

**DELAWARE DEPARTMENT OF EDUCATION
EXCEPTIONAL STUDENT RESOURCES**

STATE COMPLAINT DECISION

DE SC # 25-05

Date Issued: January 7, 2024

On November 8, 2024, REDACTED (Parent) filed a complaint with the Delaware Department of Education (Department). The complaint alleges the REDACTED School District (District) violated state and federal regulations concerning the provision of a free, appropriate public education (FAPE) to REDACTED (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. §§ 300.151–300.153 and according to the Department’s regulations at 14 DEL. ADMIN. CODE §§ 923.51.0–923.53.0. The investigation included a review of Student’s educational records, therapist’s notes, evaluation results and interviews.

ONE YEAR LIMITATIONS PERIOD

In accordance with IDEA and corresponding state and federal regulations, the complaint must allege violations that occurred not more than one (1) year prior to the date the Department receives the complaint. See, 34 C.F.R. § 300.153(c); 14 *Del. Admin. Code* § 923.53.2.4. In this case, the Department received the complaint on November 8, 2024. Therefore, the Department’s findings address violations from November 8, 2023 to November 8, 2024.

COMPLAINT ALLEGATIONS

Parent alleges District violated Part B of the IDEA and implementing regulations by the following:

1. Failing to implement Student’s Individual Education Plan (IEP).

FACTUAL FINDINGS

1. Student is an REDACTED -year-old REDACTED grader who attends a middle school in District and receives special education and related services as a student with a primary educational classification of Specific Learning Disability and a secondary educational classification of Speech or Language Impairment.

¹ To protect personally identifiable information about Student from unauthorized disclosure, this complaint decision identifies people and places generically. The temporarily attached index lists the name corresponding to each generic role exclusively for the benefit of the individuals and education agency in the investigation. The index must be removed before the complaint decision is released as a public record.

2. On March 11, 2024, the elementary school emailed Parent a notice of meeting (NOM) for Student's annual IEP, scheduled for April 24, 2024 via Zoom.
3. Student's progress report dated March 27, 2024, documented Student had mastered all of the annual IEP goals.
4. On April 11, 2024, Student's elementary school Educational Diagnostician (ED) emailed Parent to schedule an additional meeting because Student would be transitioning to middle school. The ED indicated that during the meeting, staff would share information about middle school and Parent would have an opportunity to ask questions. However, Parent was not able to attend the dates that were offered in May.
5. On April 24, 2024, the IEP Team conducted Student's annual meeting. During the meeting, the Team agreed that Student continued to be eligible for special education and related services as a student with a primary educational classification of Specific Learning Disability and a secondary educational classification of Speech or Language Impairment. The Team also agreed that Student would receive services in a general education class. Additionally, the IEP Team agreed Student's speech services would be delivered through group format instead of being provided individually in middle school. The frequency and duration of services would also change from three, 20 minute sessions per month to two, 30 minute sessions per month.
6. On May 17, 2024, the ED emailed an input form to Parent so that thoughts and questions could be shared with the middle school team. The ED also stated that the School would "ensure that the middle school has all of Student's information so that [Student] has a smooth transition."
7. On May 20, 2024, the ED emailed Parent stating that Student's supports were shared with the middle school and the middle school team was confident that Student would have a successful transition. Additionally, the ED attached a middle school transition slide show for Parent to review and informed Parent that the middle school ED would be able to answer any questions.
8. On October 4, 2024, the Speech Language Pathologist (SLP) received the email from ED that contained a list of incoming REDACTED graders who were to receive speech services.
9. On October 7, 2024, SLP provided Student with 40 minutes of group speech services.
10. On October 9, 2024, Parent contacted the ED and requested a meeting to discuss Student's transition into middle school. Parent stated that REDACTED was very concerned about Student's grades and inability to navigate through folders in Schoology. Parent also stated that Student reported that speech services had only been provided on one occasion since the start of the school year.

11. On October 13, 2024, Parent emailed the School Counselor (SC) and asked for help accessing Student's Schoology account. Parent also asked for help setting up a Parent Schoology account.
12. On October 14, 2024, the SC responded to Parent, via email, and provided information on how to set up a Schoology account. In addition, the SC informed Parent, that REDACTED would let the ED know that Parent was trying meet to discuss concerns with academic progress as it related to Student's IEP. The SC also provided Parent with information on how to set up a parent Schoology account.
13. On October 18, 2024, Parent received an email from Student's Social Studies teacher (Teacher) due to having a "D" or "F" in the class during the 1st marking period. Within the email, Teacher also asked Parent to check with Student to determine if Student submitted an overdue assignment and to ascertain if Student was completing an assignment retake due later in the month.
14. Also on October 18, 2024, Parent responded, via email, stating, "...the scenario with Student is bigger than missing work." Parent asked Teacher how Student's IEP was being implemented in class and what changes needed to be made to help Student succeed. Teacher responded, via email, and informed Parent that Student's IEP was being implemented in the classroom by explaining that Student's daily notes were available on Schoology to help Student follow along. Teacher also informed Parent that small group instruction was not available because Teacher was the only teacher in the room, but whole group and pairing with frequent check-ins were occurring.
15. On October 18, 2024, Parent responded, via email, and thanked Teacher for the information and shared that Student received help with work at home. Parent also informed Teacher that the ED was included in the email because the email sent to the ED on October 9, 2024 had not been answered.
16. On October 28, 2024, Parent emailed the School Principal (SP) because the ED had not returned the October 9th email. Parent also requested an in-person meeting because Parent believed School was not implementing the IEP as written.
17. On October 29, 2024, SP responded, via email, and acknowledged Parent's concerns, apologized for any delays in communication and included the Assistant Principal (AP) on the email to assist moving forward.
18. On October 31, 2024, the AP emailed Parent to say that REDACTED would look into what was happening with the SLP and ED. The AP also stated that REDACTED would call Parent once AP gathered all of the information.
19. On November 1, 2024, Student's first marking period progress report documented that Student was making satisfactory progress toward each annual goal.

20. On November 7, 2024, the SLP provided Student with 45 minutes of group speech services due to “misreading Student’s delivery services outlined in the IEP.”

21. On November 8, 2024, Parent filed a state complaint.

LEGAL CONCLUSIONS

1. Failing to implement Student’s Individual Education Plan (IEP).

According to 14 DE Admin. Code § 925.10.0, at the beginning of school year, each public agency shall ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and each teacher and provider described in this paragraph is informed of:

10.2 Initial IEPs; provision of services: Each public agency shall ensure that a meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and as soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

10.3.1 Their specific responsibilities related to implementing the child's IEP; and

10.3.2 The specific accommodations, modifications, and supports that shall be provided for the child in accordance with the IEP.

The IEP Team developed an IEP that Parent agreed with at the April 24, 2024 meeting, and assured Parent that the IEP would be implemented when Student transitioned to middle school. Parent reached out to school administration, counselor, and the ED at the beginning of the school year, and requested an IEP meeting because Student’s grades were low and Parent had concerns around whether the IEP was being implemented. Parent also reached out to the Social Studies teacher because Student was in danger of failing. Social Studies teacher responded to Parent’s communication regarding Student’s failing grade by explaining how the IEP was being implemented in class. Furthermore, Student’s first marking period progress report and report card documented progress toward each annual goal and passing grades which supports that the IEP was implemented in Student’s classrooms. However, Student did not receive speech services during the month of September. The SLP acknowledged that REDACTED was not aware of Student until October 4, 2024, and speech services were not provided until October 7, 2024.

Therefore, I find a violation of IDEA and state special education regulations regarding procedures for ensuring that a child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider at the beginning of the school year. In addition, I find a violation of IDEA and state special education regulations regarding the provision of speech services.

CORRECTIVE ACTIONS

Student Level

1. School shall schedule an IEP meeting with Parent to discuss Student's progress and Parent concerns, as well as to determine what compensatory education is warranted regarding related services. Together, the IEP Team, including Parent, will calculate the compensatory education. All compensatory education must be completed by **June 13, 2025**. Student's IEP, a Prior Written Notice (PWN) from the meeting, and documentation outlining the agreed upon amount of compensatory education shall be provided to Parent and a copy shall be sent to the Director of Exceptional Student Resources by **January 31, 2025**.

District Level

1. District shall conduct professional development with all District special education and related service staff regarding the following:
 - Procedures for ensuring that a student's IEP is accessible to all staff on the first day of the school year,
 - Procedures for ensuring that a student's IEP is implemented on the student's first school day,

This professional development must take place by **January 31, 2025**. All materials, as well as staff sign-in sheets must be sent to the Director of Exceptional Student Resources by **February 14, 2025**.

Respectfully submitted,

REDACTED