

**VIRGINIA DEPARTMENT OF EDUCATION  
DIVISION OF SPECIAL EDUCATION AND STUDENT SERVICES  
OFFICE OF DISPUTE RESOLUTION AND ADMINISTRATIVE SERVICES**

**LETTER OF FINDINGS**

<p><b>School Division</b> Loudoun County Public Schools Dr. Daniel W. Smith, Superintendent Dr. Tedra Richardson, Special Education Director Donna Smith, Assistant Director, Procedural Support 21000 Education Court Ashburn, Virginia 20148-5526 <a href="mailto:Daniel.W.Smith@lcps.org">Daniel.W.Smith@lcps.org</a> <a href="mailto:Tedra.richardson@lcps.org">Tedra.richardson@lcps.org</a> <a href="mailto:Donna.Smith@lcps.org">Donna.Smith@lcps.org</a></p>	<p><b>Parents</b> N/A</p>
<p><b>Date Complaint Received</b> March 2, 2023</p>	<p><b>Student</b> Systemic</p>
<p><b>Notice of Complaint Date</b> March 13, 2023</p>	<p><b>Complainant</b> Melissa K. Waugh, Esq. Belkowitz Law, PLLC 10427 North St., Ste. 200, Fairfax, Virginia 22030</p>
<p><b>Complaint Appeal Date</b><sup>2</sup> August 14, 2023</p>	<p><b>Findings Date</b><sup>1</sup> July 14, 2023</p>
<p><b>Coordinator of Complaints</b> Sabrina Gross, J.D.</p> <p><b>Compliance Specialist</b> Latisha Woodford, J.D.</p>	<p><b>Corrective Action Plan Date</b> August 14, 2023</p> <p><b>Complaints Department Phone #</b> (804) 225-2013</p>

**SYSTEMIC COMPLAINT AUTHORITY**

This complaint identifies four individual students and alleges that the actions of Loudoun County Public Schools (LCPS) regarding these students reflects systemic practices within the division related to its independent education evaluations practices. In its *Analysis of Comments and Changes* for the 2006 implementing regulations, the U.S. Department of Education (USED), Office of Special Education Programs (OSEP) has stated that state education agencies—such as the VDOE—are “required to resolve any complaint that meets the [sufficiency] requirements” set forth in the 2006 implementing regulations, “including complaints that raise systemic issues....”<sup>4</sup> OSEP has also stated that “the broad scope of the State complaint procedures, as permitted in the regulations, is critical to each State’s exercise of its general supervision responsibilities. The

<sup>1</sup> To ensure that the student’s best interest was served and given the detailed and unique issues cited in the complaint allegations and in the parties’ supporting materials and clarifications, we found that exceptional circumstances existed and extended the Letter of Findings due date from May 1, 2023, to July 14, 2023.

<sup>2</sup> The thirty (30) day period for filing an appeal under the Virginia Regulations, at 8 VAC 20-81-200.E, expires on August 13, 2023, which falls on a Sunday. Accordingly, the appeal will be due on the following business day, Monday, August 14, 2023.

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complaint procedures provide parents, organizations, and other individuals with an important means of ensuring that the educational needs of children with disabilities are met and provide the SEA [state education agency] with a powerful tool to identify and correct noncompliance....”<sup>5</sup> Accordingly, this office is authorized to investigate alleged systemic violations of special education regulations.

In this specific complaint, Complainant provided both student specific allegations and systemic allegations against LCPS or the local education agency (LEA).

### A. Applicable Regulations

This office based its investigation and findings on the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (8 VAC 20-81-10 *et seq.* (the “Virginia Regulations”)), as amended, available online at <https://law.lis.virginia.gov/admincode/title8/agency20/chapter81/>.

### B. Sufficiency of Complaint (See 34 C.F.R. § 300.153)

Prior to the issuance of the *Notice of Complaint* in this case, this office reviewed the complaint documentation and determined that it met the filing requirements of the regulations.

### C. Chronology

A review of the record indicates the following chronology:

Date	Event
<b>Events Occurring More Than 365 Days Before March 2, 2023<sup>3</sup></b>	
January 28, 2022	<ul style="list-style-type: none"><li>The Virginia Department of Education (VDOE), Office of Dispute Resolution and Administrative Services (ODRAS) issued LCPS a Corrective Action Plan (CAP) as a part of its <i>Letter of Findings</i>. The CAP advised LCPS to complete the following: 1) Review its cost containment criteria and align its funding limits with the market rate. Review this criteria annually and submit a copy of the criteria to the VDOE for 2021/2022, 2022/2023, and 2023/2023 academic school years; 2) Establish a process to reimburse parents who have paid out of pocket for IEEs due to the unreasonable cost containment criteria, 3) Review and revise its IEE</li></ul>

<sup>3</sup> In accordance with the 2006 implementing regulations, at 34 C.F.R. § 300.153, and the Virginia Regulations at 8 VAC 20-81-200.B.6, this office is charged with the responsibility of investigating and resolving all valid special education complaints on behalf of eligible students with disabilities when the complaint alleges a violation of the applicable state and federal laws and regulations that has occurred not more than one year preceding the date on which the allegation was received by our office. Complainant transmitted the complaint via email on March 2, 2023. Consequently, any allegations regarding events that occurred prior to March 2, 2022, are time-barred, and will not be addressed in the *Letter of Findings*.

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	policies/procedures/guidelines prohibiting IEE providers from providing IEE reports directly to parents.; and 4) Review and revise its IEE policies/procedures/guidelines requiring pre-evaluation discussions.
February 28, 2022	<ul style="list-style-type: none"><li>LCPS provided ODRAS with an update regarding its implementation of the CAP. LCPS advised, in part, that the school division “recently updated its IEE cost containment criteria to align its criteria with the cost containment criteria currently utilized by Fairfax County Public Schools.” LCPS also advised that it was in the process of contacting evaluators in the area and based on the current data providers were reluctant to “give a standard ‘rate’ for the completion of an evaluation[.]” It’s further explained that providers asserted that their “rate” also varies “depending on how much time it takes them to complete a particular evaluation. Evaluators with this variable rate have reported to LCPS that the length of time a particular evaluation will take to complete can vary greatly depending upon the needs and presentation of a particular student.”</li></ul>

**Events Occurring Within 365 Days of March 2, 2023**

March 2, 2022	<ul style="list-style-type: none"><li>Complainant emailed ODRAS expressing “some grave concerns about LCPS’s proposal for identifying who should be reimbursed for out-of-pocket costs from IEEs” and concerns regarding LCPS cost caps being “so low that comprehensive evaluations are discouraged or achievable only when parents pay additional amounts out of pocket.”</li></ul>
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April 1, 2022	<ul style="list-style-type: none"><li>LCPS submitted additional information to ODRAS for review.</li></ul>
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May 11, 2022	<ul style="list-style-type: none"><li>LCPS sent parents a Reimbursement Letter, which stated in part:</li></ul>
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“You are receiving this letter because my office has identified your family as a family who:

- a) Requested an IEE at public expense during either the 2020-2021 or 2021-2022 school year (specifically a TYPE OF EVALUATION HERE);
- b) Requested that LCPS waive LCPS’ normal IEE cost containment criteria for your requested IEE due to the presence of unique circumstances; and
- c) Did not receive the requested waiver from LCPS and, therefore, you may have incurred an out-of-pocket expense for a portion of your requested IEE.

If your family incurred any out-of-pocket expenses to obtain the above-referenced IEE, LCPS may agree to reimburse your family for some or all of these out-of-pocket expenses. Whether your family is eligible for reimbursement will depend on two factors.

First, LCPS must receive appropriate documentation verifying that your family incurred out-of-pocket expenses for the above-referenced IEE. Appropriate documentation must include an invoice from the IEE provider demonstrating proof of payment for out-of-pocket expenses.

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	<p>Second, the amount of reimbursement your family may be eligible to receive will depend upon the total cost of the IEE in question and how this cost compares to LCPS' newly adopted IEE cost containment criteria. In April of 2022, LCPS updated its IEE cost containment criteria. A copy of this updated IEE cost containment criteria is enclosed. If the total cost of the IEE in question does not exceed LCPS' updated IEE cost containment criteria, LCPS will agree to reimburse your family for the total amount of your out-of-pocket expenses.<sup>4</sup> If the total cost of the IEE in question exceeds LCPS' updated IEE cost containment criteria, LCPS will agree to reimburse your family for the portion of your out-of-pocket expenses falling within LCPS' updated IEE cost containment criteria.<sup>5</sup> LCPS will also consider whether any unique circumstances may warrant payments beyond LCPS' updated IEE cost containment criteria.”</p>
July 7, 2022	<ul style="list-style-type: none"><li>• ODRAS issued LCPS a Cap Status Letter, which confirmed ODRAS' receipt of LCPS' cost containment criteria for 2021/2022 school year. ODRAS requested LCPS' to provide an explanation as to how LCPS' calculated its cost containment criteria and once received, ODRAS would approve LCPS' action. The letter confirmed ODRAS' receipt of LCPS' reimbursement process, which was approved. ODRAS encouraged LCPS to “remind parents that they can demonstrate unique circumstances” as a part of the IEE approval process. The letter also confirmed ODRAS' receipt of LCPS' IEE criteria guidelines and advised that the guidelines were approved. ODRAS instructed LCPS to “move forward with the training requirements” and submit a copy of the materials to ODRAS for pre-approval.</li></ul>
August 15, 2022	<ul style="list-style-type: none"><li>• In a responsive letter, LCPS explained that the school division “researched and identified local private providers for each evaluation area. From December 2021 through March 2022, LCPS contacted the identified providers and documented their current evaluation fees. Based on all of the data provided, LCPS set new maximum allowable charges, where necessary, at or above fees charged by private providers, with the exception of any fees that were well above the market data collected by LCPS. A copy of the LCPS' <i>Criteria for an Independent Educational Evaluation at Public Expense</i> (rev 8/22) is attached.” LCPS also submitted a copy of its training materials.</li></ul>
October 20, 2022	<ul style="list-style-type: none"><li>• ODRAS issued a CAP status letter, which advised LCPS that its information was received and under review.</li></ul>
December 13, 2022	<ul style="list-style-type: none"><li>• In a CAP Status letter, ODRAS indicated that our office accepted LCPS' (i) process of identifying local private providers for each evaluation area and (ii)</li></ul>

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<sup>4</sup> LCPS provides the following example “during the 2020-2021 school year, an LCPS family paid \$1,000.00 out-of-pocket to obtain a \$3,000.00 independent psychoeducational evaluation. LCPS paid \$2,000.00 for this evaluation in accordance LCPS' IEE cost containment criteria. In April of 2022, LCPS updated its IEE cost containment criteria for psychoeducational evaluations to \$3,000.00. The family may be eligible to obtain full reimbursement (\$1,000.00).”

<sup>5</sup> LCPS notes, “during the 2020-2021 school year, an LCPS family paid \$3,000.00 out-of-pocket to obtain a \$5,000.00 independent psychoeducational evaluation. LCPS paid \$2,000.00 for this evaluation in accordance with LCPS' IEE cost containment criteria. The family may be eligible to obtain reimbursement up to \$1,000.00 for the cost of the psychoeducational IEE. LCPS would also consider information from the family regarding unique circumstances that may justify the need for additional reimbursement.”

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	new cost containment criteria. ODRAS also advised LCPS to remove the language from its training materials, which stated: “At minimum, a parent must identify a completed LCPS evaluation with which they disagree.” ODRAS further advised that “as written, the language appears to impose a condition that is inconsistent with the special education regulations. Instead, the LEA may request that a parent(s) identify the completed evaluation with which they disagree.” Specifically, ODRAS declined to find that the LEA may require this identification in order for a parent(s) to obtain an IEE at public expense.
January 20, 2023	<ul style="list-style-type: none"> <li>In a responsive letter, LCPS confirmed removing the statement “At minimum, a parent must identify a completed LCPS evaluation with which they disagree” from LCPS’ training material and submitted a copy of the corrected slide.</li> </ul>
January 31, 2023	<ul style="list-style-type: none"> <li>ODRAS issued LCPS a CAP Status letter advising that upon receipt of LCPS’ January 20, 2023, letter this office determined that LCPS properly removed the problematic language for its training. ODRAS closed the CAP “pertaining to training and the annual submission requirement for 2021/2022[.]”</li> </ul>
March 2, 2023	<ul style="list-style-type: none"> <li>ODRAS received complaint.</li> </ul>
March 13, 2023	<ul style="list-style-type: none"> <li>ODRAS issued Notice of Complaint.</li> </ul>

**ISSUE(S) AND REGULATIONS:**

**1. Procedural Safeguards – Independent Educational Evaluation (IEE).**

**A. Miscellaneous – VDOE General Supervision.**

Complainant alleges that the VDOE is out of compliance with its general supervision authority pursuant to Part B of the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1232d(b)(3)(A), 1412(a)(11), 1416(a); 34 C.F.R. § 300.149(b) 300.600(a),(b), and the U.S. Office of Management and Budget (“OMB”) Guidelines for grant recipients, 2 C.F.R. § 200.332(d), for failing to correct the deficiencies of LCPS’ noncompliance and ensuring that LCPS made timely and appropriate action on all deficiencies identified in the *Letter of Findings* issued on January 28, 2022. Specifically, Complainant alleges the VDOE has not ensured that:

- LCPS has aligned its funding limits for IEEs with market rates.
  - LCPS continued to impose the same funding limits even after being found in noncompliance. See Student 1.
- LCPS has granted waivers of its fee caps when parents identify unique circumstances justifying costs that exceed the fee cap.

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- LCPS created a process to reimburse parents who had to pay out-of-pocket for a publicly funded IEEs that actually reimbursed the Parents affected by its identified noncompliance in the January 28, 2022, Letter of Findings.
  - The process created by LCPS was so restrictive that very few parents were reimbursed for their expenses.

### **B. Systemic Violations by LCPS**

- LCPS' IEE funding limits are still too low.
  - LCPS' funding limits for a psychological/educational assessment are \$3000 whereas Fairfax County Public Schools (FCPS) has established a \$3700 fee cap for the same assessment.
  - LCPS's fee caps are too low to cover a "basic" Psychoeducational Evaluation for most providers in their area. They are also far too low to cover more comprehensive assessments for children with Emotional Disabilities, Autism ("ASD"), or ADHD. They are certainly too low for children with multiple disabilities to be comprehensively assessed (e.g., children with an SLD and Autism and ADHD).
  - LCPS contends that the providers on their list agreed to provide IEEs at no additional cost to Parent, but only one provider confirmed this was true, which limits the Parents right to an IEE by lowering the availability of providers. Currently FCPS' IEE list contains 14 providers, while LCPS' list contains only 4.
- LCPS continues to deny waivers to Parents who identify a unique circumstance.
  - For example, the unique circumstance explanation that a student needs a more comprehensive evaluation has been denied.
  - Student 1- LCPS denied the Student's request for a unique circumstance waiver due to LCPS' fee CAP being found to be too low by the VDOE's *Letter of Findings*. Parent requested that LCPS send a letter to the IEE provider stating that the Parent should not incur any additional costs for the IEE. However, this did not occur. Consequently, LCPS only paid \$2400 for the IEE and the Parent had to pay \$2400, out of pocket.
  - Student 2- The Parent explained that the Student had a unique profile of SLD and Autism and due to this the providers on the list were either unqualified to complete the complex evaluation, were unavailable to do so, or would have to charge more. LCPS denied the Parent's explanation for this unique circumstance.

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- Student 3- On March 30, 2022, the Parent requested a fee cap waiver explaining to LCPS that their fee caps were too low for the Parent to obtain an IEE without the Parent incurring additional expense for a comprehensive evaluation and a comprehensive speech evaluation. LCPS denied this request.
- Student 4- The Parent requested a waiver because none of the providers on LCPS' list were available to complete the evaluations needed due to the Student's complex disability. The Parent pursued the IEE through Mindwell. Mindwell explained to LCPS that the complex nature of the Student's disability required a neuropsychological which could not be completed within the fee cap allotted by LCPS. LCPS disagreed asserting that standard testing would be sufficient, a neuropsychological was unnecessary, and that it does not complete neuropsychological assessments. LCPS denied the request for a waiver.
- LCPS is limiting IEEs to assessments only conducted by LCPS.
  - Student 2- "The parent requested an IEE on May 25, 2022, and in a letter to the parents from Mr. John Lody dated May 26, 2022, Mr. Lody wrote, 'LCPS conducted a psychological evaluation including a classroom observation (report dated February 9, 2021), an educational evaluation (report dated February 11, 2021), and a speech-language evaluation (report dated February 11, 2021), of your child in 2021, so you are entitled to request the same evaluations as independent educational evaluations at public expense.'"
  - Student 3- The parent requested an IEE on January 14, 2022, and in a letter to the parents from Mr. John Lody dated May 26, 2022, Mr. Lody wrote, 'LCPS conducted a psychological evaluation (report dated December 18, 2020), a sociocultural assessment (report dated November 12, 2021), and a speech-language evaluation (report dated January 3, 2021), of your child in 2020 and 2021, so you are entitled to request the same evaluations as independent educational evaluations at public expense.' See Exhibit 27 (emphasis added)."
  - Student 4- "In an email to Mr. John Lody dated May 12, 2022, the Parent of Student 4 requested an IEE, and Mr. Lody responded by letter dated May 20, 2022, partially approving the parent's request. See Exhibit 29. He stated that, LCPS conducted a 'psychological evaluation (report dated April 20, 2022), an educational evaluation (report dated May 5, 2022), a speech-language evaluation (report dated March 31, 2022), and an occupational therapy evaluation (report dated March 8, 2022), of your child in 2022, **so you are entitled to request the same evaluations as independent educational evaluations** at public expense.' *Id.* (emphasis added)."

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- LCPS is denying IEE requests without reason or justification or taking the Parent to due process.
  - Student 4- LCPS denied the Parent’s May 12, 2022, request for an auditory processing (APD) IEE without any explanation or initiating a due process hearing. The Parent obtained the APD IEE and requested reimbursement. LCPS responded to this request by stating “In the May 20 letter, your request for an independent psychological, educational, speech-language, and occupational therapy evaluation was approved; however, your request for an APD evaluation was denied. Furthermore, in the letter, it was explained that if you believe there are unique circumstances that would justify or warrant an APD evaluation beyond our criteria, you were to provide this documentation for our consideration. LCPS never received from you documentation of unique circumstances for consideration; therefore, your request for reimbursement of the APD evaluation obtained at personal expense is denied.” The Parents paid \$800 out of pocket for the APD evaluation.

### Applicable Regulations:

- 34 C.F.R. § 300.502(a)(3)(i); 8 VAC 20-81-10
- 34 C.F.R. § 300.502; 8 VAC 20-81-170.B
- 34 C.F.R. § 300.502(a)(2); 8 VAC 20-81-170.B.1.b and B.2.f
- 34 C.F.R. § 300.502(e); 8 VAC 20-81-170.B.2.f
- 34 C.F.R. § 300.153
- 34 C.F.R. § 300.153; 8 VAC 20-81-200

### Findings:

- The Office of Dispute Resolution and Administrative Services (ODRAS) is in compliance with **Issue 1A**. ODRAS finds LCPS in noncompliance with **Subissue 1B(i), 1B(ii) 1B(iii), and 1B(iv)**.

### Analysis:

#### *Regulatory Background*

- Special education regulations define independent educational evaluation as “an evaluation conducted by a qualified examiner or examiners who are not employed by the local educational agency [school division] responsible for the education of the child in question.”
- Federal and state special education regulations address parental rights and procedures regarding an independent educational evaluation (IEE) of a student. These regulations provide



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that parents have the right to an IEE at public expense if the parent disagrees with an evaluation obtained by the school division. More specifically, the regulations provide that, upon receipt of a parental request for an IEE, the school division must, without unnecessary delay, either: (i) initiate a due process hearing to show that its evaluation is appropriate; or (ii) ensure that an IEE is conducted at public expense unless the school division demonstrates in a due process hearing that the evaluation obtained by the parent(s) does not meet the school division's criteria.

- Further, the regulations direct school divisions to provide to a parent(s), upon request for an IEE, information about where an independent educational evaluation may be obtained and the applicable criteria for IEEs.
- Federal and state special education regulations specify that, if the IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school division uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE. Except for the criteria, a local educational agency may not impose conditions or timelines related to obtaining an IEE at public expense.

### *Review of the record*

#### **Subissue 1A: General Supervision Authority.**

- The Virginia Department of Education (VDOE) maintains and operates a complaint system that provides for the investigation and issuance of findings regarding violations of the rights of parents or children with disabilities. The Superintendent of Public Instruction or designee is responsible for the operation of the complaint system.
- In instances where the VDOE finds a school division in noncompliance with special education laws and regulations, it shall issue a Corrective Action Plan (CAP) directing the school division to develop a plan of action. The school division must comply with the CAP within the time period set forth by the VDOE.
- The complaint may assert that the VDOE has failed to comply with special education laws and regulations. Here, Complainant asserts that the VDOE failed to perform its general supervision duties as related to the CAP issued against LCPS for its violations pertaining to IEEs.
- On January 28, 2022, the VDOE issued a *Letter of Findings* concluding that LCPS was in noncompliance for maintaining cost containment criteria that were too low to provide parents with an opportunity to obtain an IEE at public expense, for requiring that IEE providers submit reports directly to the LEA rather than parents, and for requiring pre-evaluation discussions. As detailed in the *Chronology*, LCPS was directed to:

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- Review its cost containment criteria and align its funding limits with the market rate. Review this criteria annually and submit a copy of the criteria to the VDOE for the following school years: 2021/2022, 2022/2023, and 2023/2024.
  - Establish a process to reimburse parents who have paid out of pocket for IEEs due to the unreasonable cost containment criteria.
  - Review and revise its IEE policies/procedures/guidelines prohibiting IEE providers from providing IEE reports directly to parents.
  - Review and revise its IEE policies/procedures/guidelines requiring pre-evaluation discussions.
  - VDOE will review policy changes for approval.
  - Upon VDOE's approval of updated changes. LCPS shall provide training on the IEE information to all school division staff and administrators who may respond to request for an IEE.
- Over the course of the academic year, VDOE worked with LCPS to revise its cost-containment criteria, develop appropriate policies, and complete training. Prior to the end of year, as required by the regulations, VDOE closed out the CAP. LCPS had in fact increased its IEE maximum fees, changed its policies, trained its staff, and established a process to reimburse parents harmed by the low fee schedule.
  - However, upon further investigation, this Office has concluded, as noted in its findings below, that while LCPS has updated its policies to comply with the regulations, its practices remain flawed. This was recently brought to our attention via a complaint submitted on March 2, 2023. Upon receipt of this complaint, we promptly reviewed these concerns and began this investigation as required by the regulations.
  - For the foregoing reason, we find VDOE in compliance on this issue.

### **Subissue 1B(i): LCPS' funding limits remain too low**

- LCPS denies that its "cost containment criterion for IEEs funded at public expense does not comply with the requirements of the IDEA or its implementing regulations." LCPS contends that the IDEA allows school divisions to establish reasonable cost containment criteria to avoid paying unreasonably expensive IEEs. In addition, LCPS asserts the guidance issued by the U.S. Department of Education explains that the "cost containment criteria should not be established by averaging the fees customarily charged for evaluations in the local geographic area. Instead, cost containment criteria should instead be established by 'eliminat[ing] unreasonably excessive fees.'" LCPS maintains that the school division complied with special education regulations.
- Further, LCPS notes its ongoing compliance with VDOE's CAP. As the *Chronology* thoroughly details, LCPS submitted its cost containment criteria for review and argues that the

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school division established its cost containment criteria by “identifying practitioners who could complete relevant evaluations in the area and then collecting information about the fees these practitioners charge for their evaluations. After LCPS personnel contacted all identified practitioners, as the IEE coordinator, [LCPS’ Director of Diagnostic and Prevention Services] personally reviewed and analyzed the data to establish LCPS’ updated IEE cost containment criteria.” Significantly, LCPS argues that “the cost containment criteria was not established by averaging the fees customarily charged for evaluations in the local geographic area. Rather, the LCPS cost containment criteria was established by eliminating fees that were unreasonably excessive.” In support of LCPS’ contentions, LCPS created the following chart:

#	Provider	Cost
1	Mindwell Psychology	\$2800-\$3,300 <sup>6</sup>
2	Behavioral Health and Wellness Associates of Northern Virginia	\$2500
3	Ashburn Psychological & Psychiatric Services	\$3,000
4	LifeStance Health	\$2,600 - \$3,100
5	Loudoun Psychological	Psychological Evaluations Only: \$1200-\$1500
6	Martia Perkins	\$2,900
7	Dr. Christina Lubian	\$2,900
8	ThriveWorks	\$900 - \$3,000
9	Susan Frank	\$2,500 - \$3,000
10	Dr. Nisco	\$1,600
11	Child Psychological Services	\$2,300 - \$3,400 (But on average \$2800.00)
12	Potomac Psych	Cost estimate not shared
13	Baron Therapy & Testing Services	\$400 - \$3,100
14	Finding Solutions Counseling Center	\$2,600
15	Atlantic Counseling Group	\$2600 - \$3,100
16	Dr. Lee Wong-Holland	IQ testing: \$500.00 IQ and Achievement testing: \$1000.00 *Dr. Wong-Holland also stated that more complex testing could be completed in the range of \$3000.000-\$3500.00.
17	Commonwealth Psychological Associates PLC	\$4000 (but agreed to conduct IEEs at public expense for \$3000.00)

<sup>6</sup> Documentation attached to Complainant’s State Special Education Complaint Form, identifies Mindwell’s 2022 testing fees as \$3,000.00 - \$3,300.00 for psychoeducational evaluation.

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18	Shenandoah Valley Child Development Clinic, James Madison University	\$950
19	Dr. Karen Larson & Associates	\$1,855

- LCPS further explains how the school division contacted the local practitioners identified above, obtained rates, reviewed the information, and arrived at its cost cap for psychoeducational evaluations. It was determined that most practitioners provided psychoeducational evaluations for \$3,000.00 or less, subsequently LCPS established a \$3,000.00 cost cap. Significantly, LCPS also determined that “should [a] student require a complex assessment costing more than \$3000.00, LCPS could evaluate a request to waive its IEE cost criterion in these cases due to the presence of unique circumstances.” Thus, LCPS argues that (i) Complainant’s “broad assertion” regarding LCPS’ IEE cost containment criteria “is improperly based on limited data points that did not exist at the time LCPS established its criteria[.]” (ii) LCPS’ cost containment criteria cannot be definitively based on Fairfax County Public Schools’ criteria, and (iii) LCPS’ cost containment criteria cannot be based solely on Mindwell Psychology’s market rate for psychoeducational evaluations, which is located in Chantilly, Virginia.
- In closing, LCPS disagrees with Complainant asserting that LCPS’ IEE criteria “must account for the most complex evaluations when calculating its cost criteria[.]” LCPS contends that Complainant’s assertion is not based on any “direct regulatory authority” and “[t]o the extent that a student requires a psychoeducational evaluation that costs more than LCPS’ maximum fee due to unique circumstances, the IDEA indicates that these situations are appropriately addressed through LCPS’ process of allowing families to request waivers of LCPS’ cost containment criteria.”
- On April 24, 2023, Complainant submitted additional information asserting the following:
  - “LCPS’s current list of four (4) IEE Psychological/Educational Evaluation providers provided with its Response, only two were identified on LCPS’s chart as providing psychoeducational evaluations for \$3,000 or less, one was not on their chart at all, and Commonwealth Psychological Associates (“CPA”) told LCPS their cost was \$4,000. While it is commendable that CPA is willing to give LCPS such a significant discount on IEE’s, LCPS cannot rely on that discounted rate as an indicator of the community rate for those assessments. Dr. Ekdorn, who had appeared on LCPS’s previous lists of providers, was not on LCPS’s chart and told the Complainants and VDOE that he charges \$3,250 and \$3,750 respectively (significantly more than the LCPS fee cap of \$3,000).”
  - “LCPS’s analysis of actual fees charged by Mindwell Psychology, indicates the community rate for comprehensive psychoeducational evaluations for LCPS students is significantly higher than \$3,000. Having made some of the calls to area practitioners

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myself over a year ago, it was often stated that these quotes were for basic assessments only. The actual costs would vary based on the unique needs of the student. The quoted ranges certainly do not represent the range of assessments that would need to be done to comprehensively evaluate a student.”

- “[T]he fact that LCPS can only find four (4) providers in our area willing to provide a psychoeducational IEE for \$3,000 or less is telling. A parent is not limited to choosing a provider off of an LEA’s list, but if the fee cap is set so low that parents are by default being limited to LCPS’s list of providers, then the fee cap cannot represent a community rate.” It is also noted that “Fairfax County Public Schools has a more robust fee cap and a more robust list of providers for parents to choose from.”
- Complainant requested VDOE, as a part of its investigation, to obtain the following information/documentation from LCPS: documentation for the actual amounts paid out-of-pocket by the five (5) families LCPS reimbursed, the number of families who requested an IEE in 2020, 2021, and 2022, and from the families reimbursed by LCPS obtain a copy of the bills submitted to LCPS for payment by the family or the IEE provider and the actual amounts paid to the IEE providers and argues that the information “would shed light on the actual fees being charged in this area for various IEE assessments.” Further, its argued that “hypothetical cost estimates from providers” are not as accurate as the “data LCPS has in its possession---namely, the actual bills provided to LCPS by practitioners in our area for actual IEE assessments—to determine community rates for IEEs.”
- As LCPS properly asserts, OSEP has warned school divisions that “the maximum [fee] cannot simply be an average of the fees customarily charged in the area by professionals who are qualified to conduct the specific test. Rather, the maximum must be established so that it allows parents to choose from among the qualified professionals in the area and only eliminates unreasonably excessive fees.”<sup>7</sup>
- As detailed in the *Chronology*, LCPS properly provided information as required by this office’s CAP. A review of the LCPS *Criteria for Independent Educational Evaluation at Public Expense*, revised in February 2022, establishes that LCPS’ maximum fee for IEEs at public expense were as follows:

Psychological	up to \$1,400
Educational	up to \$1,000
Speech/Language	up to \$800

<sup>7</sup> Letter to Thorne, 16 IDELR 606 (OSEP Feb. 5, 1990) (same); Letter to Wilson, 16 IDELR 83 (OSEP Oct. 17, 1989) (same).

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Occupational Therapy	up to \$800
Assistive Technology	up to \$1,000
Functional Behavioral Assessment	up to \$1,500
Sociocultural	up to \$400
Audiological	up to \$400
Developmental	up to \$400
Physical Therapy	up to \$400
Other related services	up to \$400

- In March 2022, LCPS revised its *Criteria for Independent Educational Evaluation at Public Expense*, establishing the following maximum fee for IEEs at public expense as:

Psychological	up to \$2,000
Educational	up to \$1,000
Speech/Language	up to \$800
Occupational Therapy	up to \$800
Assistive Technology	up to \$1,000
Functional Behavioral Assessment	up to \$1,500
Sociocultural	up to \$400
Audiological	up to \$400
Developmental	up to \$400
Physical Therapy	up to \$400
Other related services	up to \$400

- In August 2022, LCPS' revised *Criteria for Independent Educational Evaluation at Public Expense*, established the same maximum fee for IEEs at public expense as identified in March 2022.
- A review of LCPS' approved list of IEE providers from March 2021 identified the following approved providers who conducted psychological/educational evaluations: 1) Ashburn Psychological & Psychiatric Services, 2) Commonwealth Psychological Associates, PLC, 3) Dr. Karen Larson & Associates, 4) Barry B. Ekdorn, Ph.D., and 5) Child Psychological Services, LLC; LCPS' August 2021, and September 2021 list identified the following approved providers who conducted psychological/educational evaluations: 1) Ashburn Psychological & Psychiatric Services, 2) Commonwealth Psychological Associates, PLC, 3) Dr. Karen Larson & Associates, and 4) Barry B. Ekdorn, Ph.D.; and significantly LCPS' most recent provider list revised in February 2023 identifies the following approved providers: 1) Ashburn Psychological & Psychiatric Services, 2) Commonwealth Psychological Associates, PLC, 3) Dr. Karen Larson & Associates, and 4) Clarity Psychological Services.

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- While we recognize that this office previously approved LCPS' August 15, 2022, letter detailing how it arrived at its cost containment criteria, upon review of the record we now find that the approval required additional information was not based upon a complete picture. After reviewing the chart submitted by LCPS that identified the practitioners who could complete psychoeducational evaluations in the area, in conjunction with LCPS' approved provider list, we have determined that LCPS' cost cap failed to consider the fees customarily charged in the area by professionals who are qualified to conduct psychoeducational evaluations and effectively denied parents the right to choose from among the qualified professionals in the area. Rather, LCPS' cost cap reflects its limiting nature as out of 19 qualified providers parents are essentially limited to four options. Without additional information/documentation, it is only logical to conclude that LCPS' cost cap does not reflect the elimination of only unreasonably excessive fees. Thus, additional corrective action is warranted, and our office acknowledges its duty to provide additional oversight regarding LCPS' process.
- Based on the foregoing, we find LCPS in noncompliance with **Subissue 1B**.

### **Subissue 1B(ii): LCPS' denial of waivers for a unique circumstance.**

- LEAs may establish maximum allowable charges for an IEE. A maximum allowable charge is a cap on the cost for the evaluation. "If a district does establish maximum allowable charges for specific tests, the maximum cannot simply be an average of the fees customarily charged in the area by professionals who are qualified to conduct the specific test. Rather, the maximum must be established so that it allows parents to choose from among the qualified professionals in the area and only eliminates unreasonably excessive fees."<sup>8</sup> The regulations and OSEP have left the process by which the division must eliminate excessive fees up to the LEAs by not establishing a standard for process for creating fee caps. Thus, it is up to the LEA to determine how it will establish the market rate. However, once the market rate has been established, they may not enforce such maximums in an absolute manner. Rather, in enforcing its cost containment criteria, "a public agency would need to provide a parent the opportunity to demonstrate that unique circumstances justify selection of an evaluator whose fees fall outside the agency's cost containment criteria."<sup>9</sup> However, an LEA cannot unilaterally decide to that it will only pay the maximum allows costs, but rather it must initiate a due process hearing "to demonstrate that the evaluation obtained by the parent did not meet the agency's cost criteria and that unique circumstances of the child do not justify an IEE at a rate that is higher than normally allowed."<sup>10</sup>

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<sup>8</sup> Letter to Thorne, 16 IDELR 606 (OSEP Feb. 5, 1990) (same); Letter to Wilson, 16 IDELR 83 (OSEP Oct. 17, 1989) (same).

<sup>9</sup> 71 Fed. Reg. 46540, 46690 (Aug. 14, 2006) (emphasis added); see also Letter to Anonymous (OSEP Oct. 9, 2002)

<sup>10</sup> Letter to Petska, 35 IDELR 191 (Sept. 10, 2001); Letter to Anonymous, 22 IDELR 637 (Feb. 2, 1995); but see Letter to Thorne, 16 IDELR 606 (OSEP Feb. 5, 1990) (suggesting that if the school believes there is no justification

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- Upon the finding of noncompliance above, we conclude that our decision in the previous letter findings regarding exceptional circumstances still applies. Specifically, in our January 28, 2022, findings we state “In this instance, upon reviewing the record, we find that the cost containment criteria was so restrictive that it impeded parents from obtaining an IEE from any providers other than those on the LEA provider’s list. An LEA may not prohibit a parent from accessing providers that are not on their preapproved provider’s list. Such an imposition impacts the very independent nature of the IEE, and as it follows, impacts the scope of any IEE a parent is pursuing because a parent is limited to the five providers on LCPS’ list. In one instance, the Parent was able to demonstrate that none of the providers on the list were able to provide the evaluation to the Student at the cost containment criteria. While another Parent was able to demonstrate that LEA’s cost containment criteria did not absorb the total cost of the IEE that the LEA approved. It also follows that LCPS’ cost criteria was so limited that in order for any parent to obtain an IEE with a provider other than those on the list, with or without an expanded scope, that Parent had to demonstrate a unique circumstance and, as such, has created a circular problem where the Parent is forced to assert unique circumstances to obtain a provider who can do the evaluations they need, not because the situation is exceptional, but rather because the cost criteria was so low that the Parent could not otherwise use any provider not on the school division’s list. However, because the situation was not unique, the Parent could not obtain a waiver-meaning no IEE at public expense. Thus, we find that LCPS’ cost criteria was so low that it acted as barrier to both accessing non-listed providers and an expanded scope and thus rendering the process LCPS put into place allowing the Parent to prove a unique circumstance meaningless.” We find that these circumstances have not changed, significantly, the parents’ ability to obtain an IEE has been further narrowed because the provider list has gone from five providers to four. While we acknowledge and commend LCPS for complying with the corrective action plan issued by our office and developed policies that are in line with a parent’s right to obtain an IEE at public expense in its cost containment criteria development, we must acknowledge that it is in its implementation of its policies that LCPS violates that parent’s right to obtain an IEE.
- LCPS asserts that the school division “properly denied the parents’ request for a waiver of LCPS IEE cost containment criteria because the parents did not present unique circumstances justifying the waiver of this criteria.”
- In reviewing the facts from each Student’s allegations, the commonality remains that they all requested a waiver of the cost containment criteria and LCPS contends that evaluators on their list were available to complete the evaluations. While we are in no way concluding that the choice of provider or of a specific evaluation satisfies the unique circumstances request, we are reiterating to the LEA that the provider list is to act as a guide to the Parents in obtaining an IEE-not a requirement for use, and the fact that Parents were limited to the list due to the

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for exceeding the school’s cost criteria, “the cost of the IEE must be publicly funded to the extent of the district’s maximum allowable charge.”).



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cost containment criteria should have alerted it to the fact that the fee caps were too low.

- We find no need to make individual conclusions about each Student’s allegation, as we find an overall systemic violation. We will, however, address each individual Student in the corrective action plan below.

### **Subissue 1B(iii): LCPS is limiting IEEs to assessments only conducted by LCPS**

- LCPS contends that Complainant’s allegation is “inaccurate” as the school division “responds to requests for evaluations beyond the scope of LCPS’ original evaluations on a case-by-case basis.” More specifically, in instances where a parent requests an evaluation that was not initially completed by LCPS because the parent disagrees “with the scope of LCPS’ evaluation, LCPS may provide the parent with its criteria specific to that newly requested evaluation. In cases where a parent requests that LCPS agree to waive its fee cap for an evaluation (such as a psychoeducational) so that additional assessments can be conducted as part of that evaluation, LCPS will consider whether the parent’s request constitutes unique circumstances that would warrant a waiver of LCPS’ cost criteria.”
- LCPS also argues that its correspondence to families do not prohibit families from “requesting assessments beyond the assessments originally completed by LCPS.” Rather, LCPS acknowledges a parent’s request for an IEE at public expense and “traditionally lists the name and date of the most recently completed evaluations of the parent’s child conducted by LCPS and then correctly informs the family that they are ‘entitled to request the same evaluations as independent educational evaluations at public expense.’” LCPS argues that the school division’s action remains in compliance with the IDEA, as the IDEA’s language establishes that a parent is only entitled to an IEE at public expense “if the parent disagrees with an evaluation obtained by the public agency [emphasis in original].”
- Further, LCPS contends that its correspondence is primarily provided to parents “to assist families with recalling what evaluations LCPS recently completed of their child” and confirm whether the parent’s request is timely. In closing, LCPS notes that “families traditionally will request IEEs at public expense in the same areas completed by LCPS” however, “to the extent that a family wishes to request an evaluation beyond the original assessments completed by LCPS, LCPS will consider those requests on a case-by-case basis.”
- On April 24, 2023, Complainant submitted additional information asserting that “[t]here is no reason that any request for an IEE that includes evaluations beyond the scope of LCPS’s original evaluation should be evaluated on a case-by-case basis” as there is nothing to “consider.” Complainant also notes that a parent “is not even obligated to disclose which assessments he/she is seeking as part of the IEE since a parent is not required to obtain prior consent from the LEA for an IEE to be conducted.” Thus, while LCPS contends that the school division “may” provide parents with criteria regarding the newly requested evaluation, the law

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does not require such information be provided to parents. Instead, Complainant contends that “the law is clear...when a parent requests an IEE, the LEA...must provide to parents...information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations.” Additionally, Complainant argues that LCPS’ correspondence, stating that parents are “entitled to request the same evaluations as independent educational evaluations at public expense” is misleading.

- Despite LCPS’ rebuttal, this office agrees with Complainant’s assertions. As noted in a previous *Letter of Findings*, “on June 23, 2020, the Office of Special Education Programs (OSEP), U.S. Department of Education, issued a letter summarizing the results of its May 2019 on-site visit to the Virginia Department of Education (Office of Dispute Resolution; Office of Special Education Program Improvement). In its Differentiated Monitoring and Support Report (DMS Report), OSEP stated that: When presented with inquiries from individuals about the scope of a parent’s right to an IEE at public expense, since 1995, OSEP has consistently taken the position that a parent’s right to an IEE at public expense is not limited to those assessments that were part of the public agency’s evaluation. OSEP’s interpretation is supported by the plain language of the statute and regulation, which do not restrict a parent’s right to an IEE at public expense to those assessments previously conducted by the public agency. See OSEP Letter to Fisher (1995); OSEP Letter to Baus (2015); and OSEP Letter to Carroll (2016). That is, disagreement over the evaluation conducted by an LEA includes a disagreement about the appropriate scope of the assessment, such as when an LEA fails to assess suspected areas of a child’s educational needs simply because of shortages of evaluation personnel. In addition, OSEP has explained that a parent’s right to an IEE is not contingent upon the public agency being first afforded an opportunity to conduct an assessment in an area that was not part of the initial evaluation or reevaluation. See OSEP Letter to Thorne (1990) and OSEP letter [sic] to Carroll (2016) [emphases added]. OSEP specifically concluded that the provision of Virginia’s regulation, 8VAC20-81-170(B)(2)(a) and (e) are inconsistent with 20 U.S.C. § 1415(b)(1) and 34 C.F.R. § 300.502, because the State’s regulation restricts a parent’s right to an IEE at public expense to only those areas in which the public agency had previously evaluated the child.”
- Further, and as supported by the *Chronology*, ODRAS reviewed LCPS’ training materials submitted on August 15, 2022. Upon review, we advised LCPS to remove the language from its training materials that required parents to identify a completed evaluation LCPS conducted to which the parent disagreed. On January 20, 2023, LCPS advised that the training material was modified to remove the language however, despite its removal, the record clearly demonstrates LCPS’ failure to modify its similar practices and fundamental misunderstanding of the IEE approval process.
- Based on the foregoing, we find LCPS’ in noncompliance with **Subissue 3B**.

**Subissue 1B(iv): LCPS is denying IEE requests without reason or justification or taking the**

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### **Parent to due process.**

- In the initial complaint, Complainant asserts that the Parents requested reimbursement for audiological processing disorder evaluation that the Parent obtained due to the deficiency of the initial evaluation completed by LCPS.
- LCPS contends that the Parent requested reimbursement for an evaluation that was above their cost criteria and that the Parent should have requested a waiver for a unique circumstance if they wanted to go above the cost containment criteria.
- The record demonstrates the following:
  - The Parents requested an IEE on May 12, 2022. The IEE was for a psychological, educational, speech, occupational therapy and an auditory processing evaluation.
  - LCPS provided a written response to the request on May 20, 2022, stating that it was approving the psychological, educational, speech, and occupational therapy evaluations. However, it was not approving the auditory processing evaluation. In its denial of the APD evaluation LCPS states “your request for an auditory processing evaluation is denied. If you believe there are unique circumstances that would justify or warrant this evaluation beyond our criteria please provide documentation for consideration by LCPS.”
  - The Parent’s attorney followed up with LCPS’s denial on May 24, 2022, explaining that the Parent’s disagreed with the comprehensiveness of the evaluation completed by LCPS identifying the Student with deficits in auditory processing. Therefore, the Parent requested this IEE and the LEA must either approve the IEE at public expense or initiate a due process hearing.
  - The Parent’s moved forward with the evaluation and on October 18, 2022, via email, requested reimbursement for the APD evaluation.
  - LCPS responded to the Parent’s request on October 18, 2022, by stating that “Regarding your request for reimbursement for the Auditory Processing Disorder ("APD") evaluation, LCPS had previously responded in writing to your request for an independent educational evaluation ("IEE") on May 20, 2022. In the May 20 letter, your request for an independent psychological, educational, speech-language, and occupational therapy evaluation was approved; however, your request for an APD evaluation was denied. Furthermore, in the letter, it was explained that if you believe there are unique circumstances that would justify or warrant an APD evaluation beyond our criteria, you were to provide this documentation for our consideration. LCPS never received from you documentation of unique circumstances for consideration; therefore, your request for reimbursement of the APD evaluation obtained at personal expense is denied.”
- As stated above, OSEP has been clear that “a parent’s right to an IEE at public expense is not

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limited to those assessments that were part of the public agency's evaluation." Thus, when a parent requests an IEE at public expense for an evaluation not completed by the LEA, the LEA must either approve the IEE or file a due process hearing.

- LCPS responded to the Parent's request for an APD, an evaluation not completed by the LEA, by directing the Parent to request a waiver and provide a unique circumstances explanation as to why this IEE should be granted. LCPS' response was not in line with the regulations. Upon receiving the request, LCPS was required to either approve the IEE at public response or initiate a due process hearing. Given that they did not respond accordingly, we find them in noncompliance on this issue. Please see below for the corrective action on this matter.

### **CORRECTIVE ACTION PLAN:**

This office found LEA in noncompliance on **Subissue 1B(i), 1B(ii), 1B(iii)** and **1B(iv)**. To address these noncompliance findings we request that LEA review and complete the following:

1. Convene a meeting with Sandra Ramsey, ODRAS' CAP Manager, within the next thirty days to discuss this process of developing cost containment criteria for the following evaluations:<sup>11</sup>

- Psychological
- Educational
- Speech/Language
- Occupational Therapy
- Assistive Technology
- Functional Behavioral Assessment
- Sociocultural
- Audiological
- Developmental
- Physical Therapy
- Other related services

2. Once the process is developed, LCPS must submit a written version of the process to our office that includes the maximum fee for the areas of evaluation identified above, the list of providers contacted in LCPS' geographical location and the associated fees provided, a written narrative detailing how LCPS arrived at its cost cap, and a list of LCPS' approved providers. Once approved by this office, LCPS must update and disseminate LCPS' *Criteria for Independent Educational Evaluation at Public Expense*. As a part of our office's ongoing monitoring, LCPS must also provide this office with this information for the upcoming 2023-2024 and 2024-2025 academic years. If necessary, we may extend this period of ongoing monitoring for an

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<sup>11</sup> We note that this process may require the LEA to convene multiple meetings with the ODRAS. However, the initial meeting must convene within thirty (30) days.

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additional school year.

3. Develop a new correspondence letter that will be sent to parents who seek and IEE at public expense. While this office acknowledges LCPS' responsibility to ensure that the request is timely, remove all language that implies that a parent's right to an IEE is limited to evaluations previously conducted by LCPS. Submit a copy of this letter to our office for approval prior to its dissemination. We note that a review of the document may warrant additional corrective action by this office.
4. On a quarterly basis (meaning no later than the end date of the nine- week grading period), for the 2023-2024 and 2024-2025 academic school years, LCPS must submit all parent requests for an IEE at public expense, LCPS' correspondence sent in response to the parents' requests, all parental requests for waivers for unique circumstances, and LCPS' response to parents' request for a waiver. The information will be retained and reviewed by our office. Upon quarterly review of the documentation, it may warrant additional corrective action by this office. If necessary, we may also extend this period of ongoing monitoring for an additional school year.
5. In compliance with the approved process and cost containment criteria, LCPS must reprocess the parental requests for an IEE for Student 2, Student 3, and Student 4 who were identified in the *Letter of Findings*. In addition, LCPS must reprocess all IEE requests submitted by unidentified students for the 2022-2023 academic school year. Please submit the names of all students for which IEE requests were submitted. LCPS must submit copies of all correspondence sent to the families for our office's review.
6. LCPS must also identify all parents who requested fee waivers due to LCPS unreasonable cost containment criteria for the 2022-2023 academic school year. LCPS must provide this office with a list of the identified parents, a copy of the correspondence disseminated to those parents in relation to this Letter of Findings, proof of any out-of-pocket expenses the families incurred, and proof of the actual amounts LCPS paid to the IEE providers or reimbursed parents by December 1, 2023.

**LCPS must submit the initial CAP response and/or any associated updates to the CAP Case Manager Sandra Ramsey at [Sandra.ramsey@doe.virginia.gov](mailto:Sandra.ramsey@doe.virginia.gov) by August 14, 2023.**

Please maintain documentation of the actions taken as required in this Corrective Action Plan (CAP), including the documentation referenced in the CAP, as this information may be requested during our CAP implementation follow-up process on a later date.

**APPEAL INFORMATION:**

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Please note that the findings in this Letter of Findings are specific to this case. While general rules are cited, findings in other cases may differ due to distinctions in the specific facts and issues in each case. The parties have the right to appeal these findings within 30 calendar days of our office's issuance of the Letter of Findings. It should be noted that an appeal by either party does not obviate the LEA from completing the requested corrective action plan by the due date of **August 14, 2023**.

Any appeal must be received by our office no later than **August 14, 2023**.

Enclosed is a copy of the appeal procedures. Written appeals should be sent directly to:

Patricia V. Haymes  
Director - Office of Dispute Resolution and Administrative Services  
Virginia Department of Education  
P. O. Box 2120  
Richmond, Virginia 23218

An appeal may also be filed via e-mail correspondence to [ODRAS@doe.virginia.gov](mailto:ODRAS@doe.virginia.gov), or via facsimile transmission to (804) 786-8520. A copy of the appeal, along with any submitted documentation, must be sent simultaneously to the non-appealing party. Questions regarding these procedures should be addressed to Ms. Sheila Gray at (804) 225-2013, or e-mail at: [Sheila.gray@doe.virginia.gov](mailto:Sheila.gray@doe.virginia.gov).

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Sabrina Gross, J.D.  
Coordinator of Complaints

Latisha Woodford, J.D.  
Compliance Specialist

Attachment - Appeal Procedures