

**NEW JERSEY DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION PROGRAMS  
COMPLAINT FORM**

\*Date: 4/19/2017

To: **Director  
Office of Special Education Programs  
NJ Department of Education  
P.O. Box 500  
Trenton, NJ 08625-0500**

**The Office of Special Education Programs will NOT accept a request for mediation, a due process hearing, emergent relief, a complaint investigation, or enforcement of a mediation agreement or due process hearing decision through electronic mail or other electronic submission. All requests must be mailed or faxed to the OSEP to be accepted and processed.**

\*Relationship to Student(s): (Check One)

Parent/Guardian    Attorney    Advocate    Other: \_\_\_\_\_

Name: Education Law Center

Address: 60 Park Place, Suite 300, Newark, NJ 07102

(In the case of a homeless child please provide available contact information)

Phone: (973) 624 -1815, ext. 15      Fax: (973) 624-7339

Email address: jlevin@edlawcenter.org

Provide the name of the student or specify the group of students affected by the alleged violation(s):

Preschool students, and students transitioning from early intervention to preschool, in the Paterson public school district who are not provided with timely and appropriate special education evaluations and/or not provided with the special education and related services specified in their IEPs.

School where the alleged violation(s) occurred: District-wide

\*District: Paterson      \*County: Passaic

\_\_\_\_\_  
\* Items marked with an asterisk are not required; however, providing the requested information will assist in expediting your request.

\*1. Please check which statement applies:

I am currently involved in, or have recently requested, a due process hearing. I have enclosed a copy of the request.

I am considering filing for a due process hearing. I will send a copy of the request.

I am not planning on filing for a due process hearing.

**Note: Any issues contained in a request for a complaint investigation that are also the subject of a due process hearing will be set aside until the conclusion of the hearing. If the Administrative Law Judge makes a ruling on the issue(s), that ruling is binding.**

\*2. Briefly state the specific violation(s) of **special education law or regulation** that you believe occurred. If you choose to attach additional information or documentation, **you must nevertheless summarize the alleged violations**, as you see them.

Failure to ensure that children with disabilities in early intervention programs are appropriately transitioned to preschool programs with timely CST evaluations and IEPs developed and implemented by their third birthdays. 20 U.S.C. § 1412(a)(9); 34 C.F.R. § 300.124; N.J.A.C. 6A:14-1.2(b)(10), -3.3(e)(2). With respect to preschool students, failure to timely comply with "child find" obligations, 20 U.S.C. § 1412(a)(3); 34 C.F.R. § 300.111; N.J.A.C. 6A:14-3.3; to conduct timely evaluations, 20 U.S.C. § 1414(a)(1)(C)(i)(I); 34 C.F.R. § 300.301; N.J.A.C. 6A:14-3.3(e), -3.4(e); and to implement timely and appropriate IEPs, 34 C.F.R. § 300.323(c); N.J.A.C. 6A:14-3.7(a).

Failure to provide preschool students a free appropriate public education due to failure to provide special education and related services specified in their IEPs. 20 U.S.C. § 1401(9) (a "free appropriate public education" includes special education and related services that are "provided in conformity with" a student's IEP); 34 C.F.R. § 300.17 (same); see also N.J.A.C. 6A:14-1.1(d). Failure to ensure that preschool students receive special education services provided by appropriately certified and qualified professional staff members. 34 C.F.R. § 300.18; N.J.A.C. 6A:14-1.1(d)(2).

3. Specify the period of time or dates when the alleged violation(s) occurred.

2016-2017 school year

**Note: The complainant must allege a violation that occurred not more than one year prior to the date that the complaint is received.**

\*4. Is/Are the alleged violation(s) continuing at present?  Yes  No

5. **State the relevant facts**, including any claim that the district has failed to provide services required by the IEP of a student with disabilities. If you are claiming that the district has failed to implement the IEP, *please include a copy of the entire IEP*. (Attach additional pages, if

necessary. If you have other written documentation from the school that you believe would assist in verifying the violation, please submit them with this request).

Education Law Center ("ELC") has received information from various reliable sources that many preschool students in the Paterson Public Schools ("PPS") district are not being appropriately evaluated and/or not receiving required special education and related services, as described below. Staff shortages are an important factor in the lack of evaluations and services.

ELC has received parent and staff reports indicating that these problems are widespread in the district. Enclosed is a list of in-district locations and preschool centers where ELC believes children may be affected by the problems set forth below. ELC requests investigation of these issues with regard to: students transitioning from early intervention to preschool, students attending in-district preschool programs, students attending preschool programs offered by community providers that serve PPS, and students participating in home-based pre-K.

According to the information ELC has received, students with disabilities are often not being appropriately transitioned from early intervention services to preschool special education due to delayed or denied evaluations. First, identification meetings are frequently not timely scheduled within 20 days of written request for evaluation; scheduling these meetings can take several months. Second, PPS has refused to evaluate some students unless parents first provide other test results, such as audiological or developmental pediatrician reports or results of health screenings. Based on information from separate professional sources, ELC is concerned there may be a formal or informal district policy of improperly requiring parents to seek and/or pay for outside assessments before a CST evaluation is provided.

PPS is reportedly also failing to provide timely CST evaluations and IEPs for students in preschool programs. Some evaluation delays reach several months. There is concern about a lack of sufficient child study team staff to handle preschool evaluations, particularly for evaluations of students in out-of-district preschool centers and preschool students in district schools that do not have full CSTs. ELC has been told there is now only one dedicated pre-K team, though there used to be several.

PPS is failing to ensure all pre-school students with disabilities receive the special education services contained in their IEPs. There is a lack of sufficient preschool resource teachers in the district. As with other special education staff shortages in the district, it appears that several preschool resource teachers have left the district and not been replaced. This has caused students to miss significant amounts of resource sessions mandated in their IEPs. Substitutes

are being used inconsistently to provide some of the missing resource services and, reportedly, many do not have appropriate credentials.

PPS is also failing to provide pre-school students with disabilities all the related services contained in their IEPs, such as speech therapy, occupational therapy, and physical therapy. As with older students, lack of related services for preschoolers was exacerbated beginning in February 2017 when services that had been provided by an outside company called Kid Clan were terminated. For many preschool students, related services have not yet resumed.

6. Please describe how the issue(s) could be resolved. Attach additional pages as necessary.

PPS must ensure that students transitioning from early intervention to preschool are referred to CSTs if appropriate, and receive timely identification meetings. PPS must also ensure that all such students with suspected disabilities are timely evaluated, without requiring parents to first provide outside evaluations, and have IEPs developed and implemented by their third birthdays.

PPS must immediately conduct all evaluations of preschool students that are overdue, with evaluation reports completed within 60 days of the complaint investigation report. If delay in the completion of evaluations has resulted in denial of special education and/or related services that a student would have received during the period of delay, compensatory services must be provided.

PPS must immediately reinstate provision of special education and related services to all preschool students whose IEPs require them. All special education and related services must be provided in conformance with the IEPs (length of sessions, number of sessions per week or month, individual or group sessions, etc.) and must be provided by personnel with appropriate training and qualifications.

Additionally, PPS must provide compensatory education to all preschool students who the district has failed to provide with special education and/or services at any point during the 2016-17 school year. The amount of compensatory education for each student should be equivalent to the special education and related services sessions that were missed by that student. A plan for the delivery of compensatory education services must be developed for each affected student. To the extent possible, all compensatory education services shall be required to be provided by no later than August 31, 2017.

PPS must develop a budget of the staff and funding needed to address preschool special education vacancies within the district, as well as a plan for how those vacancies will be filled. OSEPP must ensure that PPS has the funding necessary to fill all such vacancies, and must ensure that all vacancies are filled with appropriately qualified candidates at the earliest possible date.

Please note that because PPS is a State-operated school district, ELC requests the designation of a neutral investigator not employed by the State to handle this complaint. See N.J.A.C. 6A:14-9.2 ("The State Director of the Office of Special Education Programs or designee(s) shall be responsible for reviewing, investigating and taking action on any signed written complaint regarding the provision of special education and related services . . . ." (emphasis added)).

\*7. Please list the district personnel you have already talked with to resolve this complaint, along with their response(s) to your request.

Parents and district personnel have brought these issues to the district's attention, including to special education director Cheryl Coy, but the problems are ongoing.

**Complainants are required to forward a copy of the complaint to the Chief School Administrator of the district/education agency against which the complaint is directed at the same time the complaint is filed with the Department of Education.**

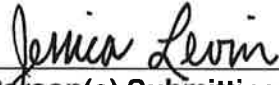
Check below to verify whether:

X  A copy of the complaint request, along with attachments, was mailed to:  Superintendent Donnie Evans  (name) on  4/19/17  (date);

or

A copy of the complaint request, along with attachments, was hand-delivered to:   (name) on   (date).

**Pursuant to N.J.A.C. 6A:14-9.2(b), please note that a complaint cannot be processed until the OSEP is notified that a copy was provided to the appropriate education agency.**

Signature:     
(Person(s) Submitting Request)

## Frequently Asked Questions:

*Full Day Preschool Program Beginning September 2017*

### Who qualifies for the program?

All Paterson children who have reached the age of 3 or 4 by October 31, 2017.

### When do I register my child for the locations listed under Pre-School Centers?

For these locations registration is ongoing for the September 2017-2018 school year. Please call the individual locations to register your child.

### When do I register my child for the locations listed under In-District Locations?

For In-District Registration please call (973) 321-2501 for an appointment. Registration began February 8, 2017 for 2017-2018 school year.

### What do I need to bring to register my child?

When You Register Your Child, You Need To Bring:

- Birth Certificate
- Immunization Records
- 3 Proofs of Residence
- Child must be present (PSE&G Bill, Cable Bill or Phone Bill)

### What do you do if the center of your choice is full?

Call the Early Childhood Department at (973) 321-0674 to determine where there are openings.

### Is transportation provided? No.

Please contact the Department of Central Registration at (973) 321-2501 for information regarding the registration process at School #1, School #9, School #10, School #15 (Madison K Center), School #16, School #21, School #24, School #27, School #28, Dale Avenue, Early learning Center and EWK I if you have any questions regarding the State Mandated Preschool Program, please call (973) 321-0674.



## Participating STATE MANDATED Preschool Centers & In-District Locations

Pre-School Center	Address	Phone
* B.J. Wilkerson I	437 W. Broadway	595-5272
* B.J. Wilkerson III	124 Haledon Ave.	595-5272
* Calvary Baptist	575 E. 18th St.	278-4130
* El Mundo De Colores	44 Ward St.	523-0919
* El Mundo Del Nino	433 Main St	279-7100
* Friendship Corner II	186 Butler St.	405-6711
* Gilmore	505 E. 22nd St.	977-8977
* Gilmore II	69-72 Montclair Ave.	862-701-6303
* Head Start- Eastside	500 E. 35th St.	546-2634
* Head Start- Westside	265 Totowa Ave.	546-2634
* Hogar Infantil	560 Main St.	279-4486
* IEP Early Learning Ctr.	30 Michigan Ave.	881-1583
* La Vida	396 Straight St.	345-6000
* La Vida Too	116 Jackson St.	279-7067
La Vida III	279 Carroll St.	569-0001
* Memorial Day	397 Grand St.	742-3295
* Memorial II	238 Straight St.	345-0281
* Michael's Energy Factory of Greater Bergen Community Action	101 Oliver St.	684-2278
Omega Preschool	277-6th Ave.	278-8787
* Paterson Day Care 100	363 Broadway	278-5200
* Paterson Family Center	32 Spruce St.	413-1570
* PCCC Child Dev. Center	1 College Blvd.	684-5915
* St. Joseph's Child Care	800 Main St.	754-4433
* YMCA	128 Ward St.	684-2320
In-District Locations		
School No. 1	589 11th. Ave.	
School No. 9	6 Timothy St.	
School No. 10	48 Mercer St.	
School No. 15 (Madison K Center)	512 Market St.	
School No. 16	11-22nd Ave.	
School No. 21	322 10th Ave.	
School No. 24	50 19th. Ave.	
School No. 27	250 Richmond Ave.	
School No. 28	200 Presidential Blvd.	
Dale Avenue School	21 Dale Ave.	
Early Learning Center	660-14th Ave.	
EWK	295-315 Ellison	

\* NAEYC Accredited Preschool Center

Rev 2/8/2017