



Bureau of Special Education Complaint Information Packet and Form

January 2025

Dear (Parent/Guardian/Complainant):

Thank you for contacting the Bureau of Special Education (BSE) and providing us with the opportunity to assist you in this matter. Please review the enclosed materials carefully. If you have questions, please feel free to contact the ConsultLine at 1-800-879-2301 or BSE at (717) 783-6913.

The complaint process begins when BSE receives a signed, completed complaint. BSE must complete the investigation and issue the Complaint Investigation Report (CIR), within 60 days. If violations of state or federal requirements are found, the Local Educational Agency (LEA) meaning Intermediate Unit, School District, Charter School, Regional Office (Philadelphia), APS, etc. would be directed to correct the non-compliance.

Each complaint is assigned to a Special Education Advisor employed by BSE.

- The Advisor will contact you by phone to clarify the issues of the complaint. You may meet with the Adviser in person at a public location during normal business hours.
- The Advisor will ask you to provide the name(s) of others who may have knowledge of the facts of the complaint and will interview a reasonable number of them prior to the report being issued. (Optional)
- An Acknowledgment Letter will be sent to you verifying the issues of the complaint.
- If the issues raised are not within the jurisdiction of BSE, you will receive a letter telling you this. You will be provided with contact information for other agencies that may be of assistance.
- The Advisor may conduct an on-site investigation at the LEA to review relevant records and interview staff.
- You may provide additional information either orally or in writing prior to the final CIR.
- The Advisor will then analyze the facts and develop the written CIR.
- The Advisor will forward the CIR to the Division Chief for review and revision.
- The CIR will be issued after the Division Chief has approved it.

Complaint Resolution or Withdraw:

The parties may resolve the complaint independently. If the parties resolve the issues, the LEA will submit a written confirmation including the complainant's signature. BSE will issue a Resolution Letter to the complainant and the LEA to close the complaint.

The complainant may also choose to withdraw the complaint. The Advisor will contact the complainant and ask for formal notification by letter and BSE will issue confirmation to the complainant via the Withdrawal Letter.

Timeline Extension for a Complaint:

The parties may enter into the mediation process at any time. If the parties are engaged in mediation, or other alternative means of dispute resolution (i.e., IEP facilitation) the time limit for complaint investigation can be extended beyond 60 days upon receipt of agreement from both parties.

Regulatory Basis:

Complaint Information – According to Federal Regulation (34 CFR §300.153), there are required components for filing a complaint. The following is that regulation.

§300.153 Filing a complaint.

- (a) An organization or individual may file a signed written complaint under the procedures described in §§300.151 through 300.152.
- (b) The complaint must include-
 - (1) A statement that a public agency has violated a requirement of Part B of the Act or of this part;
 - (2) The facts on which the statement is based;
 - (3) The signature and contact information for the complainant; and
 - (4) If alleging violations with respect to a specific child-
 - (i) The name and address of the residence of the child;
 - (ii) The name of the school the child is attending;
 - (iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434 a (2)), available contact information for the child, and the name of the school the child is attending;
 - (iv) A description of the nature of the problem of the child, including facts relating to the problem; and
 - (v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- (c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with § 300.151.
- (d) The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA.

Third Party Filing – Confidentiality Requirements Notice:

If a person other than the parent or guardian files the complaint, the complainant will receive a letter from the Special Education Advisor stating that without parental permission to release confidential information, BSE is unable to respond directly to them regarding the complaint.

However, BSE will conduct an investigation, prepare a CIR of findings, and issue the findings directly to the parent and the LEA.

The Code of Federal Regulations (CFR), Title 34, Part 300 requires:

1. The complainant must sign complaints before BSE can investigate the allegation.
2. The complainant is required by regulation to forward a copy of the complaint to the LEA.
3. The complainant must propose a resolution to the problem if one is known and available to the party at the time the complaint is filed.
4. The public agency has the opportunity to respond by providing a proposal to resolve the complaint.
5. An opportunity is provided for a parent who has filed a complaint and the public agency to voluntarily engage in mediation.
6. The complainant will receive a copy of the Procedural Safeguards Notice from the LEA when a complainant files a complaint for the first time in a school year.

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):** rwehrman@elc-pa.org; mwakelin@elc-pa.org
- ☐ **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: Rose Wehrman

Address: 1800 JFK Blvd., Suite 1900A, Philadelphia, PA 19103

Phone Number: (267) 787-2432

Home:

Work:

Cell:

E-mail: rwehrman@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: Please see attached complaint.

Date of Birth:

Address:

Is the child currently in school? ☐ Yes ☐ No

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

School Building:

School District:

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: Continuing throughout 2024-2025 school year and continuing to the present.
Please see attached complaint.

To clarify my allegations, I would like the Advisor to interview the following person(s):
(Optional) Please see attached complaint.

Name	Occupation/Title	Phone Number/E-Mail Address

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

Please see attached complaint.

Please list the facts that support your statement.

Please see attached complaint.

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

Please see attached complaint.

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.

Rose
Wehrman
Digitally signed by Rose Wehrman
DN: cn=Rose Wehrman, c=US,
email=rwehrman@elc-pa.org
Date: 2025.08.28 09:54:27 -04'00'

August 28, 2025

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



PHILADELPHIA
1800 JFK Blvd., Suite 1900A
Philadelphia, PA 19103
T 215-238-6970
F 215-772-3125

PITTSBURGH
429 Fourth Ave., Suite 1910
Pittsburgh, PA 15219
T 412-258-2120
F 412-535-8225

August 28, 2025

Pennsylvania Department of Education
Bureau of Special Education
Division of Compliance, Monitoring, and Planning
333 Market Street, 7th Floor
Harrisburg, PA 17126

RE: Complaint on Behalf of Students in the School District of Philadelphia Entitled to Related Services and Similarly Situated Students Regarding the Failure to Provide a Free Appropriate Public Education

Dear Bureau of Special Education:

The **Education Law Center – PA** files this Complaint as an organization¹ and on behalf of individual students [REDACTED] and [REDACTED] and similarly situated students entitled to related services in the School District of Philadelphia (“District”) against the District for discrimination on the basis of disability regarding the failure to provide required special education services and 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, 20 U.S.C. § 1400 *et seq.*, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, 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 providing related services tailored to their individual needs. The District also bears responsibility for ongoing progress monitoring, timely reevaluations, and ensuring that students’ Individualized Education Programs (“IEPs”) are 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, students with disabilities failed and continue to fail to receive a FAPE due to systemic deprivations that remain unaddressed by the District. 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.

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.”).

I. INTRODUCTION

The District has denied many students a FAPE by failing to provide related services as required by their IEPs and failing to offer sufficient compensatory education to students deprived of a FAPE. By failing to provide these services, the District has denied these students access to services to which they are legally entitled. This Complaint alleges a systemic denial of FAPE caused by the ongoing failure of the District to provide an appropriate education to named students (“Named Complainants”) and similarly situated students who require related services to receive a FAPE and alleges an ongoing failure by the District to remedy the violations of FAPE that occurred and continued to occur through the end of the 2024-25 school year.

In light of the ongoing and systemic nature of the deprivation, we also assert claims against the Pennsylvania Department of Education (“PDE”) 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 and monitoring, PDE failed to ensure that [REDACTED] and other similarly situated students received special education services compliant with federal and state law. Upon information and belief, PDE is aware of the District’s failure to staff related service provider positions necessary to provide students with a FAPE based on a previous complaint involving this issue in at least one District school. The District has not taken action to remedy the system-wide ongoing violations. We request a finding that the District and PDE violated not only the rights of [REDACTED] and [REDACTED], but the rights of all similarly situated students who have been denied a FAPE and deprived of meaningful educational opportunities on the basis of their disabilities. We further request a remedy for [REDACTED] and all such students whose educational rights have been systematically denied and whose deprivations have not been appropriately addressed.

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

Name	Occupation/Title	Phone Number and Email
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[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.

are students with autism and as such, are 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.

Respondents

Respondent District is the 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 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. FACTUAL BACKGROUND

is a -year-old student eligible for special education under the disability category of Autism and placed in an Autistic Support (“AS”) classroom. In addition to autism, is diagnosed with sensory processing disorder and language disorder. In August 2024, after transitioning from Preschool Early Intervention (“EI”), began attending kindergarten at Elementary School in the District. s most recent IEP, dated

March 19, 2025, entitles her to receive [REDACTED] minutes per week of Autistic Support; [REDACTED] minutes/month of occupational therapy (“OT”); special transportation; [REDACTED] minutes/week of 1:1 Adult Assistant services; and [REDACTED] minutes/month of group speech/language therapy. [REDACTED] received some behavioral supports in school through an Applied Behavior Analysis (“ABA”) company. The District denied [REDACTED] a FAPE for the entirety of her 2024-25 kindergarten school year by failing to provide any of [REDACTED]’s related services in full and as required by her IEP, including failing to provide speech therapy services for the entirety of the 2024-2025 school year, failing to provide occupational therapy services from at least December 2024 to March 2025, and failing to provide 1:1 services for an unknown number of months.

[REDACTED] is non-verbal and uses an Augmentative and Alternative Communication (“AAC”) device to communicate. [REDACTED] requires direct speech language therapy support to access her education and to meaningfully utilize her device. Prior to beginning school-age programming at [REDACTED], [REDACTED] received EI services through [REDACTED] including speech therapy, OT, specialized instruction, and full-time 1:1 services. She initially attended preschool at [REDACTED] before transitioning to full-time ABA programming at [REDACTED], where she received intensive services five days a week. Both her programs at [REDACTED] and [REDACTED] were specialized schools for children with disabilities and provided intensive support, and [REDACTED] was observed to make progress while receiving services in EI.

The District did not provide [REDACTED] with her required speech services upon her transition to kindergarten or her continued attendance, depriving her of a FAPE. Despite the scope and intensity of services [REDACTED] received in EI, the District also did not conduct a timely school-age evaluation or ensure comparable services when transitioning [REDACTED] into kindergarten at [REDACTED] in August 2024, and she did not begin kindergarten with her required IEP services in place. The District did not initiate its own evaluation prior to [REDACTED]’s start date. Instead, on the first day of school, the [REDACTED] principal asked [REDACTED]’s parent to provide a copy of [REDACTED]’s EI documents. Because the District did not develop a school-age IEP for [REDACTED] prior to the start of the school year, [REDACTED] was obligated to implement [REDACTED]’s EI IEP dated June [REDACTED], 2024. This IEP placed [REDACTED] in a specialized environment and entitled [REDACTED] to [REDACTED] minutes per month of OT, [REDACTED] minutes per month of speech therapy, [REDACTED] minutes per month of specialized instruction, one hour per month of speech therapy consultation for training on [REDACTED]’s AAC device, and full-time 1:1 services. These services did not occur as required, in part, because of the District’s failure to staff a speech language therapist at [REDACTED] during the 2024-2025 school year or an occupational therapist from December 2024 through March 2025. As a result, the District failed to appropriately transition [REDACTED] from EI to kindergarten and failed to provide continuity of services and the smooth transition that are required by federal law and state guidance. [REDACTED] – a child who has been demonstrated to experience regressions when deprived of services – was not only deprived of related services and an appropriate transition, but her ability to start kindergarten ready to learn and make progress.

In September 2024, after [REDACTED] had already begun attending [REDACTED], the District convened an IEP meeting, resulting in the decision to adopt services from [REDACTED]’s EI IEP — entitling her to [REDACTED] minutes per month of OT, [REDACTED] minutes per month of speech therapy, and a 1:1 special education assistant — as well as adding special transportation services and placing [REDACTED] in a Supplemental Autistic Support program. Months later, the District notified [REDACTED]’s parent that

█████ had not received any of her required IEP services since beginning kindergarten — none of the speech therapy, OT, or 1:1 support listed in her IEP had been consistently provided. These reports aligned with █████'s parent's observations of significant regression in █████'s skills, including the loss of words █████ had previously acquired in EI and the emergence of digging behaviors.

On December █, 2024, the District completed its first school-age evaluation of █████, which determined that █████ was significantly delayed in communication, “was not able to make any sounds” to express wants or needs, cannot communicate bathroom needs, does not use her communication device independently, and that communication is one of █████'s greatest barriers to learning. In December 2024, the District issued a new IEP that added a secondary disability category of Speech/Language impairment and mirrored the services in █████'s previous IEP. The updated IEP stated the following: “Due to staffing shortages, speech and language goals may not have been updated. However, updating IEP present levels has been prioritized. Outstanding assessments, if any, will be completed as the situation resolves and IEP teams will be reconvened at that time to discuss speech/language programming. Service minutes will remain unchanged in the interim.” This IEP continued to note █████'s significant needs in speech, and without her speech services, █████ did not receive any instruction or support that would have allowed her to begin to use her AAC device. Despite her legal right to receive █████ minutes of speech per month since August 2024 and the District's own acknowledgment of █████'s significant needs in the area of speech, the District did not provide █████ with any speech services for the duration of the 2024-2025 school year.

As a result of this deprivation, █████ consistently demonstrated behavioral and academic regressions and was deprived of a FAPE. █████ did not make meaningful progress in speech or in any other area during the entire 2024-25 school year. School personnel have confirmed that speech services have not been delivered since the start of the 2024-2025 school year. █████'s parent was never formally notified of the District's failure to provide these services, but independently noticed █████'s regressions and raised her concern to the school, at which point she was informally made aware that the District was not providing █████ with services. The family was never offered compensatory education, and District staff informed █████'s parent that compensatory services would not be available unless services had been denied for an entire year.

In addition to deprivations of FAPE related to speech, █████ was also deprived of a FAPE based on the District's failure to provide OT services. █████ requires OT to receive a FAPE. As a young child with autism and significant sensory processing and motor planning challenges, █████ relies on OT to regulate her body, manage transitions, and develop the foundational motor and sensory skills that allow her to participate in classroom instruction, peer interactions, and daily routines. In particular, █████ requires OT to support her sensory needs and fine motor and self-help skills. Fine motor skills include the ability to make movements using muscles in the hands, wrists, and fingers, all of which are necessary for █████ to utilize her AAC device and therefore are necessary for █████ to make progress in speech. █████ experiences challenging behaviors due to her autism, and without her required OT services, █████ can become easily dysregulated and overwhelmed, and cannot access her education. █████'s most recent District IEP explicitly states that she requires █████ minutes per month of OT services in the regular education classroom to benefit from and access her special education program.

In December, the OT assigned to ██████ began maternity leave. It is unclear how much OT ██████ received prior to December or whether ██████ received any OT prior to December at all. The District did not arrange for coverage or substitute services, and it did not notify ██████'s parent that ██████ would no longer be receiving OT services. As a result, for at least three months, ██████ was deprived of a service that is fundamental to her ability to attend and engage in school and that is necessary for her to receive a FAPE. OT services did not resume until March ██████, 2025, when the original provider returned. During this time, ██████'s parent observed increased dysregulation and a decline in classroom functioning, including through meltdowns and self-injurious behaviors. The failure to provide OT services deprived ██████ of a FAPE, as well as led to regressions and impeded ██████'s progress in other areas. She did not make meaningful progress in the 2024-2025 school year.

Additionally, ██████'s parent was informed by District staff that ██████'s 1:1 service was not consistently provided. In an IEP meeting in April, the District confirmed that ██████'s 1:1 services were staffed and taking place, but no service logs or progress reports have been provided that allow the parent to understand the duration that ██████ was deprived of 1:1 services.

In the absence of the related services that were necessary for ██████ to make meaningful progress or receive a FAPE, ██████ exhibited heightened behavioral challenges and regressions that can be attributed to these deprivations. As a result, ██████'s parent has enrolled her in her catchment school, ██████ School, for the 2025-2026 school year, which she hopes will adequately support ██████. ██████'s family has not been offered any compensatory education. As ██████ was deprived of a FAPE for the entire school year, we seek compensatory education services for the entire school year.

████████████████████

████████ is a ██████-year-old student eligible for special education under the disability categories of Autism and Speech or Language Impairment and who is also an English learner. He is diagnosed with autism spectrum disorder, global developmental delay, mixed receptive-expressive language disorder, and staring episodes. In August 2024, after transitioning from EI, ██████ began attending kindergarten at the ██████ School ██████ in the District. ██████'s most recent IEP from the District, dated February 19, 2025, entitles him to receive ██████ minutes/week of AS programming, transportation, ██████ minutes/week of individual speech/language therapy, ██████ minutes/month of OT, and ██████ minutes of 1:1 Adult Assistant services. While ██████ received some limited behavioral supports in school through an ABA company, the District denied ██████ a FAPE for the majority of his 2024-25 kindergarten school year by failing to provide the services in ██████'s IEP, including failing to provide sufficient speech therapy, OT, or 1:1 services for the majority of the school year. While no speech services occurred from August 2024 to the end of the school year, limited OT services began in April and were inconsistently provided for the duration of the school year. ██████'s family has not been provided with information that allows them to evaluate the extent of 1:1 service deprivations, and all documents — including IEPs, Evaluation Reports, Notices of Recommended Educational Placement (“NOREPs”) for services, and NOREPs for compensatory education —

were provided to ██████'s parents in English and not in their native language of Amharic.

██████ is non-verbal and uses an AAC device to communicate. ██████ requires direct speech language therapy support, as well as OT services, to access his education and to meaningfully utilize his device. Prior to beginning school-age programming at ██████, ██████ received EI services through ██████ including speech therapy, OT, behavior support, and specialized instruction. He attended ██████, an early childhood special education center for children with significant disabilities.

The District did not provide ██████ with his required services upon beginning kindergarten at ██████ or upon his continued attendance, and as a result, deprived him of a FAPE. Despite the scope and intensity of services ██████ received in EI, the District did not conduct a timely school-age evaluation or ensure provision of comparable services when transitioning ██████ into kindergarten at ██████ in August 2024. Because the District did not develop a school-age IEP for ██████ prior to the start of the school year, ██████ was obligated to implement ██████'s EI IEP dated April 17, 2024. This IEP placed ██████ in a specialized environment and provided ██████ minutes of speech therapy per week (█████/month); ██████ minutes of specialized instruction; behavior support; and ██████ minutes per week of OT (█████/month). The District did not initiate a re-evaluation until October 2024.

On August ██████, 2024, the District issued a NOREP stating that it would adopt ██████'s EI IEP and entitled ██████ to ██████ minutes of OT/week, 90 minutes of speech/week, and transportation, as well as ██████ minutes of 1:1 support. These services, which the District was required to provide and which would have supported a smooth transition and continuity of services without gaps and delays as is required under law, were not provided. Instead of beginning kindergarten with his legally-required services in place and ready to make progress, without his required services and without an appropriate transition, ██████ regressed and continued to regress for the duration of the school year.

The District's documents reflect its own assessments of ██████'s significant needs and failure to make progress, as well as its awareness that it was not providing services. On February ██████, 2025, months after the date on which the District was required to provide its Evaluation Report pursuant to a Permission to Re-evaluate form signed in October 2024, the District provided the parents with a Re-evaluation Report. The Report notes the family's concern that "██████ has not been receiving occupational therapy and speech language therapy due to staffing issues" and that the family would like for him to receive his services so he could make progress. The Report states that ██████ has no interest in writing tools; attempts to eat objects like crayons or sand; elopes; does not engage with staff or students; he requires constant redirection; needs to be supported by a 1:1 to access his education; and uses his AAC device "inappropriately" – when in fact he received no training or support through speech services as his IEP required without any explanation. The Report concludes that ██████ does not have an intellectual disability based on ██████'s "limited English proficiency and the fact the evaluator was unable to determine present levels of intellectual functioning." A progress report dated February 21, 2025, found that ██████ had made minimal, if any, progress on all but one of his goals and notes that multiple goals were "not introduced" due to staffing shortages in both speech and OT.

On February [REDACTED], 2025, the District issued an IEP entitling [REDACTED] to [REDACTED] minutes per week of 1:1 support and [REDACTED] minutes/week of speech/language therapy while significantly reducing his OT from [REDACTED] minutes each week to just [REDACTED] minutes in a month despite continued acknowledgement of his significant disability-related needs and no discussion or indication of any progress that could serve as the basis for this reduction. [REDACTED]'s parents do not believe this level of OT is appropriate but did not know they had a right to disagree. This IEP notes that [REDACTED]'s parents attended the meeting and “are both very concerned about the lack of related services being provided to [REDACTED] since the beginning of the school year. They reported that [REDACTED] has regressed in many areas due to the lack of related services. They would like information on when related service providers will start servicing him again.”

As a nonverbal student with autism and speech and language impairment who uses an AAC device, [REDACTED] requires speech therapy to receive a FAPE or make progress. The IEP issued on February 24 entitled [REDACTED] to [REDACTED] minutes of speech per week “until a speech evaluation can be completed.” The Re-evaluation Report notes that “[d]ue to staffing shortages, the speech and language portion of the re-evaluation report has not been completed.” The District’s Re-evaluation Report scored [REDACTED] lower than 1% in the communication domain and noted that [REDACTED] does not effectively use his communication device and seems to press buttons for “attention.” A progress report dated March [REDACTED], 2025, indicated that [REDACTED] continued to fail to make meaningful progress on many goals; that multiple goals remained unintroduced; and that speech and language goals could not be updated due to staffing shortages, and a progress report from June [REDACTED] indicated that no speech/language goals were introduced during the entire school year due to staffing shortages. By failing to provide any speech services during the 2024-2025 school year to a child who desperately requires speech therapy in order to access his education, the District deprived [REDACTED] of a FAPE.

The District also deprived [REDACTED] of a FAPE by failing to provide OT services. From August 2024 to February 2025, [REDACTED]'s IEP entitled him to [REDACTED] minutes of OT per week. In February 2025, the District reduced [REDACTED]'s OT to [REDACTED] minutes per month despite the fact that no services had been provided and that he had not made any progress. He remained entitled to [REDACTED] minutes per month for the duration of the school year. The District’s Re-evaluation Report scored [REDACTED] lower than 1% in motor skills, including fine motor skills, which are directly related to [REDACTED]'s ability to manipulate and use his AAC device appropriately – and thus, are necessary for him to make progress in speech. The Re-evaluation Report recommended OT services to develop fine motor and sensory processing skills and to implement strategies so that [REDACTED] can access his curriculum, and noted that he demonstrates poor visual attention and handwriting grasp; requires hand-over-hand assistance; seeks movement; and has a difficult time attending to his educational tasks. The Re-evaluation Report also scored [REDACTED] lower than 1% in the daily living skills domain and socialization domains. A service log dated March [REDACTED], 2025, indicated a single instance on March 3, 2025, in which [REDACTED] was provided 30 minutes of OT. A service log dated April 28 indicated that [REDACTED] received [REDACTED] minutes of OT in April. A progress monitoring report dated June [REDACTED] indicated that no OT goals were introduced until Reporting Period 3, and that by the end of the school year, [REDACTED] had not achieved the target percent in a single one of his IEP goals. [REDACTED] was deprived of OT services entirely until March 2025, and when services did start, [REDACTED] was only provided a portion of the services to which he was entitled. [REDACTED]'s parent reports that he made no meaningful educational progress in the area of OT, among others, during the 2024-25 school

year.

█████'s parents report that District staff verbally made them aware that the District did not consistently staff █████'s 1:1 service, though the District did not provide the family with any documents that allow them to assess the extent of the deprivation. The Re-evaluation Report noted one instance in which █████ swallowed an inedible object while not supervised by a 1:1. █████'s parents are aware of at least one other situation in which █████ engaged in unsafe behaviors in the absence of 1:1 supervision, where █████ chewed on and ingested ink and had to be taken to the hospital as a result. █████'s parent believes that this incident and the broader behavioral dysregulation observed throughout the year could have been prevented had the District provided the mandated 1:1 support.

While the District has offered extremely limited compensatory education, its offer of 50 hours for significant year-long educational deprivations is woefully insufficient to remedy violations of this extent and severity. On April █, 2025, the District issued a NOREP entitling █████ to 30 hours of compensatory education for occupational therapy deprivations and noting that █████ "did not receive occupational therapy from August 2024 to December 2024 of the 2024-2025 SY due to a staffing shortage of OTs." █████ was entitled to 90 minutes of OT per week from August to February and 120 minutes per month from February to June, and he was deprived of many more hours than the District has provided for. Further, this NOREP does not address the continued violation past December 2024. Similarly, on April █, 2025, the District issued a NOREP offering 20 hours of compensatory education for deprivation of speech services and noting that █████ "did not receive speech/language therapy from August 2024 to December 2024 of the 2024-2025 SY due to a staffing shortage of SLPs." █████ is entitled to █ minutes of speech per week and has been deprived of far more than 20 hours of speech, and this compensatory education offer does not address continuing violations past December 2024 or deprivations of 1:1 assistant services.

Similarly Situated Students

The deprivations experienced by these students were not isolated incidents limited to █████ and █████. Rather, upon information and belief, no other children in the AS classrooms at █████ or █████ received all required related services, including speech and OT, as outlined in their IEPs during the 2024-2025 school year. At █████ specifically, at least seven other children in the AS classroom were likely deprived of services, as well as AS students at █████.

Further, these deprivations are not limited to the schools attended by the Named Complainants, and many students with disabilities at other schools in the District were also deprived of services in the 2024-2025 school year due to District-wide staffing shortages. As one example, ELC is aware of at least one kindergarten student in the AS program at █████ School who was deprived of related services during the 2024-2025 school year. The District's failure to staff the positions necessary to provide related services as required by students' IEPs is systemic, and, upon information and belief, more than 100 related service provider positions remain unstaffed across more than 100 schools in the District. Many of these schools have multiple vacancies. Additionally, upon information and belief, PDE is aware of the District's

failure to staff the positions necessary to provide related services as required by students' IEPs in at least one school but has failed to address the ongoing systemic issue.

Many District students with disabilities, including those in AS classrooms, have IEPs that include speech-language or OT goals and direct services that are not being implemented, resulting in regressions, challenging behaviors, and a failure to make progress. The District has acknowledged that it has not staffed the positions necessary for the District to implement IEPs and comply with federal and state law, despite its awareness of an urgent need. These systemic deprivations have very likely impacted AS students in all grades as well as students in general education classrooms who are eligible for and entitled to special education services and students in other special education programs. As a result, many students who require speech therapy, including non-verbal students who rely on AAC devices, as well as students who require OT and 1:1 services, were likely deprived of special education services to which they are legally entitled and an opportunity to make meaningful progress through implementation of their IEPs, depriving them of a FAPE for the entire 2024-2025 school year.

In addition to depriving children of a FAPE, the District has failed to remedy these ongoing violations. In some cases, the District has not formally notified families that their children's required services are not being provided. Instead, parents, like ██████'s parent, may only become aware of deprivations after observing signs of regression or requesting service logs. Upon information and belief, the District has not offered compensatory education or issued any written documentation explaining how or when the missed services will be made up, and in cases where compensatory education has been offered, the amount offered is drastically less than the amount to which children are entitled as occurred with regard to ██████. In the case of ██████, ██████'s parent was informed that her child would only be eligible for compensatory education if services were not provided for an entire year — an assertion that is both legally inaccurate and alarming. When asked to provide proof that families had been notified of these ongoing violations or been informed that the students would be eligible for compensatory education, the District declined to do so.

Many children in the District, including ██████ and ██████, have been and may continue to be deprived of a FAPE due to the District's failures to provide related services based on known ongoing staffing shortages, failure to appropriately remedy violations, failure to conduct timely evaluations, and failure to communicate with families or maintain service logs and progress monitoring.

III. 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 discriminated against qualified students on the basis of their disabilities and denied them a FAPE² in violation of Part

² The Third Circuit has held that the "[f]ailure to provide a FAPE violates Part B of the IDEA and generally violates the ADA and Rehabilitation Act because it deprives disabled students of a benefit that nondisabled students receive simply by attending school in the normal course—a free, appropriate public education." *CG v. Pennsylvania Dep't*

B of the IDEA, Section 504, Chapter 14, and Chapter 15, all of which BSE enforces.³

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 [REDACTED] and similarly situated students with disabilities in District schools with the related services necessary to receive a FAPE and failing to remedy violations of FAPE, among others. These failures include the District's ongoing inability to deliver required related services due to staffing shortages, particularly in speech-language therapy and occupational therapy, despite those services being necessary for students to access their special education programs. As reflected in the narratives of [REDACTED], the District has failed to ensure timely evaluations and implement IEPs as written, among other violations, all of which have resulted in the continued 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 free appropriate public education ("FAPE") must be available to all children with disabilities residing in the State between the ages of 3 and 21.⁴ Section 504 of the Rehabilitation Act prohibits discrimination against persons on the basis of their disabilities. 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 a local education agency ("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.⁶ 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 eligible for IEPs with related services who attend programs in the District, including [REDACTED], 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 repeatedly excluded from participation in, denied the benefits of, and subject to

of Educ., 734 F.3d 229, 235 (3d Cir. 2013). As such, courts have found allegations that a student has been denied a FAPE sufficient to allege a claim under the Rehabilitation Act. *See, e.g., Centennial Sch. Dist. v. Phil L. ex rel. Matthew L.*, 799 F. Supp. 2d 473, 489 (E.D. Pa. 2011).

³ *See* 22 Pa. Code § 14.107; 22 Pa. Code § 15.8(a) and 22 Pa. Code § 15.10.

⁴ 34 CFR § 300.101.

⁵ *CG*, 734 F.3d at 235.

⁶ 34 CFR § 300.101.

discrimination at school, when the services required by their IEPs were not implemented, and further because many of their IEPs were not adequate and sufficient to meet their needs, and the deprivation of those services was not remedied by the District.

C. The District Failed and Continues to Fail to Provide Educational Access to Eligible Students in Violation of their Right to a FAPE.

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 must provide “significant learning . . . and confer meaningful benefit,” beyond a “trivial educational benefit.” *Ridgewood*, 172 F.3d 238, 239 (3d Cir. 1999) (citing *Polk*, 853 F.2d at 182-84). Additionally, the District must have an IEP in place for each child at the beginning of the school year. 34 C.F.R. § 300.323(a) (“At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in § 300.320”). Once a student is found eligible under Part B of the IDEA, including by a Preschool Early Intervention agency, the student is entitled to have an IEP developed within 30 days and remains eligible until a reevaluation is conducted to determine that “the child is no longer a child with a disability.” C.F.R. § 300.305(e)(1).

██████████ and similarly situated students in District programs have been denied a FAPE based on their IEPs alone. These students, many of whom, like the Named Complainants, have multiple disabilities, were not provided with the related services required by their IEPs during the 2024-2025 school year. Further, many of these IEPs are not reasonably calculated to enable children to make progress, and because services have not taken place appropriately, if at all, neither progress monitoring nor goal implementation has occurred, and many evaluations are delayed.

These IEP failures are compounded by a lack of transparency and communication to parents by the District. Parents report not being informed of missed services, not being offered compensatory education, and being excluded from the decision-making process. These systemic issues not only deprive students of educational benefits they are owed but also strip families of the ability to advocate effectively. The District’s ongoing failure to address these concerns has resulted in serious educational harm and violates its obligations under both the IDEA and Section 504. These students deserve and are legally entitled to a FAPE. The District must immediately rectify these issues and provide these students with the education to which they are entitled.

D. PDE Failed to Ensure that Eligible Students in the District Received Required Education Services, Resulting in a Denial of FAPE.

PDE, as the State Education Agency (“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 a state’s department of education 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 the rights protecting students with disabilities are ensured, 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) (viable claims may exist against PDE under Section 504).

Here, the SEA has not met its obligation under the IDEA to ensure that eligible students in District programs received a FAPE, including ensuring the provision of appropriate IEPs and ensuring students received related services, among others. Upon information and belief PDE was aware or should have been aware of the District’s staffing shortages and the fact that the District was not providing related services to many children in these programs as required by their IEPs; that the District failed to ensure that children’s IEPs were reasonably calculated for them to make progress; and that the District failed to ensure that progress monitoring and timely appropriate evaluations occurred. Students, including [REDACTED] 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 corrected, whether by the District or through its own intervention.

Conclusion

As a result of these failures on the part of the District and PDE, eligible students in District schools like [REDACTED] and similarly situated students across the District including at [REDACTED] have failed to receive related services such as speech or OT due to staffing shortages and other circumstances despite those services being necessary for students to access their special education programs. In addition, as reflected in the narratives of [REDACTED] and [REDACTED], the District has failed to ensure timely evaluations, implement IEPs as written, and

remediate known deprivations of a FAPE, all of which have resulted in the continued denial of meaningful education. These students have been denied their right to a FAPE in violation of Part B of the IDEA, Section 504, and the ADA, and are entitled to relief to remedy these violations.

IV. SUMMARY OF ISSUES

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

1. The District denied Named Complainants and similarly situated students in the District their right to a FAPE in the least restrictive environment in violation of the IDEA and Chapter 14 by failing to provide related services necessary to receive a FAPE;
2. The District denied Named Complainants and similarly situated students in the District their right to a FAPE by failing to implement their IEPs as written and ensuring that their IEPs enabled them to make progress and to access the general education curriculum consistent with the IDEA and Chapter 14;
3. The District denied Named Complainants and similarly situated students a FAPE by not timely completing reevaluations;
4. The District denied Named Complainants and similarly situated students a FAPE by failing to conduct appropriate progress monitoring within the required timelines under the IDEA and Chapter 14;
5. The District discriminated against Named Complainants and similarly situated students on the basis of their disabilities in violation of Section 504 and Chapter 15 by denying them equal access to education;
6. PDE failed to ensure that the District provided Named Complainants and similarly situated students a FAPE, in violation of its duties to ensure a FAPE under the IDEA; and
7. PDE failed to ensure that the District ensured equal access to education for Named Complainants and similarly situated students, in violation of Section 504.

V. REQUESTED RELIEF

To remedy these violations of the IDEA, Section 504, Chapter 14, and Chapter 15 as set forth above, we respectfully request that PDE issue the following relief:

We ask that PDE conduct an investigation of the allegations contained herein and issue findings that the District has deprived students of a FAPE and engaged in discrimination in violation of students' rights under the IDEA, Section 504, and corresponding state regulations.

We further request that PDE order the District to cease continuous and ongoing violations of the IDEA and Section 504 that have the effect of discriminating against students with disabilities and depriving them of their right to a FAPE and identify a plan to address this issue in the upcoming school year. Specifically, we request the following:

1. Investigate the allegations contained herein pertaining to the Named Complainants, [REDACTED] and [REDACTED], and similarly situated students in the District.
2. Direct the District to identify similarly situated students in the District who have been

deprived of a FAPE.

3. Direct the District to immediately provide [REDACTED] and similarly situated students in the District with their related services, as required by their IEPs.
 - a. We ask that PDE direct the District to develop a plan to provide meaningful instruction with related services in accordance with the individual educational needs of students, including a plan to provide service providers as needed to students.
 - b. In the event that the District cannot staff needed service provider positions, including speech language pathologists, occupational therapists, and 1:1 aides, we ask that the Pennsylvania Department of Education be directed to provide Named Complainants and similar situated students' related services.
4. Direct the District to review and revise [REDACTED]'s IEP and the IEPs of similarly situated students to ensure they appropriately offer sufficient related services to meet their individual needs.
5. Direct the District to provide appropriate compensatory education services or funds to [REDACTED] and other similarly situated students for each hour of each day that they were denied a FAPE including:
 - a. For students who were deprived of 1:1 services, direct the District to provide 5 hours per day of compensatory education for each day they were denied 1:1 services.
 - b. For students who were deprived of speech, OT, or other related services, direct the District to provide compensatory education for each service that was not provided in accordance with the frequency and duration to which each student was entitled.
6. Investigate and evaluate all of the District's practices and/or procedures, or lack thereof, for ensuring that all eligible students in the District are provided their required services and are provided with a FAPE.
7. Issue corrective action requiring the District to develop sufficient procedures and protocols to ensure they are providing eligible students (1) related services as required to confer a FAPE; (2) timely re-evaluations; (3) progress monitoring and (4) sufficient communication, including related service logs, to inform parents of any interruptions or deprivation of services.
 - a. We specifically request that the Department issue a letter to all IDEA Parents of eligible students in the District identified through this process apprising them in a language they understand of PDE's corrective action, as well as of the award of compensatory education or their child's potential eligibility for compensatory education services due to the District's failure to provide a FAPE.
8. We ask that PDE assist the District to develop a District Improvement Plan:
 - a. With input from the Complainants herein, appoint a "Special Master" independent of the District to create a District created and Department-approved improvement

plan within 90 days of the Bureau of Special Education's decision in this matter to rectify the District's systemic failure to promptly identify and provide a FAPE to eligible students in the District. This person shall have the expertise and state authority to act in this role and to order and compel any district or state official as needed to ensure rigorous present and future compliance in this matter.

- b. Designate a District administrative leader to oversee and implement this corrective action plan. This person shall have the authority to ensure compliance by District Principals and staff.
 - c. Together with the Special Master, the District, including the Office of Diverse Learners, classroom teachers, special education teachers, ESL teachers, and Complainants herein, develop and effectively implement an Improvement Plan which shall include, at a minimum:
 - i. Communication from PDE to all principals and teachers across the District apprising them of PDE's corrective action and the importance of ensuring that all eligible students, including students in AS classrooms and similar programs, are promptly identified and provided a FAPE in accordance with federal and state laws and new policies and procedures adopted by the District.
 - ii. A comprehensive monitoring and assessment system to ensure the timely identification and provision of a FAPE to eligible students in the District.
 - iii. Revised District policies to provide service logs to parents for all students eligible for related services.
 - d. Direct the District to provide a narrative description of its improvement plan to the State, the Special Master, and Complainants herein within 30 days of issuing corrective action
9. Three-Year Monitoring of the District by PDE
- a. Monitor the District on a quarterly basis in-person during the First Year of the Three-Year Plan to ensure the District is providing eligible students with a FAPE, including conducting timely evaluations and re-evaluations, engaging in progress monitoring, and providing required services, among others.
 - b. Direct the District to collect, record, and submit data elements to the State, the Special Master, and Complainants herein on a quarterly basis over a three-year period to ensure compliance with legal obligations and accurately assess the effectiveness of the Plan, including:
 - i. A list of eligible students in District schools;
 - ii. Documents issued to these students, including PTEs, PTREs, IEPs, NOREPs, service logs, and progress monitoring documents.
10. PDE shall issue Guidance to all local educational agencies regarding the importance of timely identifying and providing a FAPE to eligible students.
11. PDE shall provide resources and technical assistance to the District to ensure compliance with its obligations to promptly identify and provide a FAPE to eligible students in the District.

12. PDE shall revise its monitoring procedures to ensure that all eligible students in the District are promptly identified and provided a FAPE.
13. PDE shall assess and identify the District's need for additional state financial resources to enable the District to meet its obligations to students with disabilities. PDE, as the SEA, shall consider and if necessary expend state funds under Part B in accordance with 34 CFR § 300.162 (supplementation of State, local, and other Federal funds) to supplement not supplant the level of funding available to the District (including funds that are not under the direct control of the SEA or LEAs) to provide special education and related services to students with disabilities in the District.
14. Issue any other corrective action they believe is necessary to remedy these violations.

Thank you for your consideration of this complaint.

Respectfully submitted,



Rose Wehrman, Esq.
Legal Fellow
Rwehrman@elc-pa.org



Margaret Wakelin, Esq.
Senior Attorney
mwakelin@elc-pa.org