PENNSYLVANIA DEPARTMENT OF EDUCATION
BUREAU OF SPECIAL EDUCATION
COMPLAINT INVESTIGATION REPORT

LOCAL EDUCATIONAL AGENCY: School District of Philadelphia

DATE RECEIVED: January 6, 2026

DATE OF REPORT: ~~April 6, 2026~~
MAY 15, 2026

COMPLAINANT: Attorneys

NAME: Maura McInerney, Esquire
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Philadelphia, PA 19103

RE: [redacted]

NEW INFORMATION IS IN BOLD AND CAPITALIZATION AND DELETED INFORMATION IS INDICATED WITH ~~STRIKETHROUGH~~.

SPECIFIC COMPLAINT(S):

Alleged Issue (s):	**Timeframe:**	**Regulatory Authority:**
1. Upon their enrollment at the Philadelphia Juvenile Justice Services Center (PJJSC), the SDP failed to ensure parent participation in the IEP process for the Student and Similarly Situated Students.	January 2025 to present	34 CFR Individuals with Disabilities Education Act (IDEA) § 300.322 Parent participation. 34 CFR IDEA § 300.327 Educational placements. 34 CFR IDEA § 300.328 Alternative means of meeting participation. 34 CFR IDEA § 300.501 Opportunity to examine records; parent participation in meetings.
2. The SDP failed to provide a free, appropriate public education (FAPE) to the Student and Similarly Situated Students with existing IEPs upon admission to the Philadelphia Juvenile Justice Services Center (PJJSC).	January 2025 to present	34 CFR IDEA § 300.17 Free appropriate public education (FAPE) 34 CFR IDEA § 300.101 FAPE.

3. The SDP discriminated against the Student based on the Student's disability during the 2024-2025 school year by failing to provide a FAPE due to unilateral placement of the Student and deprivation of special education supports and services.	2024-2025 school year	22 Pa. Code § 15.10. Discrimination claims
4. The SDP failed to provide Progress Monitoring-Reports of Progress to the Parents/Guardians of The Student and 3 of the Similarly Situated Students. **During the course of the investigation, this additional issue was brought to the attention of this Advisor and has been added to this complaint.*	March 2025 for the Student January 2025 to present for the Similarly Situated Students	34 CFR IDEA § 300.320 Definition of individualized education program.
5. The SDP failed to develop a Positive Behavior Support Plan (PBSP) with the Individualized Education Plan (IEP) team when they determined the Student's behavior impeded his/her learning or that of others in the school setting. **During the course of the investigation, this additional issue was brought to the attention of this Advisor and has been added to this complaint*	May 14, 2025	34 CFR IDEA § 300.321 IEP Team. 34 CFR IDEA § 300.324 Development, review, and revision of IEP. 22 Pa. Code § 14.133 Positive Behavior Support

SOURCES OF INFORMATION:

This [redacted]

- Reviewed the complaint letter sent by the Complainants and received by the Bureau of Special Education (BSE) on January 6, 2026.
- Corresponded with the Complainants via email on January 12, 2026.
- Interviewed the Complainants on January 14, 2026 via Microsoft Teams with [redacted].
- Corresponded via email with the following individuals on January 12, 2026: [redacted]

[redacted]

- Corresponded via email with SDP staff on the following dates: January 30, 2026; February 2-6, 10, 20, 23, 26, 2026 and March 2,16, 17 and 18 2026.

- Interviewed the following SDP Staff during a Microsoft Teams Meeting on February 13, 2026 [redacted]

- Interviewed Educational Decision Maker (EDM), [redacted] on February 20, 2026 via telephone.

- Communicated with the EDM via email on February 10 and 18, 2026 and March 31, 2026.

- Interviewed the following SDP Staff during a Microsoft Teams Meeting on March 20, 2026 [redacted]

- Reviewed the following numbered documents:

Record	Title	Date	Source
1.	IEP	June 11, 2024	SDP
2.	Notice of Recommended Educational Placement (NOREP)/Prior Written Notice(PWN)	February 8, 2025	SDP
3.	Email Chain	March 4-8, 2025	SDP
4.	Permission to Reevaluate (PTRE)-Consent Form	March 18, 2025	SDP
5.	Parent/Guardian Input Form	March 18, 2025	SDP
6.	Email Chain	April 25, 2025	SDP
7.	Reevaluation Report (RR)	April 23, 2025	SDP
8.	IEP	May 14, 2025	SDP
9.	NOREP/PWN	May 15, 2025	SDP
10.	Progress Monitoring	June 13, 2025	SDP
11.	NOREP/PWN	September 24, 2025	EDM
12.	BSE Complaint	January 6, 2026	BSE
13.	Educational Records (Invitation to Participate in IEP Meeting or Other Team Meeting, IEPs, NOREP/PWN forms, Parent Contact Logs and enrollment records) for Similarly Situated Students #1 through #22	January 2025-January 2026	SDP
14.	Counseling Logs	January 12, 2025-June 13, 2025	SDP
15.	Parent Call Log	2024-2025 and 2025-2026 school years	SDP
16.	Student Enrollment History	2024-2025 and 2025-2026 school years	SDP

INTRODUCTION:

The Student is 18 years old and entered the PJJSC with an IEP from the SDP while the Student was attending an Approved Private School. At that time, the Student received Full-Time Emotional Support with mental health counseling 2 times per week for 30 minutes from January 13, 2025 through June 24, 2025 and August 25, 2025 through September 15, 2025.

FINDINGS:

Allegations 1, 2, 3, 4, and 5:

1. The Student was court ordered to be placed at PJJSC and was enrolled on January 13, 2025 with an IEP dated June 11, 2024 from an Approved Private School. The IEP notes that the APS is a "100% Specialized Environment" and that "Too little structure in the hallways/class transitions, too large of student to teach (sic) ratio" are potentially beneficial and/or harmful effects on the Student. The IEP also states that the Student's major and minor behaviors experienced in this setting were to escape tasks or to obtain peer attention. The Student was eligible to receive Extended School Year (ESY) services.

2. A NOREP/PWN is dated February 8, 2025 and proposed that the Student was to receive Full-Time Emotional Support with Mental Health Services 2 times per week for 30 minutes per session. The Student was eligible to receive ESY Services. SDP Staff reported this document was created in anticipation of a discussion with the Student's EDM and was not issued.

3. An email chain dated March 4-18, 2025 between SDP Staff and the Student's EDM discussed the need for the Reevaluation of the Student. SDP Staff emailed a copy of the PWN "so we can begin the evaluation process." A Permission to Reevaluate (PTRE) - Consent Form and Parent/Guardian Input Form were issued. The EDM signed providing permission for the testing and completed the Input form on March 18, 2025.

4. The PTRE - Consent Form proposed evaluating the Student in the following areas: Measures of psychological functioning, academic achievement in math and literacy, behavioral performance/social emotional functioning and adaptive behavior.

5. An RR is dated April 23, 2025 and contains all regulatory requirements and areas of evaluation as listed on the PTRE - Consent Form, including an assessment of behavior.

6. An email chain dated April 25, 2025 between PJJSC Staff and the Student's EDMs and contains the following:
    - An invitation to a Zoom meeting to discuss the Student's RR and develop and IEP with PJJSC Staff on May 2, 2025. The email requested the EDMs to bring relevant information or materials to the meeting for the team to consider as their "input is a vital part of this process and we look forward to collaborating with you to ensure [Student's] needs are met."
    - The EDMs requested additional outside supports for the Student to attend the meeting, which occurred.
    - The Student's Report Card and RR were sent to the EDMs.

7. Due to Staff illness, the May 2, 2025 IEP meeting was held on May 14, 2025. The IEP and NOREP/PWN proposed Supplemental Emotional Support, stating this was the least restrictive environment for the Student. Additionally, the Student qualified for ESY.

Additionally, the IEP indicated that the Student's behavior impeded his learning or that of others in the school setting and that the IEP team must complete a PBSP that is based on a functional assessment of behavior. A PBSP was not provided to this Advisor.

8. PJJSC Staff emailed copies of the finalized IEP and NOREP/PWN to the EDMs on June 4 and 6, 2025 requesting signatures. The EDM signed attendance at the IEP and not the NOREP/PWN.

9. A Progress Monitoring - Report of Progress was not provided to this Advisor for the third quarter of the school year, as per the Student's IEP. A Progress Monitoring - Report of Progress is dated June 13, 2025 and indicates that the IEP was recently revised and there was not enough time to monitor the skills outlined in the goals.

10. The Student was discharged on June 24, 2025.

11. Parent Contact Logs indicated that SDP Staff reached out to an EDM on June 24, 25, and 26, 2025 to inquire whether the Student would be attending ESY. The EDM did not respond.

12. The Student was court ordered to be placed at PJJSC and was enrolled on August 25, 2025 with an IEP dated May 14, 2025 from SDP. The Student was receiving Supplemental Emotional Support.

13. The Student was discharged on September 15, 2025. No changes were made to the Student's special education paperwork during their time at PJJSC.

14. A NOREP/PWN is dated September 24, 2025 and recommended Full-Time Emotional Support. The EDM approved the recommendations the day it was issued.

15. School-based counseling logs were provided to this Advisor; however, they only included dates, not minutes of services provided.

16. During an interviews on February 13 and 20, 2026 and via email, SDP and PJJSC Staff stated that the Student's IEP was implemented on the first day of admission. Additionally, they reported that the Student did not experience behavioral challenges during the Student's first or second placement at PJJSC.

17. SDP Staff reported that the Student did not display the major behaviors exhibited at the APS during either of his placements at PJJSC. The May 14, 2025 IEP indicated that the Student withdrew, avoided participation, and completion of tasks. In response to this, the SDP Staff adapted the reading materials and questions and provided instruction in small, teacher-led groups.

18. PJJSC Staff reported the following to this Advisor regarding special education programming at PJJSC:
    - A certified special education teacher is present in every core academic class (English, Math, Science, and Social Studies) to provide services and support as outlined in student's IEPs.
    - A credentialed special education aide is present to support to students as outlined in their IEPs in all other classroom settings.
    - Two residential counselors from the Department of Human Services (DHS) are in every classroom with the students and assist with hallway transitions.
    - Transition services are embedded throughout instruction and programming.
    - Special education teachers provide direct instruction and collaborate with PJJSC staff to integrate transition skills into lessons where appropriate.

- The school counselor provides classroom lessons regarding social emotional learning and transition and meets with students individually and/or group settings.
- The College and Career Coach meets with students individually, in small groups, and in classroom settings to support career exploration and postsecondary planning.
- The school counselor meets with students individually, in small groups, and in classroom settings to support the student's needs.
- Courses are added based on student needs, including classes such as personal finance.
- All services are delivered in the least restrictive environment based on each student's IEP.
- ESY is aligned with the hours and services provided to all students attending SDP schools.

19. This Advisor Reviewed the special education files of 22 Similarly Situated Students, including Invitation to Participate in IEP Meeting or Other Team Meeting, IEPs, NOREP/PWN forms, Parent Contact Logs, Student and Staff Schedules, Progress Monitoring- Reports of Progress, Related Service logs and enrollment records. Additionally, this Advisor interviewed SDP and PJJSC Staff regarding the provision of FAPE to the Similarly Situated Students. This review was conducted as part of the investigation for compliance with the regulations cited in Allegation 3. The findings are as follows:
    - For the 5 Students who attended PJJSC for 9 weeks or longer, 2 had Progress Monitoring-Reports of Progress in their files, 2 had partial Progress Monitoring-Reports of Progress in their files and 1 Student did not have Progress Monitoring-Reports of Progress in their file.
    - For the 17 Students who attended PJJSC, Progress Monitoring-Reports of Progress was not a requirement per their IEP and this Advisor utilized the provided via Staff interviews, Student schedules to review IEP implementation.
    - 6 of the 22 Students did not have school-based counseling in their IEPs. 4 of the 16 Students were provided with school-based counseling as outlined in their IEPs. 12 of the 16 Students were not provided with school-based counseling as outlined in their IEPs. SDP stated they had more information to provide regarding the provision of these services, as of today, it was not provided to this Advisor.

Conclusions:

Allegation 1:

The SDP is in compliance with 34 CFR IDEA § 300.322, 34 CFR IDEA § 300.327, 34 CFR IDEA § 300.328 and 34 CFR IDEA § 300.501.

Parents and Guardians of the Student and Similarly Situated Students were contacted to participate in the IEP process when changes were to be made, and meetings were held as evidenced in the Invitations to Participate in an IEP Team or Other Meeting/IEP paperwork and Parent Contact Logs upon enrollment at PJJSC.

Allegation 2:

The SDP is not in compliance with 34 CFR IDEA § 300.101.

The SDP did not provide a FAPE to the Student as the PJJSC upon admission by not implementing the June 11, 2024 IEP. The SDP did not provide the Student with school based counseling from January 24, 2025 through June 13, 2025 and August 25, 2026 through September 15, 2025, as the logs provided to this Advisor did not demonstrate the Student received the service as written in the Student's IEP.

Upon review of the May 14, 2025 IEP Present Levels of Academic Achievement and Functional Performance, SDP and PJJSC Staff interviews, emails from SDP, the Student's schedule, and the

Student's grades, it is evident SDP implemented the rest of the Student's IEP from the Student's previous placement at the Supplemental Level until a new IEP was developed on June 4, 2025 which continued to recommend a Supplemental Level of Support. The Student made progress and did not experience behavioral challenges during the April 25, 2025 to August 20, 2025 placements at PJJSC.

The SDP did not provide a FAPE to 12 of the Similarly Situated Students upon their admission as they were not provided with school-based counseling. The logs provided to this Advisor did not demonstrate the Students received the service as written in their IEPs. All other related services were provided to the Students as written in their IEPs.

The Student and the Similarly Situated Students who entered PJJSC were educated in a setting which included a small group of 12 students with core instruction delivered by both a regular and special education teacher, along with additional support from two residential counselors. All other settings were staffed with a regular education teacher, two residential counselors and a special education aide. Behavioral supports were implemented inside the classroom based on individual student needs and the staff that support them.

Allegation 3:

The SDP is in compliance with 34 CFR IDEA § 104.4.

The SDP provided a FAPE to the Student as the PJJSC implemented the Student's IEP from the Student's previous placement until a new IEP was developed on May 14, 2025 and finalized on June 4, 2025. The Student was discharged on June 24, 2025 and reentered the facility on August 25, 2025 through September 15, 2025. The Student received comparable services upon admittance to PJJSC during each placement.

Allegation 4:

The SDP is not in compliance with 34 CFR IDEA § 300.323.

The Student and 3 of the Similarly Situated Student's IEPs included descriptions of how the Student's progress toward meeting the annual goals will be measured; and when periodic reports on the progress the Student is making toward meeting the annual goals will be provided. However, the progress reports were not completed in their entirety during the Student's education at PJJSC.

Allegation 5:

The SDP is not in compliance with 34 CFR IDEA § 300.321, 34 CFR IDEA § 300.324 and 22 Pa. Code § 14.133.

When the IEP team met on May 14, 2025 and made the determination that the Student's behavior impacted their learning and/or that of others, a PBSP should have been developed by the IEP team utilizing the results of the RR dated April 23, 2025 and Functional Behavioral Assessment completed when the Student attended the APS.

Corrective Action:

Allegation 1: None Required

Allegation 2: Corrective Action is Required.

A. The Student is eligible for compensatory education services to remedy the educational loss resulting from the failure to provide ~~OT from April 25, 2025 through June 13, 2025 and~~ school-

based counseling from April 25, 2025 through July 24, 2025. The Superintendent or Designee shall convene an IEP meeting for the purpose of developing a plan for compensatory education as a remedy to the educational loss, and to issue a NOREP/PWN to the Parent/Guardian to approve or disapprove the compensatory education agreement.

The compensatory education shall be in addition to, and shall not supplant IEP supports and services, that should be appropriately provided by the SDP through the Student's IEP to assure a meaningful educational process. The exact nature, delivery schedule and logistics of the compensatory education are to be determined at the IEP meeting, based on the Student's needs. Verification of this corrective action is to be a copy of the plan for compensatory education attached to the student's IEP. The district must forward a copy of the compensatory education agreement to this Advisor by **June 1, 2026.** The school district may use the attached compensatory education plan agreement format for the corrective action. If the parties cannot agree on the schedule for the completion of the compensatory education, they shall contact [redacted] who shall determine the process for the completion of this compensatory education award.

~~B. The identified Similarly Situated Students may be eligible for compensatory education services to remedy the educational loss resulting from the failure to provide school-based counseling during their educational programming at PJJSC. The Superintendent or Designee shall convene an IEP meeting for the purpose of determining if compensatory services are required and developing a plan for compensatory education as a remedy to the educational loss. A NOREP/PWN will be issued to the Parents/Guardians to approve or disapprove the compensatory education agreement.~~

~~The compensatory education shall be in addition to, and shall not supplant IEP supports and services, that should be appropriately provided by the SDP through the Student's IEP to assure a meaningful educational process. The exact nature, delivery schedule and logistics of the compensatory education are to be determined at the IEP meeting, based on the Student's needs. Verification of this corrective action is to be a copy of the plan for compensatory education attached to the student's IEP. The district must forward a copy of the compensatory education agreement to this Advisor by **June 1, 2026.** The school district may use the attached compensatory education plan agreement format for the corrective action. If the parties cannot agree on the schedule for the completion of the compensatory education, they shall contact [redacted] who shall determine the process for the completion of this compensatory education award.~~

C. ALL STUDENTS ELIGIBLE UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT MAY BE ELIGIBLE FOR COMPENSATORY EDUCATION SERVICES TO REMEDY THE EDUCATIONAL LOSS RESULTING FROM THE FAILURE TO PROVIDE SCHOOL-BASED COUNSELING DURING THEIR EDUCATIONAL PROGRAMMING AT PJJSC. THE SUPERINTENDENT OR DESIGNEE SHALL CONVENE AN IEP MEETING FOR THE PURPOSE OF DETERMINING IF COMPENSATORY SERVICES ARE REQUIRED AND DEVELOPING A PLAN FOR COMPENSATORY EDUCATION AS A REMEDY TO THE EDUCATIONAL LOSS. A NOREP/PWN WILL BE ISSUED TO THE PARENTS/GUARDIANS TO APPROVE OR DISAPPROVE THE COMPENSATORY EDUCATION AGREEMENT.

THE COMPENSATORY EDUCATION SHALL BE IN ADDITION TO, AND SHALL NOT SUPPLANT IEP SUPPORTS AND SERVICES, THAT SHOULD BE APPROPRIATELY PROVIDED BY THE SDP THROUGH THE STUDENT'S IEP TO ASSURE A MEANINGFUL EDUCATIONAL PROCESS. THE EXACT NATURE, DELIVERY SCHEDULE AND LOGISTICS OF THE COMPENSATORY EDUCATION ARE TO BE DETERMINED AT THE IEP MEETING, BASED ON THE STUDENT'S NEEDS. VERIFICATION OF THIS CORRECTIVE ACTION IS TO BE A COPY OF THE PLAN FOR COMPENSATORY

EDUCATION ATTACHED TO THE STUDENT'S IEP. THE DISTRICT MUST FORWARD A COPY OF THE COMPENSATORY EDUCATION AGREEMENT TO THIS ADVISOR BY SEPTEMBER 30, 2026. THE SCHOOL DISTRICT MAY USE THE ATTACHED COMPENSATORY EDUCATION PLAN AGREEMENT FORMAT FOR THE CORRECTIVE ACTION. IF THE PARTIES CANNOT AGREE ON THE SCHEDULE FOR THE COMPLETION OF THE COMPENSATORY EDUCATION, THEY SHALL CONTACT [redacted] WHO SHALL DETERMINE THE PROCESS FOR THE COMPLETION OF THIS COMPENSATORY EDUCATION AWARD.

D. The Superintendent or Designee shall develop written procedures and training to all relevant SDP Staff at PJJSC personnel on the requirements for when IEPs should be implemented as per 34 CFR § 300.323 and 34 CFR § 300.324, regarding the development, revision and implementation of IEPs. The Superintendent or Designee shall also issue a follow-up memorandum/email to all relevant staff to ensure compliance with the regulations.

   The written procedures shall be sent via memorandum to all appropriate SDP Staff at PJJSC professional school employees and administrators and training conducted by the Superintendent or Designee on or before **June 1, 2026.** A Copy of the procedure, memorandum, and confirmation of receipt of the memorandum and training of the SDP staff in these procedures shall be provided to this Advisor as verification of the corrective action.

E. To ensure that SDP is implementing the strategies learned in the required trainings and corrective action, the BSE will conduct a file review specifically regarding the provision of school-based counseling for each quarter of the 2026-2027 school year for PJJSC.

Allegation 3: None Required

Allegation 4: Corrective Action is Required.

A. The Superintendent or Designee shall develop written procedures and training to all relevant SDP Staff at PJJSC personnel on the requirements for progress reporting, as per 34 CFR § 300.320, regarding the collection of data, along with the development and issuance of progress reports. The Superintendent or Designee shall also issue a follow-up memorandum/email to all relevant staff to ensure compliance with the reporting of progress.

   The written procedures shall be sent via memorandum to all appropriate SDP Staff at PJJSC professional school employees and administrators and training conducted by the Superintendent or Designee on or before **June 1, 2026.** A Copy of the procedure, memorandum, and confirmation of receipt of the memorandum and training of the SDP staff in these procedures shall be provided to this Advisor as verification of the corrective action.

B. To ensure that SDP is implementing the strategies learned in the required trainings and corrective action, the BSE will conduct a file review specifically regarding Progress Monitoring-Reporting of Progress for each quarter of the 2026-2027 school year for PJJSC.

Allegation 5: Corrective Action is Required.

A. The Superintendent or Designee shall develop written procedures that reflect compliance with regulations: 34 CFR IDEA § 300.321, 34 CFR IDEA § 300.324 and 22 Pa. Code § 14.133 specifically addressing the development of a PBSP. All SDP school psychologists and administrators at PJJSC shall receive a copy of the written procedures, via a memorandum, and subsequent training. A copy of the procedure, memorandum, and confirmation of receipt of the memorandum and training of the SDP staff at PJJSC in these procedures shall be provided to this Advisor as verification of the corrective action on or before **June 1, 2026.**

B. The Student may be eligible for compensatory education services to remedy the educational loss resulting from the failure to develop and implement a PBSP during their educational programming at PJJSC from August 25, 2025 through September 15, 2025. The Superintendent or Designee shall convene an IEP meeting for the purpose of determining if compensatory services are required and developing a plan for compensatory education as a remedy to the educational loss. A NOREP/PWN will be issued to the Parents/Guardians to approve or disapprove the compensatory education agreement.

The compensatory education shall be in addition to, and shall not supplant IEP supports and services, that should be appropriately provided by the SDP through the Student's IEP to assure a meaningful educational process. The exact nature, delivery schedule and logistics of the compensatory education are to be determined at the IEP meeting, based on the Student's needs. Verification of this corrective action is to be a copy of the plan for compensatory education attached to the student's IEP. The district must forward a copy of the compensatory education agreement to this Advisor by **June 1, 2026.** The school district may use the attached compensatory education plan agreement format for the corrective action. If the parties cannot agree on the schedule for the completion of the compensatory education, they shall contact [redacted] who shall determine the process for the completion of this compensatory education award.

[redacted]

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

If either party disagrees with the conclusions in the Complaint Investigation Report (CIR), the party has the right to submit a written request for reconsideration with additional information either not considered or not available at the time of the investigation. The written request for reconsideration must be submitted within 10-calendar days of the date of the CIR.

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

ENCLOSURES:

Basic Education Circular – Special Education Compliance
Form – Completion of Corrective Action
Form – Compensatory Education Plan
Confidential Student List (provided to LEA in a separate email)

cc: [redacted]