.

Individual Student Y.B.

Issue 1: The School District of Philadelphia (“SDP”) failed to hold a timely transition meeting for Y.B. as required by law.

Issue 2: SDP failed to comply with legally-mandated transition timelines.

Issue 3: SDP failed to timely initiate a school-age evaluation

Issue 4: SDP failed to afford the Parents an opportunity for parent participation in an IEP team meeting regarding the implementation of the Student’s IEP, including by unilaterally changing his placement multiple times, which denied Y.B. provision of Free Appropriate Public Education (“FAPE”).

Issue 5: SDP failed to provide Y.B.’s Parent critical special education documents, including IEPs and Evaluation Reports, in the Parents’ native language, prohibiting them from meaningfully participating in the IEP process.

Issue 6: SDP discriminated against Y.B. based on his disability during the 2025-2026 school year.

Individual Student S.B.G.

Issue 1: The School District of Philadelphia (“SDP”) failed to hold a timely transition meeting for S.B.G. as required by law.

Issue 2: SDP failed to comply with legally-mandated transition timelines.

Issue 3: SDP failed to timely initiate a school-age evaluation.

Issue 4: SDP failed to afford the Parents an opportunity for parent participation in an IEP team meeting regarding the implementation of the Student’s IEP, including by unilaterally changing his placement multiple times, which denied S.B.G. provision of Free Appropriate Public Education (“FAPE”).

Issue 5: SDP failed to provide S.B.G.’s Parent critical special education documents, including IEPs and Notices of Recommended Educational Placement, in the Parents’ native language, prohibiting them from meaningfully participating in the IEP process.

Issue 6: SDP denied S.B.G. a FAPE by failing to create an interim IEP that addressed his needs without unilaterally reducing his services without a meeting or data.

Issue 7: SDP denied S.B.G. a FAPE by failing to implement S.B.G.’s IEP, including failing to provide any related services or a placement, until more than a month after the school year began.

Issue 8: SDP discriminated against S.B.G. based on his disability during the 2025-2026 school year.

Issue 9: The District denied S.B.G. a FAPE by failing to implement S.B.G.'s IEP, including providing any related services, and failing to provide a FAPE until more than a month after school began.

Similarly Situated Students

Issue 1: The School District of Philadelphia ("SDP") failed to hold a timely transition meeting for similarly situated children throughout SDP as required by law.

Issue 2: SDP failed to comply with legally-mandated transition timelines.

Issue 3: SDP failed to timely initiate school-age evaluations.

Issue 4: SDP failed to afford similarly situated children's Parents an opportunity for parent participation in IEP team meetings regarding the implementation of the Student's IEP, including unilaterally changing placements multiple times, which denied similarly situated children provision of Free Appropriate Public Education (FAPE).

Issue 5: SDP failed to provide similarly situated children's Parents critical special education documents, including IEPs, Evaluation Reports, and Notices of Recommended Educational Placement, in the Parents' native language, prohibiting them from meaningfully participating in the IEP process.

Issue 6: SDP denied similarly situated children a FAPE by failing to create an interim IEP that addressed their needs without unilaterally reducing their services without a meeting or data.

Issue 7: SDP denied similarly situated children a FAPE by failing to implement their IEPs, including failing to provide appropriate related services, upon the beginning of the kindergarten school year.

Issue 8: SDP discriminated against similarly situated children based on disability during the 2025-2026 school year.

Issue 9: SDP denied similarly situated students a FAPE by failing to place children in appropriate programs upon entering kindergarten as a result of delayed initiation of evaluations, resulting in children languishing in inappropriate settings where they do not make progress, and further disrupting their education by moving them to a more appropriate program upon completion of school-age IEPs and evaluations.

Pennsylvania Department of Education

Issue 1: PDE failed to meet its obligations as a state education agency to ensure that eligible students transitioning from early intervention to school-age programs in the SDP for the 2025-26 school year received a FAPE. This violation includes the failure of PDE to ensure that: (1) SDP complied with mandated transition timelines; (2) SDP identified appropriate school placements prior to the new school year; (3) SDP offered meaningful parent participation in the transition

planning process, including providing translated special education documents; (4) SDP created an interim IEP based on an IEP meeting and data instead of unilaterally reducing supports and services; (5) SDP conducted timely appropriate reevaluations when needed; (6) SDP created IEPs that are reasonably calculated to enable children to make progress; and (7) SDP promptly addressed and corrected deprivations of a FAPE.

VI. REQUESTED RELIEF

In light of the foregoing, we respectfully request that the Bureau undertake the following actions:

Individual Complainants

1. Investigate the allegations contained herein pertaining to the Named Complainants O.M., Y.B., and S.B.G.
2. Direct the District to award compensatory education services to Named Complainants O.M., Y.B., and S.B.G. in accordance with governing quantitative standards.

Similarly Situated Students

1. Investigate the allegations contained herein pertaining to similarly situated students who transitioned from EI to school-aged programs in the District for the 2025-2026 school year.

School District of Philadelphia

2. Order the District to cease continuous and ongoing violations of the IDEA and Section 504 that discriminate against students with disabilities and deprive them of their right to a FAPE.
3. Order the District to identify and implement a plan to address this issue in the upcoming school year.
4. Issue corrective action requiring the District to develop policies and procedures prior to March 1, 2026, to ensure the appropriate transition of students from EI to school-aged programs in compliance with governing laws and timelines. Such corrective action should include the following:
 - A. Direct the District to establish and utilize publicly-available written criteria, a process, and timeline to determine whether children will be re-evaluated, including:
 - i. defining specific criteria for determining when a reevaluation is appropriate;

- ii. identifying a timeline for determining whether a student will be reevaluated following a review of EI records provided by Elwyn and after a Parent signs an Intent to Register; and
 - iii. adopting a process for identifying highly mobile children, including children in foster care and children experiencing homelessness and adoption of a policy for ensuring they receive expedited evaluations (within 30 days).
- B. Direct the District to establish publicly available policies and protocols to ensure that students for whom an Intent to Register has been signed prior to March 1 each year are timely and appropriately transitioned to school, including:
 - i. A process to request records from Elwyn prior to January 31; and
 - ii. A process to contact all parents of children for whom an Intent to Register has been signed or who have been registered at their neighborhood school by mail, phone, and email to advise them on the District's transition process prior to or shortly after March 1. This outreach must include:
 - a. apprising parents of all students about the rights of students experiencing homelessness under the McKinney-Vento Act, including immediate enrollment, and providing the contact information for the District's Education for Children and Youth Experiencing Homelessness Office ("ECYEH Office");
 - b. screening students to determine whether they are experiencing homelessness;
 - c. identifying students as McKinney-Vento eligible when they qualify and connecting them to the District's McKinney-Vento Liaison;
 - d. collecting email addresses and multiple phone numbers for the McKinney-Vento eligible student's parent(s); and
 - e. apprising the parent(s) about how to change their address and contact information, including phone number and email, on file with the District
 - iii. The policies should make clear that the District will hold individualized transition meetings for all students who have signed an Intent to Register or have registered at their neighborhood school by March 1st. Such meetings shall include the parent, in accordance with the Basic Education Circular, *Early Intervention Transition: Preschool Programs to School-Aged Programs*. These meetings shall include a discussion of:
 - a. eligibility screening for McKinney-Vento Act protections;
 - b. identification of the child's future catchment school;

- c. a description of how the child's needs may be met and range of LRE placement options;
 - d. determination of whether the child can attend neighborhood school or identification of alternate programs;
 - e. services and supports the child needs;
 - f. reasonable steps to ensure parent participation at individual transition meetings; and
 - g. a designated point of contact for the parent at the new school.
 - iv. The policies shall include a process to ensure participation of limited English proficient parents at individual transition meetings by delineating the District's and Elwyn's responsibilities to provide interpretation at transition meetings as needed, provide subsequent transition-related communications, and provide interpretation at IEP meetings prior to the start of school-age programming. The protocol shall enumerate which documents the District will translate for parents with limited English proficiency.
 - v. The policies shall include a process to obtain summative exit data from the EI program that reflects the student's services and progress monitoring up to the point of transition or the end of the student's EI programming.
 - vi. The policies shall address reevaluations, including how determinations are made and timelines for completing reevaluations.
 - vii. The policies shall also include a process to determine and provide compensatory education to any student who did not receive a FAPE based on the District's failure to adhere to its own procedures for EI transition.
- C. Direct the District to develop identical protocols for students whose parents sign an Intent to Register after March 1 or register at their catchment school with different timelines to ensure that these students are timely and appropriately transitioned to school, prior to the last day of the school year.
- D. Direct the District to develop identical protocols for students whose parents sign an Intent to Register or register at their catchment school after June 15 whereby the District shall complete the same steps of Paragraph 4.B. within 10 school days of a parent signing an intent to register.

5. Issue Corrective Action requiring that the District provide the following trainings:
 - B. Dedicated mandatory training for Network Directors, Case Managers, and SPECMs regarding the new procedures developed in accordance with Paragraph 4 prior to March 1;
 - C. Quarterly mandatory refresher trainings for Network Directors, Case Managers, and SPECMs to allow for troubleshooting;
 - D. Training for school registration secretaries regarding the relevant procedures for enrollment of EI students and communication with SPECMs prior to March 1;
 - E. Training for families through the FACE Office and Parent University regarding the new process developed in accordance with Paragraph 4;
 - F. Posting of policies with translations in the top 10 languages most frequently spoken by District students and their families;
6. Issue Corrective Action requiring annual monitoring by BSE of the District's transition process for 3-5 years which includes:
 - A. Review of 50 files per year with regard to (1) compliance with requirement to hold timely individualized transition meetings prior to March 1 for all students who have signed an Intent to Register; (2) parent participation in the transition process; (3) timely and sustained classroom placement supported by consent of parent; (4) timely reevaluations; (5) provision of comparable services, if appropriate; and (6) provision of interpretation and translation services. Within the 50-file review, at least 10 of the files must be for students whose parents' native language is not English and who require interpretation and translation services and at least 10 of the files must be for students who are either experiencing homelessness or who are in foster care.
 - B. Public reporting by the District of all data elements listed above.

Pennsylvania Department of Education

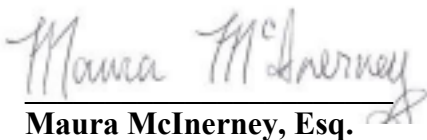
7. Order the Department to issue a PENN*LINK prior to March 1, 2026, reminding LEAs of applicable timelines and their obligations to ensure the appropriate transition of students from EI

to school-aged programs in compliance with federal and state laws.

8. Order the Department to review and revise its guidance, including the BEC on *Early Intervention Transition* to 1) clearly delineate the obligations of LEAs to ensure young children with disabilities effectively transition to school-age programming without disruptions and continuously receive a FAPE in the LRE, 2) remind LEAs of their obligations to communicate with parents in their native language, and 3) remind LEAs of their legal obligations to ensure that students experiencing homelessness and children in care are effectively transitioned.
9. Revise current practices and protocols of BSE's cyclical monitoring process to focus on early intervention transitions to school-age programming. These revisions should include conducting additional file reviews and revising LEA survey questions to obtain data regarding (1) compliance with requirement to hold timely individualized transition meetings prior to March 1 for all students who have signed Intent to Register forms; (2) an evaluation of parent participation in the transition process; (3) an assessment of timely and sustained classroom placement supported by parent consent; (4) the conduct of timely reevaluations; (5) an examination of unilateral reductions in services; and (6) the provision of interpretation and translation services.

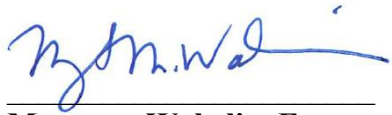
Thank you for your consideration of this complaint.

Respectfully submitted,



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