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August 17, 2017

VIA REGULAR AND ELECTRONIC MAIL

Kimberley Harrington, Commissioner  
New Jersey Department of Education  
100 River View Plaza, P.O. Box 500  
Trenton, New Jersey 08625-0500

John Worthington, Director  
Office of Special Education Policy and Procedure  
New Jersey Department of Education  
100 River View Plaza, P.O. Box 500  
Trenton, New Jersey 08625-0500

Re: State Investigation of Special Education  
Violations in Paterson Public Schools

Dear Commissioner Harrington and Director Worthington:

As you may be aware, since March 2017 Education Law Center (ELC) has filed several state complaint investigation requests based on systemic violations of special education law in the State-operated Paterson Public Schools (PPS) district. ELC appreciates the investigations conducted, and corrective action ordered, thus far by the Department of Education's Office of Special Education Policy and Procedure (OSEPP).

I am writing to highlight a serious concern regarding PPS's refusal to cooperate with your investigative efforts. The Complaint Investigation Report for Complaint #C2017-5758, issued July 28, 2017 (enclosed), states: "The OSEPP was unable to conduct a thorough investigation of the allegations as the district failed to respond to document requests and failed to make staff available for interviews." The report recounts that PPS acknowledged receipt of the complaint but "failed to provide any documentation or take appropriate steps to accommodate a conference call or a meeting with the complaint investigator."

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The investigation report for this complaint concludes that PPS has been noncompliant with several special education obligations regarding pre-K students. However, the "corrective action" ordered by OSEPP largely consists of mandates that PPS supply information it has thus far failed to provide so that OSEPP can determine what corrective action is required to actually address PPS noncompliance.<sup>1</sup>

PPS's outright refusal to cooperate with a State complaint investigation is not only inappropriate, but deeply troubling, especially since PPS is under direct State control. PPS's failure to supply basic information to State investigators is also unacceptable in light of the serious legal violations the State has already uncovered in the district. See, e.g., Complaint Investigation Report #C2017-5648 (concluding that PPS failed to provide related services to numerous students during the 2016-17 school year and ordering corrective action); Complaint Investigation Report #C2017-5690 (concluding, inter alia, that PPS is out of compliance with special education timelines for evaluations and IEP reviews and ordering corrective action); Complaint Investigation Report #C2017-5758 (concluding that PPS is noncompliant with child find procedures and provision of related services for pre-K students and ordering corrective action).

I am certain you will agree it is critical that PPS make all relevant information and documentation available to OSEPP for review in a timely manner and that OSEPP investigations be free from hindrance by PPS.

Accordingly, I request that your Office take prompt action to ensure PPS understands its obligation to cooperate with all state complaint investigations, including the provision of requested documentation and interviews with staff, and is instructed to fulfill this obligation immediately and consistently. This directive should include provision of the documents and interviews that PPS failed to furnish during the

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<sup>1</sup> OSEPP's reports on other recent complaint investigations also indicate that full investigation was impossible due to missing documentation. For example, the investigation of Complaint #C2017-5648 found PPS did not maintain accurate documentation of related services. The corrective action ordered in response to Complaint #C2017-5690 includes updating special education documentation so that OSEPP may verify compliance.

investigation of Complaint #C2017-5758 regarding pre-K students, so that a complete investigation can be realized, and provision of any documentation found to be incomplete in prior investigations.

Thank you for your attention to this issue. If I can be of assistance, or if you need additional information, please do not hesitate to contact me at (973) 624-1815, ext. 15.

Sincerely,

A handwritten signature in cursive script that reads "Jessica Levin".

Jessica Levin, Esq.  
Education Law Center

CC: Frances Barto, Esq., District Counsel  
Donna Arons, Deputy Attorney General