

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

\*Date: August 30, 2018

To: **John Worthington, Director  
Office of Special Education Policy & Procedure  
NJ Department of Education  
100 River View Plaza  
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: Elizabeth Athos, Esq.

Address: Education Law Center, 60 Park Place, Suite 300, Newark, NJ 07102

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

Phone: ( 973 ) 624 - 1815   Fax: ( 973 ) 624 - 7339

Email address: eathos@edlawcenter.org

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

Paterson Public School students with disabilities whose IEPs required the provision of speech/language services during 2017-18.

School where the alleged violation(s) occurred: Throughout the district, with specific examples set forth below.

\*District: Paterson Public Schools   \*County: Passaic

\*1. Please check which statement applies:

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

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 provide related services as specified in students' IEPs. 20 U.S.C. § 1401(9) (a "free appropriate public education" includes related services that are "provided in conformity with" a student's IEP); 34 C.F.R. § 300.17 (same). Failure to employ or contract with speech-language specialists in "numbers sufficient to ensure provision of required programs and services..." N.J.A.C. 6A:14-5.1(a).

Failure to involve the full IEP team in determinations to implement telepractice. N.J.A.C. 6A:14-3.7(b) (requiring IEP to be developed by the IEP team); N.J.A.C. 6A:14-2.3(k)(2) (listing required members of IEP team). Failure to obtain informed parental consent in order to amend an IEP without a meeting. N.J.A.C. 6A:14-2.3(a)(8) (consent required to amend an IEP without a meeting); N.J.A.C. 6A:14-1.3 (parental consent must be in writing after parent is fully informed in his or her native language). Failure to comply with the requirement that an IEP can be amended without a meeting only when initiated by a specific written parental request. N.J.A.C. 6A:14-3.7(d).

3. Specify the period of time or dates when the alleged violation(s) occurred. September 1, 2017 through the present.

**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).

With OSEPP having directed PPS to take corrective action to address substantial gaps in services during 2016-17 (Complaint Investigation Reports #C2017-5648 and #C2017-5758), ELC was shocked during 2017-18 to again receive complaints that Paterson students were not being provided speech-language services in accordance with their IEPs. Because ELC's letters to Director Worthington dated December 15, 2017 and to Attorney General Grewal dated April 27, 2018 have neither brought confirmation of a new investigation nor assurances that the service delivery problems have been resolved, ELC is again specifically requesting that OSEPP investigate the following violations by Paterson Public Schools: 1) interruptions in speech-language services that occurred during 2017-18 and, given current job postings, are likely

continuing until the present; and 2) improper implementation of telepractice services in lieu of in-person speech-language services.

#### Failure to provide speech-language services during 2017-18:

During the 2017-18 school year, ELC received information from Paterson parents and staff regarding a number of Paterson schools and preschools at which there was no speech-language specialist available to serve students whose IEPs required speech-language therapy and/or there were students not receiving the speech-language services required by their IEPs. These schools included, but are not limited to: School No. 2, New Roberto Clemente School, PANTHER, STARS, and HARP Academies, Gilmore II Preschool and Paterson Family Center Preschool.

In addition, ELC handled a case in which we learned that there was no speech language therapist at Alexander Hamilton Academy (AHA) from September 2017 through December 2017. As a result of the case, PPS transferred the speech language therapist from the Senator Frank Lautenberg School (P.S. 6) to AHA on a part-time basis. Based on conversations heard by ELC, as well as the enclosed transfer notice, the speech therapist who was formerly full-time at the P.S. 6 school thereafter split her time between P.S. 6 (.6 time) and AHA (.4 time) from January 2018 through June 2018. On information and belief, both schools required the services of a full-time speech-language specialist, leaving numbers of students in both schools who did not consistently receive the speech-language services required by their IEPs.

Finally, ELC is aware that PPS posted positions for five speech-language specialists prior to the start of the 2017-18 school year (see enclosed notice), but is not aware that those positions were filled. As of October 18, 2017, PPS provided documentation to OSEPP (see enclosed email) confirming that speech-language positions remained vacant at P.S. 1, P.S. 10, Edward W. Kilpatrick School, and New Roberto Clemente School. As of August 30, 2018, PPS's job posting for five speech-language specialists remains on its website (see enclosed notice). On information and belief, PPS has neither employed nor contracted with speech-language specialists in sufficient numbers to ensure the provision of speech-language services required by its students' IEPs, as required by regulation and by the corrective action mandated by NJDOE.

Given PPS's failure, documented through prior complaint investigations, to provide speech-language services to school-aged and pre-school students during 2016-17, it is imperative that OSEPP examine the provision of speech-language services throughout the district during 2017-18 as well as determine whether the district is prepared to provide all required speech-language services during the upcoming school year so that violations do not reoccur. ELC is aware that, as a result of corrective action ordered by OSEPP, PPS provided notice of compensatory services due from 2016-17 and offered options to receive those services, including a Saturday program during the first part of 2018. However, ELC is unaware that PPS has systematically determined and offered compensatory services to Paterson parents whose students did not receive required speech-language services during 2017-18.

#### Improper Implementation of Telepractice Services:

ELC has been informed that, during the 2017-18 school year, PPS improperly sought to implement speech-language services through the use of telepractice. On or around December 7, 2017, and April 16, 2018, PPS entered into contracts with Dotcom Therapy of Springfield, MO to provide telepractice services to PPS students during the 2017-18 school year in combined amounts not to exceed \$670,837.50, despite the fact that no state regulations governing telepractice have been promulgated in New Jersey. In addition, in accordance with draft

procedures established by PPS (see enclosed memo), ELC's understanding is that the district relied on Dotcom itself to conduct the screening to determine which children are suitable candidates for telepractice, rather than relying on IEP team determinations. Further, while PPS procedures required that an "IEP team decision to use telepractice must be documented in the IEP," those procedures did not require the scheduling of an IEP team meeting. Instead, PPS relied on a district-initiated amendment to an IEP that was sent home without having received a specific written parental request nor having held an IEP team meeting. On information and belief, rather than scheduling IEP team meetings to ensure that the change in service from in-person speech-language services to telepractice services is a decision of "the IEP team, which includes the parent," (quoting OSEPP's guidance dated September 26, 2017), PPS has relied on phone calls from Dotcom employees, including Bridget Griffin, M.S., CCC-SLP, to notify parents of the change in service and to allegedly obtain informed consent.

ELC has represented one parent who consented to the implementation of telepractice for her son on an interim basis, only because PPS had failed to provide speech-language services for more than three months in violation of the student's IEP. Despite the fact that the parent provided consent only on an interim basis until the district can resume in-person therapy, there has been no indication when or whether in-person therapy will resume.

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

PPS must ensure provision of related services to all students whose IEPs require them. All related services must be provided in conformance with the IEPs (length of sessions, number of sessions per week or month, individual or group therapy, etc.) and must be provided by personnel with appropriate training and qualifications, including a standard speech-language specialist certification issued by NJDOE.

Additionally, PPS must provide compensatory education to all students who the district has failed to provide with related services at any point during the 2017-18 school year. The amount of compensatory education for each student should be equivalent to the related services sessions that were missed by that student.

PPS must provide written notice, hold IEP team meetings, and obtain informed consent, all in accordance with state regulations, prior to implementing telepractice services for any of its students. OSEPP must promulgate regulations related to the provision of speech-language services via telepractice in accordance with the Administrative Procedure Act.

PPS must develop a budget of the staff and funding needed to address special education vacancies within the district, as well as a plan for how those vacancies will be filled. OSEPP, as the entity ultimately responsible for the provision of FAPE, must ensure that: 1) PPS has the funding necessary to fill all such vacancies; 2) all vacancies are filled with appropriately qualified candidates at the earliest possible date; and 3) PPS has employed or contracted with sufficient numbers of speech-language specialists for 2018-19 to provide both current and compensatory speech-language services due to its students.

Please note that because PPS remains a State-operated school district while transitioning back to local control, 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.

Many parents and district personnel have brought this matter to the district's attention, including to special education director Cheryl Coy, but the problem is 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:

**A copy of the complaint request, along with attachments, was mailed to: State District Superintendent Eileen F. Schafer, M.Ed. and to Frances E. Barto, Esq. (name) on August 30, 2018 (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)

# Paterson Public Schools PERSONNEL TRANSACTION REQUEST & PERSONNEL ACTION FORM

12/13/17 Hand-delivered to Powell who will walk through (Please Type)

Date: 12/13/2017

1. INITIATOR: Keya Romney School/Dept: Special Education Position: Special Education Supervisor Signature: Alicia Vandenberg

\* PLEASE NOTE: Action **WILL NOT** occur until the Golden Rod is returned \*

2. PURPOSE(S) \_\_\_\_\_ Fill Vacancy \_\_\_\_\_ x Transfer (s) \_\_\_\_\_ Create/Abolish Position  
\_\_\_\_\_ Resignation (circle one) Retirement \_\_\_\_\_ Suspension \_\_\_\_\_ Dismissal \_\_\_\_\_ Death  
\_\_\_\_\_ Other Describe: Action is requested to transfer

Action is requested to change location of Speech Therapist Faith Bell PC#305 from 1.0 at School SFLS(6) to .6 at SFLS and .4 at AHA effective immediately

Exhibit 1a

Account # \_\_\_\_\_ Not to exceed \$ \_\_\_\_\_

4. APPOINTMENT(S): In PC#: \_\_\_\_\_ Position: \_\_\_\_\_ Location: \_\_\_\_\_  
Name: \_\_\_\_\_ New Hire: YES NO  
Eff. Date: \_\_\_\_\_ If the employee is NOT a new hire please indicate current salary: \_\_\_\_\_  
Salary Guide: \_\_\_\_\_ Salary: \_\_\_\_\_ Level: \_\_\_\_\_ Step: \_\_\_\_\_

Comments: \_\_\_\_\_

5. TRANSFERS: n/a

Name	Empl #	From			To			Eff. Date
		Location	PC#	Position	Location	PC#	Position	
A.								
B.								
C.								
D.								

### APPROVALS REQUIRED

Principal/Admin.	<u>Alicia Vandenberg</u>	<u>12/13/17</u>	Exec. Director of HRS	_____	_____
Asst. Superintendent Position Control/Business Admin.	<u>[Signature]</u>	<u>12/13/17</u>	Superintendent	_____	_____



# PATERSON PUBLIC SCHOOLS

Preparing All Children for College and Career



Openings as of 12/21/2017

## ***SPEECH AND LANGUAGE SPECIALIST***

JobID: 5458

**Position Type:**

SPECIAL SERVICES / STUDENT SUPPORT SERVICES (CST)/Speech and Language Specialist

8

[Email To A Friend](#)  
[Print Version](#)

**Date Posted:**

8/3/2017

**Location:**

Various School Locations

**Date Available:**

IMMEDIATELY

**Staff Needed:** Five (5) Speech and Language Specialists

**Qualifications:**

- New Jersey Certification as a Speech and Language Specialist
- Excellent organizational and time management skills
- Demonstrated ability to complete evaluations and IEP's within mandated timelines
- Experience evaluating preschoolers and knowledge of administering BDI-2
- Ability to communicate effectively in English, both orally and in writing, with staff, students, parents, and community

**Salary:** As Per Negotiated Contract

**Initiator:** Mr. Luis Rojas

- Meet such alternatives to above qualifications as the Superintendent may find appropriate and acceptable
- Pending budget availability
- All postings are open for ten (10) consecutive days or until filled

FMLA regulations require all employers to post the updated FMLA notice.

Powered by applicant tracking, a product of Frontline Education.

Exhibit 2a (1)

**Morrison, Starr**

*Delta T...*

**From:** Vivian Pichardo <vpichardo@deltatg.com>  
**Sent:** Wednesday, October 18, 2017 5:43 PM  
**To:** Morrison, Starr; Kimberly Thomas; Daniel Spalango; Lori Calcaterra; Richard Casler  
**Cc:** Coy, Cheryl; VanDiver, Alicia  
**Subject:** RE: Psychologist - Navarette

Good evening Starr,

I was on the road and just returned. Please see the answers I have below.

 **PS# 1 – Need a start date for Heather Brook - Declined**

 **PS# 10 – Need a start date Hope Fernicola - Declined**

**EWK – Are you replacing Rosa Zak, who declined on the 10/11/17- Yes we are looking to replace Rosa Zak.**

**NRC – Needs to be filled immediately – Will continue to work on this need for you.**

**OT – Requested two (2) months ago - We have one qualified candidate who can serve for 2 days a week. Will that work for you? We are continuing to search for the additional candidatz.**

Please advise if you are still interested in providing these services, if not, I'll be looking to another vendor, as these slots should've been filled a long time ago. **Yes, we are definitely interested in providing these services. We will do everything we can to fill the needs.**

**p.s. I need written confirmation that Paterson will not be responsible for paying Ms. Heba Soliman for 10/3 & 10/4/17, as she was not approve to work in Paterson by Ms. Coy. Yes, Paterson will not be responsible for paying Ms. Heba Soliman for 10/3 & 10/4/17.**

Feel free to call us with any questions. Thank you.

All the best,  
Vivian

**From:** Richard Casler  
**Sent:** Wednesday, October 18, 2017 11:13 AM  
**To:** 'Morrison, Starr'; Kimberly Thomas; Daniel Spalango; Lori Calcaterra  
**Cc:** Coy, Cheryl; VanDiver, Alicia  
**Subject:** RE: Psychologist - Navarette

Good Morning Starr,



I wanted to confirm that we have received your email. Kim was in yesterday, but is out today. We have the Education Team Lead working on an answer to your inquiries and you can expect a response from her, Vivian Pichardo.

Thanks,

**Rich Casler, Director of Strategic Sales**  
**Delta-T Group**  
Phone: 484.381.3169

**From:** Morrison, Starr [<mailto:morrison@paterson.k12.nj.us>]  
**Sent:** Wednesday, October 18, 2017 7:05 AM  
**To:** Kimberly Thomas; Daniel Spalango; Lori Calcaterra; Richard Casler  
**Cc:** Coy, Cheryl; VanDiver, Alicia  
**Subject:** Psychologist - Navarette

Good Morning'

Can you please advise if Ms. Navarette started at EHS on Monday, 10/16/17, as per Kimberly, she couldn't start on Friday, 10/13/17?

Also, please advise on the following, which still needs to be filled: (listed below)

**PS# 1** – Need a start date for Heather Brook  
**PS# 10** – Need a start date Hope Fernicola  
**EWK** – Are you replacing Rosa Zak, who declined on the 10/11/17  
**NRC** – Needs to be filled immediately  
**OT** – Requested two (2) months ago

Please advise if you are still interested in providing these services, if not, I'll be looking to another vendor, as these slots should've been filled a long time ago.

**p.s. I need written confirmation that Paterson will not be responsible for paying Ms. Heba Soliman for 10/3 & 10/4/17, as she was not approve to work in Paterson by Ms. Coy.**

*Starr L. Morrison*  
*Dept. of Special Services*  
*90 Delaware Avenue*  
*Paterson, NJ 07503*  
*(P) 973-321-0677/(F) 973-321-0479*  
*Email: [morrison@paterson.k12.nj.us](mailto:morrison@paterson.k12.nj.us)*



# PATERSON PUBLIC SCHOOLS

Preparing All Children for College and Career



Openings as of 8/30/2018

## ***SPEECH AND LANGUAGE SPECIALIST***

**JobID: 5459**

**Position Type:**

SPECIAL SERVICES / STUDENT SUPPORT SERVICES (CST)/Speech and Language Specialist

0

[Email To A Friend](#)

[Print Version](#)

**Date Posted:**

8/3/2017

**Location:**

Various School Locations

**Date Available:**

IMMEDIATELY

**Staff Needed:** Five (5) Speech and Language Specialists

**Qualifications:**

- o New Jersey Certification as a Speech and Language Specialist
- o Excellent organizational and time management skills
- o Demonstrated ability to complete evaluations and IEP's within mandated timelines
- o Experience evaluating preschoolers and knowledge of administering BDI-2
- o Ability to communicate effectively in English, both orally and in writing, with staff, students, parents, and community

**Salary:** As Per Negotiated Contract

**Initiator:** Mr. Luis Rojas

- o **Meet such alternatives to above qualifications as the Superintendent may find appropriate and acceptable**
- o **Pending budget availability**
- o **All postings are open for ten (10) consecutive days or until filled**

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Alicia Pavone, M.Ed., M.A.  
Supervisor of Special Education Compliance

Eileen F. Shafer, M.Ed.  
Acting State District Superintendent

### **Initial Set Up Procedures**

1. Special Education Supervisor identifies a school in need of speech therapy support
2. Initial administrative meeting with Special Education Supervisor, Building Administration and DotCom Administration
  - a. The purpose of this meeting is to discuss the specific needs related to telepractice and identified a point person at the building level
3. The CST or Speech Therapist will provide a list of possible students that may benefit from telepractice speech therapy at suggested schools
  - a. The students identified on this list will be screened by DotCom. The data from this screening will be reviewed with the IEP Team
4. DotCom will complete a screening of recommended students
  - a. Students must be accompanied to the sessions by an adult
5. After all screenings are completed- DotCom and CST will have a brief meeting to review student results, data, and determine which students should be recommended to receive telepractice speech services
  - a. During the meeting a decision will be made on the next steps of scheduling appropriate meetings and paper work with the entire IEP team
6. The IEP team decision to use telepractice must be documented in the IEP
  - a. Amendments documenting appropriateness of telepractice and the IEP team decision (in description of PLAAFP) must be drafted (DotCom can help support)
  - b. The screenings will be uploaded in the documents of EasyIEP
7. Draft EasyIEP documents must be printed and sent home with student by a child study team member
  - a. The CST should follow standard IEP/Amendment procedures
8. The CST must ensure any amendment is signed and returned, finalize the amendments and upload parent consent into EasyIEP once returned and notify DotCom that they can proceed
  - a. DotCom can help by follow up with parents who have not returned the parental consent page