

**DELAWARE DEPARTMENT OF EDUCATION
EXCEPTIONAL CHILDREN RESOURCES**

**STATE COMPLAINT DECISION
DE SC #~~22-02~~ REVISED 11/10/21 DE SC 22-01
DATE ISSUED: NOVEMBER 9, 2021**

On September 10, 2021, the Delaware Department of Education (DDOE) received a complaint filed by the Student against DDOE, Adult and Prison Education Resources (APER). The complaint alleges APER violated state and federal regulations concerning the provision of a free, appropriate public education (FAPE) to Student under the Individuals with Disabilities Education Act (IDEA).¹ The complaint has been investigated as required by federal regulations at 34 C.F.R. §§ 300.151 to 300.153 and according to Department regulations at 14 DE Admin Code § 923.51.0 to 53.0.

The investigation included review and examination of records and email communications provided by APER. The Investigator interviewed APER staff and the Student. The decision includes findings of fact that are relevant and material to addressing the complaint issues.

COMPLAINT ALLEGATIONS

The complaint alleges that APER violated Part B of the IDEA and corresponding state and federal regulations as follows:

1. APER put a hold on the submission of Certificate of Educational Attainment 3 (CAE3) papers for special education students to review and potentially change the process thus preventing special education students from having their papers evaluated.

FINDINGS OF FACT

A. Special Education in Prison

1. The Prison Education Program is tasked with providing special education services to eligible students.
2. Since 2000, the DDOE adult education program has been providing special education services to eligible students in prison.

¹ The complaint decision identifies some people and places generally, to protect personally identifiable information about the student from unauthorized disclosure. An index of names is attached for the benefit of the individuals and agencies involved in the investigation. The index must be removed before the complaint decision is released as a public record.

3. All students in prison who receive special education services are enrolled in the James H. Groves Adult High School (Groves) and are pursuing their high school diploma.
4. Groves requires students earn twenty-four credits to receive a high school diploma. The credit requirement is the same for a district or charter high school diploma.
5. The Delaware Center for Distance Adult Learning approves the credits for the diploma.
6. On July 13, 2021, Student's teacher (Teacher) submitted, via the Schoology LMS platform, three CEA3 applications and accompanying Argument Research Papers for three prison education students (one of which was the Student who filed this state complaint) to the ACE Network system for review.

B. CAE 3 Portfolio Process

7. The Certificate of Educational Attainment 3 (CAE3) is designed exclusively for James H. Groves Adult High School students. It serves as a verification of knowledge and skills and has the endorsement of the DDOE, Office of Adult Education and James H. Groves Adult High School Centers.
8. The CAE3 is a mechanism unique to Groves and the State of Delaware. It allows students in the Groves High School program to demonstrate knowledge and skills and earn up to ten units of credit in content/subject areas required for graduation.
9. The following chart displays how credits can be earned:

CEA3 Awarding of Credits

CEA3 Credits Based on Current Graduation Requirements
1 Credit Possible (Math Skills for Everyday Life A/B)
3 Credits Possible (Communications A/B, Literature A/B, Journalism A/B)
2.0 Credits Possible (Environmental Science, Chemistry, Physical Science, Earth Science)
2.0 Credits Possible (World Geography, World History A/B, Economics, American Government)
2.0 Credits Possible Electives
Total: Up To 10 Credits

10. To be awarded a CAE3, a student must: 1) write an argument research paper (minimum of four full pages and no longer than six pages, double-spaced; 2) use the APA manual, 7th edition style, in the paper; 3) meet competency requirements in reading, mathematics, social studies, science, and writing GED or TABE tests; and 4) complete the CEA3 portfolio.

11. The CEA3 Portfolio consists of the following: 1) CEA3 Application Form; 2) Topic Selection Form (should have been completed in Comp. A.) signed by the teacher and program administrator; 3) Test Results Form signed by the teacher and program administrator; 4) Argument research paper; and 5) Turnitin Report (MUST be less than 20%). It is not necessary for a student to complete the required tests prior to submitting a CEA3 paper. However, a CEA3 portfolio will not be complete, nor will a certificate be issued until all of the above components are complete.
12. The completed portfolio is submitted to APER via Schoology for approval. Since the CEA3 portfolio requirements may change from year to year, it is important that the portfolio adheres to guidelines in the most current version of the CEA3 Manual.
13. If a student needs more than one year to complete the CEA3 Portfolio, papers must be reviewed and updated according to the most current CEA3 Manual guidelines.

C. Background Information

14. Student is REDACTED years-old and receives special education services in prison through the James H. Groves Adult High School, which is located at REDACTED (REDACTED).
15. Student receives special education services as a student with an Other Health Impairment according to Student's last evaluation summary report (ESR) dated February 12, 2021. The Prior Written Notice from this meeting indicates that the Student's educational classification is Other Health Impairment with supports in math calculation and math problem solving. It further states, "Because [Student's] behavior has been sufficient to maintain REDACTED status on an academic housing unit, the team does not feel [Student] warrants the inclusion of an Emotional Disability classification..." It further states, "Per the student's request, the team opted to continue the eligibility discussion without the nurse present..."
16. On March 15, 2021 an IEP was developed. The IEP indicates that the Student's educational classifications are Other Health Impairment and Learning Disability. The Prior Written Notice states the student's educational classifications are Other Health Impairment and Learning Disability in the areas of written expression and math problem solving.
17. The IEP included goals in the areas of math problem-solving and CEA3.
18. The CEA3 accommodations included graphic organizers, as-needed summarizing articles for understanding, use of a dictionary, use of writing frames, modifications of assignment (including but not limited to reduction in length requirement), use of a computer or word processor, use of spell check and grammar check, teacher assistance planning and editing, as-needed use of grammar rules/examples "cheat sheet," as-needed use of spelling errors "cheat sheet."

19. The Present Level of Educational Performance for the CEA3 goal is, “Currently, Student is able to compose individual paragraphs (5-8 sentences). REDACTED needs teacher prompting to correct grammar, syntax, and mechanics errors, as well as to utilize transitions between thoughts.” Student’s written/expression/CEA3 annual goal in the IEP is as follows: “Student, with or without the assistance of REDACTED teacher and use of a writing checklist, edit, and revise REDACTED research-based argument essay of a least five paragraphs, to include an intro, 2-point paragraphs, one counter argument and rebuttal paragraph, and conclusion. Student will score at or above grade level in each of the five paragraphs according to the approved CEA3 writing rubric.”
20. On June 21, 2021, Student met the CEA 3 goal according to a handwritten note on the IEP.
21. On July 13, 2021, Student’s Teacher submitted, via the Schoology platform, three CEA3 applications and accompanying Argument Research Papers for three prison education students (one of which was the Student who filed this state complaint) to APER for review.
22. An email that was included along with the submission to the APER that identified (a) Student was eligible for special education, and (b) the submitted application contained the IEP goal which listed accommodations and modifications for the CEA3 course assignment.
23. On August 17, 2021, the Educational Diagnostician (ED) at REDACTED, contacted APER to inquire about the status of the CAE3 application and paper reviews. Teacher was on medical leave during this time and the ED was following up in the Teacher’s absence.
24. On the same day, APER Teacher of Curriculum (Teacher of Curriculum) replied indicating that a response to the submission was provided to the Supervisor at REDACTED on July 30, 2021. The response indicated that the papers were not loaded in the proper format and the files could not be opened.
25. On August 17, 2021, the Teacher of Curriculum, responded to the ED’s email communication providing directions for resubmitting the Argument Research Paper, TurnItin Report, and the application in the appropriate file and format.
26. Also on the same day, the ED reloaded the necessary documents into Schoology in the correct format.
27. On August 17, 2021, APER CEA3 Reviewer (Reviewer) responded by email indicating that the Reviewer found the file. Review originally could not find the file. The Reviewer asked why the application and Argumentative Research Paper included attached IEP goals.
28. On the same day, the ED responded by email stating that in the case of a different prison education special education student, staff were told to provide the students’ IEP goals with submissions made for special education students and they were following that process for

the current prison education special education student. The ED reported their belief that, "... it was so that there was no confusion as to why there were modifications" for the CEA3 paper review.

29. On August 18, 2021, the APER Education Associate (Education Associate), sent an email to the ED, Supervisor, Teacher of Curriculum, and Reviewer, requesting a pause on the review process for this Student's paper and on other potential papers submitted for students eligible for special education.
30. The Education Associate indicated in the email that the pause was intended to "decrease some of the uncertainty regarding students with disabilities and the CEA3 process." The Education Associate stated, "[W]e'd like to have some guidelines in place to support students and staff."
31. On August 19, 2021, Teacher sent an email to the ED, Education Associate, Teacher of Curriculum and Reviewer, indicating that the "process for the special education students needs to be solidified" because students eligible for special education services need to be in the Groves' high school diploma track, which requires the CEA3 Portfolio.
32. Furthermore, in the August 19 email, the Teacher questioned the equitability of changing the submission procedure while there were papers currently in the review process.
33. Teacher notes in the August 19th email, that when a previous special education student submitted a CAE3 paper, the prison education staff were told by the Education Associate Administrative Assistant that a CEA3 specific goal needed to be written into a student's IEP. Furthermore, the goal needed to be included in the submission documentation and that the reviewers needed to be notified when a submission to be reviewed was that of a student eligible for special education services. Teacher said that the Argumentative Research Paper and associated applications submitted in July should be processed without delay. Teacher said that any change in process that might be developed should apply for students submitting in the future.
34. On August 23, 2021, the APER Administrative Assistant notified the Supervisor that the Student's paper was being returned because the initial review indicated the application had formatting errors that needed correction and the administrator's signature was also needed on the application.
35. On August 24, 2021, the Supervisor sent an email to the Teacher and ED that the Supervisor had spoken with Teacher of Curriculum, who indicated that "it would be likely that the APER administration and CEA3 reviewers would meet at some point the following week to discuss guidelines/process for supporting students receiving special education services."

36. On August 25, 2021, the Supervisor contacted the Teacher and ED by email indicating that the papers needed to be resubmitted with the formatting fixed and with a signature from the program administrator on the applications. In the email the Supervisor stated, "We are on hold, though, until getting a response back from the team regarding the process for students with accommodations to ensure all is done as they direct." The Supervisor also stated there were "other issues" with the papers that the Supervisor would like to address with the Teacher and ED.
37. On August 25, 2021, the Teacher responded to the email asking the Supervisor to share the concerns.
38. On August 27, 2021, the Supervisor responded to both the Teacher and the ED with a lengthy email detailing the grammatical and content concerns that the student would need support with correcting.
39. On August 27, 2021, the ED responded to the Supervisor in an email indicating that the ED believed many of the Supervisor's writing concerns were "personal preferences" that may not reflect the student's "demonstration of standard achievement." The ED stated in the email, "If this is the process that we will have to follow for papers to be submitted, where we are literally rewriting a spec ed students work regardless of modifications made to ensure equity, then I also suggest that is shared with the panel who is reviewing the process."
40. On the same day, the ED also sent an email to the Education Associate and Teacher of Curriculum, indicating "REDACTED is uncomfortable with the amount of corrections that we would be required to dictate to the student to in order to resubmit. This was discussed with a previous student's paper.....the expectation appears to be perfection which, from a legal standpoint is problematic."
41. On August 31, 2021, the Teacher emailed the Supervisor they had expressed "discomfort" with asking the students to make those level of edits. The Teacher suggested that if that level of correction was being required, then the Supervisor should do that directly with the students.
42. On September 13, 2021, the ED sent an email to the APER Director (Director) asking about the status of the resubmission, indicating that all applications/papers must now go through the Supervisor before submission. The ED expressed concern about the Supervisor's expectations/specifications for the paper and notes that the Supervisor is not a certified high school English teacher or special education teacher.
43. On the same day, the ED sent an email to the Education Associate, and carbon copied the Teacher of Curriculum, asking if the papers would be reviewed. The Teacher of Curriculum responded to the ED that the papers would be reviewed for content when they have been resubmitted and pass the CEA3 initial review.

44. On September 13, 2021, the Education Associate sent an email to the ED indicating that the CEA3 papers with formatting issues could be resubmitted and that the “the opportunity to do so was always there.”
45. Also on the same day, the ED asked the Teacher of Curriculum for clarification about the modification process and the Teacher of Curriculum responded the same day that “the modification application is a separate question that I can’t answer.”
46. On September 23, 2021, the Supervisor sent an email to the ED requesting that the ED complete the Delaware Adult Education Accommodations Manual “Accommodations Request Form” for the Student so the Supervisor could sign and send to APER for review. This was an addition to the process that was introduced by the Supervisor at the direction of the Education Associate.
47. During the week of September 28, 2021, the Supervisor planned to meet directly with the Student to assist the Student with making corrections to the paper for resubmission.
48. On September 30, 2021, the ED sent an email asking the Director whether the accommodations request form was needed for the Student, indicating that “this was not the process at the time the papers were originally submitted.”
49. On the same day, the Director responded indicating that the ED should “follow your supervisor’s request.”
50. On October 4, 2021, Student signed a Request for Accommodations form as outlined in the Delaware Adult Education Accommodations Manual. The Instructional Accommodations list included graphic organizers, use of writing/note frames, and modified/reduced assignments. Test Accommodations included extra time, open book/open note; teacher assistance planning and revising. The second page of the form included opportunities to list additional Instructional Accommodations and Test Accommodations. No requests were noted under Test Accommodations. The following were listed under Instructional Accommodations: use of calculators, use of manipulatives, scaled questioning, extra time, and open book/open note.
51. The following supporting documentation was included with the submission of the Request for Accommodations form:
 - a. Student’s Evaluation Summary Report (ESR) dated February 12, 2021 indicating eligibility under the educational classification of Other Health Impairment.
 - b. The IEP dated March 15, 2021. The IEP included a CAE 3 goal, accommodations and modified assignments. The IEP also indicates that Student met the goal on June 21, 2021.

52. October 6, 2021, the Education Associate indicated in an email that draft guidelines had been developed by the APER to support instructors and students with disabilities to request accommodations while completing the CEA3 research paper. The guidelines are not yet finalized and have not been implemented. The APER will be requesting the Delaware Department of Education's Exceptional Children's Resources Work Group to review them.
53. In the October 6 email, the Education Associate indicated that the "pause" in submission of papers for content review was "unpaused" on September 13, 2021 and referred to an email sent by the Teacher of Curriculum dated the same day that said, "Once the papers have been revised to meet the formatting criteria, they can be resubmitted in the appropriate folder. Nothing else has changed. Once these papers are resubmitted, they will be read for content. The modification application is a separate question that I can't answer."

CONCLUSIONS

A. APER's failure to grade Student's CAE3

APER instituted a policy in 2000 that high school students eligible for special education who become incarcerated or detained in a Delaware correctional facility and express a desire to continue to pursue their education to obtain a secondary education certificate, must enroll in the James H Groves High School Education program. APER instituted a policy in 2000 that high school students eligible for special education who become incarcerated or detained in a Delaware correctional facility and express a desire to continue to pursue their education to obtain a secondary education certificate, must enroll in the James H Groves High School Education program. These students are not eligible to pursue a GED®.

When APER became responsible for the prison education program in 2000, it did not establish or institute any additional programmatic requirements for students eligible for special education to complete their high school degree requirements in the Groves program. In that situation, the APER Associate requested that the prison ED and Teacher submit a "written expression goal page, as well as the CEA3 writing goal page which supported the needs of the research process."

In September 2020, APER notified the prison education staff at the correctional facility that the staff needed to hold an IEP meeting to include a CEA3 goal to a student's IEP that would include CEA3 benchmarks. The goal and benchmarks were noted to be approved by APER. It does not appear that these changes in the CEA3 submission process for Student's eligibility for special education were formally adopted. A review of the CEA3 manual in place at the time of the Student's complaint submission, did not contain any references to any policy or procedures in place that were different for a student eligible for special education submitting a CEA3 portfolio.

Under the IDEA, states receiving federal education funds, must provide children with disabilities within the state with a free appropriate public education (FAPE). 20 USC § 1412. Delaware state law defines FAPE as:

Free appropriate public education” means special education that is specially designed instruction including classroom instruction, instruction in physical education, home instruction and instruction in hospitals and institutions, and related services as defined by Department of Education rules and regulations approved by the State Board of Education and as may be required to assist a child with a disability to benefit from an education that:

- a. Is provided at public expense, under public supervision and direction and without charge in the public school system;
- b. Meets the standards of the Department of Education as set forth in this title or in the rules and regulations of the Department as approved by the State Board;
- c. Includes elementary, secondary, or vocational education in the State;
- d. Is individualized to meet the unique needs of the child with a disability;
- e. Provides significant learning to the child with a disability; and
- f. Confers meaningful benefit on the child with a disability that is gauged to the child with a disability’s potential.

The IEP is the primary mechanism for the delivery of FAPE. The IDEA and state and federal regulations set out what must be contained in an IEP. “Each IEP must include an assessment of the child’s current educational performance, must articulate measurable educational goals, and must specify the nature of the special services that the school will provide.” *Ridley Sch. Dist. v. M.R.*, 680 F.3d 260, 269 (3d Cir. 2012) (internal citations omitted). Although, the IDEA does not define accommodations or modifications, it does state in relevant part as follows:

§300.320, Definition of individualized education program, [6](i), A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district assessments consistent with section 612(a)(16) of the Act; and (ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why – (A) The child cannot participate in the regular assessment; and (B) The particular assessment selected is appropriate for the child.

The Delaware Title 14 Education Administrative Code, in its definition of an IEP, states that:

“A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district wide assessments consistent with section 612(a)(16) of the Individuals with Disabilities Education Act; and if the IEP team determines that the child shall take an alternate assessment, instead of a particular regular State or district wide assessment of student

achievement, a statement of why the child cannot participate in the regular assessment; and the particular alternate assessment selected is appropriate for the child.”

Delaware state law and regulations promulgated by the Department of Education set the standards by which a high school diploma or Diploma of Alternative Achievement may be awarded. *See*, 14 *Del. C.* §§ 151 and 152 and 14 *Del. Admin. C.* § 505. The Student’s IEP contains accommodations and modifications that address the Student’s capacity to participate in and complete requirements for the CEA3 including a reduction in length of assignment. It is unclear whether the CAE3 program, which is unique to Groves and the state of Delaware, could or should allow modifications to the CAE3 program. APER’s failure to grade a submission that did not meet the established requirements of the CEA3 program does not, on its face, violate the IDEA. However, APER may have violated the IDEA by including an inappropriate modification within Student’s IEP and for failing to properly provide the Student accommodations to do the work required for the CEA3 submission, that aspect of the complaint is explored more fully in Section B.

To the extent Student alleges that APER’s failure to review REDACTED coursework was discriminatory, the IDEA does not address disability discrimination. Allegations of disability discrimination may fall under the purview of the Title II of the Americans with Disabilities Act or Section 504 of the Rehabilitation Act or other statutory or regulatory provisions all of which are outside the jurisdiction of this hearing officer. **For these reasons, I find no violation of the IDEA or applicable state law, federal regulations or state regulations.**

B. APER’s procedural errors

APER must comply with the IDEA’s procedural requirements. “[C]ompliance is not a goal in itself; rather, compliance with such procedural requirements is important because of the “requirements’ impact on students’ and parents’ substantive rights.” *Ridley Schl. District. V. M.R.*, 680 F.3d260, 274 (3d Cir.2012). Therefore, failure to comply with procedural violations alone will not be actionable under the IDEA, “[a] procedural violation is actionable under the IDEA only if it results in a loss of educational opportunity for the student, seriously deprives parents of their participation rights, or causes a deprivation of educational benefits.” *Id.* (citing *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 525–26, 127 S.Ct. 1994, 167 L.Ed.2d 904 (2007)) (second citation omitted).

Evaluation

The Request for Accommodations was approved on October 6, 2021. A supporting document included with the approval was the Student’s Evaluation Summary Report (ESR) dated February 12, 2021. The ESR indicates that the Student receives special education services as a student with an Other Health Impairment. The Prior Written Notice from this meeting indicates that the Student’s educational classification is Other Health Impairment with supports in math calculation and math problem solving. It further states, “Because [Student’s] behavior has been sufficient to maintain REDACTED status on an academic housing unit, the team does not feel [Student] warrants the inclusion of an Emotional Disability classification...”

The eligibility criteria for Emotional Disability at the time of the ESR requires the IEP team to consider a manifestation of the cluster or patterns of behavior associated with emotional disability and documentation from multiple assessment procedures. The procedures could include but not be limited to: 1) an evaluation by either a licensed or certified school psychologist, or a licensed psychiatrist; 2) classroom observation by teacher(s) and at least one other member of the IEP team, 3) a review of records, standardized rating scales, and 4) child interviews. Additionally, the documentation for Emotional Disability would also include the behaviors existed over a long period of time and to a marked degree and adversely affect educational performance. The eligibility criteria further states that the child's emotions and behaviors are situationally inappropriate for the child's age and preclude personal adjustment or the establishment and maintenance of interpersonal relationships. *See* 14 DE Admin Code § 925.6.9.²

In addition, evaluation procedures must ensure that a child is assessed in all areas of suspected disability and the evaluation is sufficiently comprehensive to identify all of the child's special education needs. *See* 34 C.F.R. 300.304(c); *See* 14 DE Admin Code §925.4.3.

The Prior Written Notice from the February 12, 2021 eligibility meeting states, "Per the student's request, the team opted to continue the eligibility discussion without the nurse present..." The Delaware regulations state that for initial or continued eligibility determination, the school nurse should be a member of the IEP team. *See* 14 DE Admin Code §925.6.14.4.³

Student's IEP dated March 15, 2021 was also submitted as supporting documentation for the accommodations request. The IEP indicates that the Student's educational classifications are Other Health Impairment and Learning Disability. The Prior Written Notice from the same date states the student's educational classifications are Other Health Impairment and Learning Disability in the areas of written expression and math problem solving.

The student's educational classification on the ESR and the IEP are different. In addition, a determination of Other Health Impairment was made without the nurse as a member of the IEP team. Finally, it appears that a previous educational classification of Emotional Disability was discontinued because of behavior on the academic housing unit of the correctional facility rather than conducting a thorough evaluation. **For these reasons, I find APER's failure to provide a comprehensive evaluation with the proper IEP team members is a procedural violation of the IDEA.**

² As of July 1, 2021, the regulations regarding the eligibility criteria for each educational classification were revised. In considering a new evaluation, the revised regulations should be utilized.

³ As of July 1, 2021, the regulations regarding the eligibility criteria for each educational classification were revised. In considering a new evaluation, the revised regulations should be utilized

Individualized Education Program

Student's IEP dated March 15, 2021 included a math problem solving goal and a CEA3 goal. The present level of educational performance (PLEP) for the math problem solving goal states, "Per a recent assessment, [Student] was unable to solve any problems involving geometric math." The PLEP for the CEA3 goal states, "Currently, Student is able to compose individual paragraphs (5-8 sentences). REDACTED needs teacher prompting to correct grammar, syntax, and mechanics errors, as well as to utilize transitions between thoughts." The IEP must contain a statement of the child's present levels of academic achievement and functional performance. *See* 34 C.F.R. 300.320(a)(1); *See* 14 DE Admin Code §925.20.1.1. These two statements fail to provide measurable PLEPS.

The Student's IEP dated March 15, 2021, contains a goal targeting writing a CEA3 paper. IDEA identifies annual goals as needing to be designed to "meet the child's needs that result from the child's disability and to enable the child to be involved in and make progress in the general education curriculum; and meet each of the child's other educational needs that result from the child's disability. *See* 34 C.F.R. §300.320 (a)(2)(i); 14 DE Admin Code §925.20.1.4. A CEA3 paper is not an educational need as defined by federal and state regulations.

APER's procedural failures will only rise to the level of an IDEA violation if they resulted in "a loss of educational opportunity for the student, seriously deprive[] parents of their participation rights, or causes a deprivation of educational benefits." *Ridley Schl. District. V. M.R.*, 680 F .3d260, 274 (3d Cir.2012). APER's procedural violations resulted in confusion over Student's proper eligibility classification, present levels of achievement, appropriate goals and proper accommodations and modifications. The Student did not submit a CEA3 paper that met the standard requirements necessary for the assignment and then was "put on hold" for several months because APER did not have a clear policy for whether its CEA3 program could be modified and if so, how. **For these reasons, I find that APER's procedural failures resulted in a loss of educational opportunity and deprivation of educational benefits such that they resulted in a violation of the IDEA, applicable state law and federal or state regulations.**

CORRECTIVE ACTIONS

- 1) APER will begin the process of reviewing, evaluating, revising, and clarifying the CAE3 policies, practices, and procedures surrounding whether accommodations and/or modifications are allowed. An action plan to complete this task, as well as a progress update should be submitted to the Director of Exceptional Children Resources by **December 2, 2021**.
- 2) By **February 7, 2022**, APER will complete a re-evaluation of the Student and hold an eligibility meeting to determine the most appropriate educational classification/s for Student. APER is responsible for inviting all required people to the eligibility meeting. APER will submit the meeting invitations, Evaluation Summary Report, and the Prior Written Notice to the Director of Exceptional Children Resources by **February 7, 2022**.

- 3) By **February 7, 2022**, APER will hold an IEP meeting to revise the IEP based on the needs identified as a result of the evaluation. APER will also revise the IEP to ensure the following:
 - a. Student's present levels of academic achievement and functional performance are measurable
 - b. Goals reflect Student's needs that result from the student's disability

APER will submit the IEP and PWN to the Director of Exceptional Children Resources by **February 7, 2022**.

- 4) Based on any additional needs identified by conducting the evaluation and revising the IEP, the IEP team will determine if compensatory education services are owed to Student. The determination of compensatory education services, calculation of time owed, and timeline for delivery should be discussed with Student and documented in a PWN. The PWN providing this level of detail, as well as IEP should be submitted to the Director of Exceptional Children Resources by **February 7, 2022**.
- 5) By **December 1, 2021**, APER will provide a detailed plan to the Director of Exceptional Children Resources addressing how APER will provide professional development to all APER staff (administrators, teachers, and educational diagnosticians etc.) on the regulatory requirements for which violations were cited in these findings including the following:
 - a. evaluation procedures
 - b. requirements for evaluations and re-evaluations
 - c. eligibility criteria for the various educational classifications
 - d. required participants at an eligibility meeting
 - e. identifying needs areas
 - f. developing measurable present levels of educational performance
 - g. the difference between accommodations and modifications

The professional development must be completed and the related documentation (sign in sheet, agenda, copy of handouts, copy of power point, etc.) must be provided to the Director of Exceptional Children Resources by **December 17, 2021**.