

**DELAWARE DEPARTMENT OF EDUCATION
EXCEPTIONAL CHILDREN RESOURCES**

State Complaint Decision

SC # 25-12

Date Issued: May 9, 2025

On March 12, 2025, REDACTED (Advocate), filed complaint with the Delaware Department of Education (Department) on behalf of REDACTED (Child) and Child's parent, REDACTED (Parent). The complaint alleges the Cape Henlopen School District (District) 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. §§ 300.151–300.153 and according to the Department's regulations at 14 DEL. ADMIN. CODE §§ 923.51.0–923.53.0.

The investigation included a review of Child's Individual Family Service Plan (IFSP), evaluation records, interviews with Parent, Advocate, District Supervisor of Special Education (Supervisor), District personnel, and Independent Evaluator.

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 March 12, 2025. Therefore, the Department's findings address violations from March 12, 2024 to March 12, 2025.

COMPLAINT ALLEGATIONS

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

1. Failing to follow state regulations concerning the right to an Independent Educational Evaluation (IEE).
2. Delaying the initiation of the IEE for Child.

¹ To protect personally identifiable information about the 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.

FACTUAL FINDINGS

1. Child is 3 years-old and not currently attending REDACTED, as stated in the Complaint. Child does not have an Individual Education Plan (IEP) nor receive special education services in the District.
2. Child attends REDACTED Program 4 days per week.
3. As of March 12, 2025, the date this Complaint was filed, Parent has not signed District Evaluation Summary Report or Initial Provision of Special Education form.
4. On April 18, 2024, Nemours Children's Hospital diagnosed Child with Autism Spectrum Disorder (ASD) via Telehealth.
5. On April 22, 2024, Birth to Three (B23) and District held Child's transition conference. The Team discussed Child's skills and needs in the areas of receptive and expressive language and fine motor skills. B23 services consisted of speech therapy and early childhood education one hour/week and occupational therapy (OT) one hour/month.
6. On April 22, 2024, the Team developed the Transition IFSP which included family's priorities and educational concerns for Child. Parent wanted to consider options to receive services within District., since socialization was important. In addition, Child had sensory issues. Parent questioned how Child would do in social environments.
7. Transition IFSP stated Parent would receive a Permission to Evaluate (PTE) from District. Once Parent signed PTE, District would contact Parent to schedule an initial evaluation. This would include observation of Child, psychoeducational evaluation, and speech language evaluation. Additionally, the Transition IFSP explained that the initial evaluation would determine if Child was eligible for an educational classification of Autism.
8. On April 22, 204, Family Service Coordinator (FSC) sent Parent Transition IFSP. Parent signed document May 2, 2024.
9. On May 2, 2024, District Coordinator (Coordinator 1) sent Parent PTE via DocuSign and Prior Written Notice (PWN).
10. On May 7, 2024, Coordinator 1 resent Parent the PTE via DocuSign and followed up with email asking if Parent had questions. Parent responded there were questions.
11. On May 8, 2024, Coordinator 1 emailed Parent and offered to call Parent.
12. On May 9, 2024, Parent emailed Coordinator 1 requesting an Occupational Therapy (OT) evaluation and Physical Therapy (PT) evaluation be added to the initial evaluation. Once added, Parent indicated Parent would sign the PTE. Coordinator 1 informed Parent that an OT evaluation could be added and requested a doctor's prescription for the PT evaluation. However, after reviewing Child's records, Coordinator 1 advised Parent that OT evaluation from B23 had been done 2 months prior and could be utilized. In addition, the OT evaluation would include an observation of Child.

13. On May 10, 2024, Parent emailed Coordinator 1 stating if District decides to use current OT evaluation from B23 to determine eligibility for OT services, the issue of a new evaluation could be brought up later if necessary. Parent indicated getting a referral for a PT evaluation from pediatrician could delay evaluation. Parent signed the PTE via DocuSign.
14. On May 10, 2024, Coordinator 1 emailed Parent indicating District would conduct a full OT evaluation. Coordinator 1 explained Delaware regulations require a prescription for a PT evaluation. Coordinator 1 sent Parent a PWN and updated PTE which included an OT evaluation. Parent signed PTE. This PTE did not include a PT evaluation.
15. On May 16, 2024, Parent requested the evaluation to include PT.
16. On May 16, 2024, Coordinator 1 emailed Parent stating District would perform PT evaluation per Parent request. Coordinator 1 clarified, if PT services were determined to be needed, a prescription from a doctor would be required. Coordinator 1 sent Parent a new PWN and an updated PTE which included Psychoeducational, Speech and Language, OT, and PT evaluations.

The PTE had the following boxes marked with descriptive statement of each evaluation. Specific to this Complaint and Parent request dated December 11, 2024 for IEE to include IQ/cognitive testing, the following evaluation and statement was considered relevant:

“A. Individual Psychoeducational Evaluation. This will include appropriate evaluation by a certified school psychologist. This evaluation may consist of individual measures of: intellectual potential, academic achievement, adaptive behavior, emotional /behavior function, self-esteem or additional measures as needed...”

17. On May 17, 2024, Parent signed PTE.
18. On May 31, 2024, Coordinator 1 scheduled an eligibility meeting for July 22, 2024.
19. On July 12, 2024, Parent emailed Coordinator 1 Nemours’ medical ASD report. Parent also requested OT’s email address. Parent asked if the eligibility meeting could be held via Zoom rather than in person.
20. On July 16, 2024, Coordinator 1 provided Parent with OT contact information via email. In addition, Coordinator 1 agreed to conduct the eligibility meeting via Zoom.
21. On July 17, 2024, Parent emailed Coordinator 1 confirming Parent could only meet on Monday July 22, 2024 in the morning for the OT to conduct the OT evaluation. Parent stated eligibility meeting, scheduled for July 22, 2024, should be rescheduled to include OT evaluation results.
22. On July 17, 2024, Coordinator 1 called Parent providing potential meeting times and dates discussed in phone conversation. Parent confirmed OT evaluation could be completed on July 22, 2024 anytime between 8:30 AM and 10:30 AM. Coordinator 1 also scheduled eligibility meeting for July 31, 2024 at noon. If Child qualified for services, an IEP meeting could be held on August 26 or 27, 2024 at 9:00 AM.

23. On July 19, 2024, Parent confirmed OT evaluation was set for July 22, 2024 at 8:30 AM.
24. On July 22, 2024, the Occupational Therapist emailed Coordinator 1 to confirm completion of OT evaluation. Occupational Therapist stated during evaluation, Parent said that the morning of July 30, 2024 would work best for holding the eligibility meeting.
25. On July 30, 2024, the IEP Team met to conduct the eligibility meeting via Zoom. According to the PWN, the Team determined Child was not eligible for special education under the Autism classification. Child was eligible to receive special education as a Child with an educational classification of Speech or Language Impairment. District determined Child was not found to have deficits compared to same -age peers and does not require services from an occupational therapist. District considered qualifying Child for physical therapy services but determined Child was not found to have deficits compared to same-age peers and does not require physical therapy services.
26. District considered developing the IEP at the close of the meeting. However, Parent chose to exercise the 10-day waiting period procedural safeguard. Team tentatively agreed to hold a space, should Parent decide to move forward with special education and related services for Child.
27. On August 7, 2024, Parent wrote District a letter informing that Parent did not agree with the evaluation, stating that it was incomplete. Parent requested an Independent Education Evaluation (IEE). On the same day, Supervisor sent Parent a letter approving IEE. The letter stated, "...As we talked about on the phone today, by regulation, the scope of the independent evaluation must conform to that of the evaluation conducted by the district with which you disagree... The evaluator you select must register or be registered as a State of Delaware vendor to facilitate payment... and... the evaluator will confirm the district's commitment to fund before initiating the assessment."
28. On August 8, 2024, Parent's mother emailed Supervisor stating Parent would be contacting REDACTED for IEE.
29. On August 22, 2024, REDACTED (Contractor 1) sent Supervisor an email stating Contractor 1 did not agree to do the IEE. Upon review of District evaluation, Contractor 1 believed evaluation was appropriate and had nothing further to offer.
30. On September 3, 2024, Coordinator 2 left Parent a voicemail requesting dates/times for an IEP meeting to initiate services before Child's third birthday.
31. On September 5, 2024, Coordinator 2 called Parent. Due to calling restrictions on Parent's phone, Coordinator 2 could not leave a voicemail.
32. On September 6, 2024, Coordinator 2 emailed Parent and grandmother requesting a call to schedule an IEP meeting.
33. On September 10, 2024, Coordinator 2 called Parent and left voicemail requesting a return call to schedule an IEP meeting.

34. On September 11, 2024, Parent sent Coordinator 2 a response indicating that family had been on vacation. Parent also stated Parent wanted to wait for the IEE before proceeding with IEP meeting.
35. Between September 11, 2024 and December 2, 2024, according to the Complaint, Parent contacted and interviewed potential independent evaluators to conduct IEE. However, Contractor 1 contacted District on August 22, 2024. Additionally, Complaint stated when an independent evaluator was proposed, Supervisor would impose “outrageous limitations” (i.e. required TB test, “...not being afforded the opportunity to conduct their own testing...”).
36. On September 18, 2024, Coordinator 2 called Parent and left a voicemail requesting a return call regarding next steps while waiting for IEE.
37. On September 20, 2024, Coordinator 2 sent Parent a follow up email.
38. On November 12, 2024, Parent sent District an outside speech evaluation report completed by REDACTED (SLP 1). The date of the evaluation was June 5, 2024 (before District evaluation) and the report date was August 24, 2024 (after District evaluation). This evaluation was never shared or discussed in any meetings with District prior to this date.
39. On November 21, 2024, Coordinator 1 called Parent to set meeting date. Parent requested grandmother be in attendance. Coordinator 1 provided personal phone number and asked Parent to reach out, even in evening hours. Coordinator 1 sent a follow-up email after the phone conversation with contact information.
40. The PWN dated November 22, 2024 states:

“The District proposes discussing potential programming options for Child, who will turn three on 11/25/24, as the District is still waiting for the results of the Psychoeducational Independent Evaluation or other pending assessments.

The District would like to meet with the family to review updated data and discuss programming options while the District waits to receive the results of the outstanding evaluations. When the District receives the results of the outstanding evaluations, the IEP Team will reconvene to consider the updated assessments and data...

The District considered waiting to meet with the family until the remaining evaluation results are received. However, it is in Child’s best interest for the family and the school District to meet and review the updated data and the results of the Independent Speech Evaluation to minimize any lapse in services.”

41. On November 25, 2024, Parent emailed Coordinator 1 requesting to meet on December 9, 2024. Coordinator 1 would check IEP Team availability.
42. On November 25, 2024, District sent Parent the PWN via email. District proposed development of an IEP for Child while waiting for the results of the IEE.

43. On November 27, 2024, Parent emailed Coordinator 1 with a proposed meeting date of December 9, 2024.
44. On December 2, 2024, Coordinator 1 emailed Parent stating IEP Team could meet at noon. Parent responded requesting a morning meeting on December 9, 2024.
45. On December 3, 2024, Supervisor emailed Parent with an update on IEE testing. Dr. Schmidt's (Contractor 2) office had not provided District with required vendor information.
46. On December 4, 2024, Parent emailed Coordinator 1 stating the December 9, 2024 meeting would no longer work and asked if December 16, 2024, would work for a Zoom meeting. Coordinator 1 responded stating the Team was not available on December 16, 2024, but could meet on December 20, 2024, or January 8, 2025. In addition, Coordinator 1 requested permission for the Speech and Language specialist to observe Child at daycare center before the meeting. Parent did not respond.
47. On December 6, 2024, Coordinator 1 emailed Parent asking if January 8, 2025, at 11:00 AM or 12:00 PM would work for Parent to meet. Parent did not respond.
48. On December 11, 2024, District sent Parent PTE/PWN requesting permission to review updated data and observe Child in natural environment, while waiting for the IEE. Parent did not sign PTE/PWN. Coordinator 1 also emailed Parent and asked again about January 8, 2024, IEP meeting date. Parent did not respond.
49. On December 11, 2024, Parent requested IQ/Cognitive testing be included in IEE.
50. On December 16, 2024, Coordinator 1 sent Parent follow-up email asking if Parent was interested in meeting in January or still preferred to wait for IEE. Parent did not respond.
51. On December 17, 2024, Coordinator 1 resent PTE/PWN via DocuSign requesting permission to observe Child.
52. On December 18, 2024, Supervisor contacted Contractor 2 for TB test and vendor ID number information. Supervisor informed Parent District had not received anything from Contractor 2.
53. On December 18, 2024, Parent emailed Coordinator 1 asking for the PTE again via DocuSign. Coordinator 1 sent Parent PTE/PWN and Procedural Safeguards. Coordinator 1 again asked Parent about the January 8, 2024, meeting date. Parent did not respond.
54. On December 19, 2024, Coordinator 1 called Parent and left a voicemail about potential meeting on January 8, 2024.
55. On January 7, 2025, Parent emailed Coordinator 1 informing that Parent had hired REDACTED (Advocate) as an advocate. Parent attached a Release of Information form (ROI) from Advocate and indicated Parent would sign a ROI from District if provided.

56. On January 8, 2025, Coordinator 1 sent Parent a District ROI for Parent to sign and inquired whether Parent received email containing PTE/PWN sent on December 18, 2024.
57. On January 9, 2025, Coordinator 1 resent Parent the District ROI via DocuSign to facilitate communication with Advocate.
58. On January 13, 2025, Coordinator 1 resent Parent District ROI. Parent did not respond.
59. On January 16, 2025, a third District ROI was sent to Parent via DocuSign.
60. On January 17, 2025, Coordinator 1 emailed Parent, "I have sent the Cape Release of Information three times via DocuSign. I noticed you have yet to open the DocuSign. Please let me know if you need assistance. ... based on the ROI you provided from REDACTED, I assume you consent to REDACTED and District exchanging information with each other. Therefore, I will begin to copy Advocate on our correspondence unless I hear otherwise." Coordinator 1 offered to meet again and copied Advocate.
61. On January 20, 2025, Advocate emailed Coordinator 1 and said Advocate would speak with Parent.
62. On January 21, 2025, Advocate emailed Coordinator 1 requesting dates and times to meet with Parent. In addition, Advocate requested District IEE criteria.
63. On January 21, 2025, Supervisor sent Advocate IEE criteria.
64. On January 22, 2025, Coordinator 1 emailed Advocate stating Team would look for dates and get back to Advocate and Parent.
65. On January 23, 2025, Coordinator 1 emailed Advocate dates and times for meeting. Advocate indicated noon would be preferred time and countered with other dates and times. Coordinator 1 confirmed February 3, 2025, at noon would work. However, Supervisor could not attend. Advocate said it was agreeable to Advocate if agreeable to Parent. Coordinator 1 emailed Parent and asked if Parent was agreeable to meet.
66. On January 23, 2025, Supervisor emailed Advocate and Parent confirming Supervisor could not attend February 3, 2025, meeting. However, Director would send a representative and answer any questions after the meeting.
67. On January 28, 2025, Coordinator 1 emailed Advocate and Parent to confirm February 3, 2025 meeting. Parent had not responded to emails sent January 23, 2025. Advocate requested meeting be rescheduled. Coordinator 1 offered February 10, 2025 at noon. Advocate emailed confirmation that date and time would work.
68. On January 30, 2025, Coordinator 1 emailed Parent to ask if February 10, 2025, meeting date worked for Parent. Parent agreed to join virtually. Coordinator 1 requested Parent waive 10-day meeting notice. After receiving okay from Advocate, Parent agreed. Parent informed Coordinator 1 that REDACTED (Autism Advocate), an autism advocate, would also join meeting. Autism Advocate confirmed attendance via email.

69. On January 30, 2025, (email), February 3, 2025, (mail), and February 6, 2025 (mail), Coordinator 1 sent Parent Notice of Meeting (NOM) for the February 10, 2025, meeting. The purpose of meeting was to review outside speech evaluation and discuss PTE to obtain updated evaluation data.
70. On February 5, 2025, Parent emailed Coordinator 1 and asked that REDACTED and REDACTED (Child's grandmothers) be invited to IEP meeting, as well as Autism Advocate.
71. On February 6, 2025, Coordinator 1 responded that Parent could include anyone in meeting and ROIs could be completed at meeting and information shared. Coordinator 1 requested grandmothers' email addresses to ensure everyone had access to meeting.
72. On February 10, 2025, Team met to review outside speech evaluation and discuss PTE for updated evaluation. District sent PTE, PWN, Procedural Safeguards, and Notice of Meeting (NOM) (for Parent to sign waiver) to Parent via email.
73. On February 10, 2025, PWN stated District proposed updated evaluations for speech, OT, autism, and psychological evaluation that included cognitive testing, review of records, observations of Child by District specialists, consideration of outside speech evaluation (dated June 5, 2024), as well as updated Parent input. Supervisor stated that the evaluation completed in July of 2024 was out of date and not a complete picture of Student's current abilities. According to Complaint, Supervisor stated, "The District has to be given an opportunity to complete assessments prior to an IEE." Parent disagreed and reiterated that Parent would like IEE to include IQ/cognitive testing. Parent would secure independent evaluator. PWN stated Parent did not consent to updated evaluations, only record review. Parent did not sign the evaluation summary report (ESR) or Initial Provision of Special Education Services form; therefore, the Team did not develop an IEP.
74. According to the Complaint, over the next four weeks, Parent called and met with several independent evaluators and secured REDACTED (Contractor 3).
75. On February 11, 2025, District sent Parent PTE, PWN, Procedural Safeguards, and NOM (for Parent to sign waiver) via certified mail.
76. On February 11, 2025, Advocate returned signed PTE on behalf of Parent. Advocate also included a "Parent PWN" summary from the meeting.
77. On February 14, 2025, Parent sent District an email stating Parent declined the certified mail sent by District. Parent confirmed Parent attendance for scheduled eligibility meeting on March 10, 2025 at 11:00 AM with preference to meet via Zoom.
78. On February 14, 2025 (email), February 18, 2025 (mail), and February 24, 2025 (mail), District sent Parent NOM for March 10, 2025. The purpose of meeting included: 1. Determine Child's initial or continued eligibility for special education and related services .2. Conduct evaluation or re-evaluation of Child.
79. On February 25, 2025, Division of Health and Social Services (DHSS) emailed Coordinator 1 requesting Child's IEP. DHSS provided ROI that did not include District.

80. On February 27, 2025, Coordinator 1 informed Parent, via email, DHSS requested Child's IEP. However, ROI provided by DHSS did not include District. Coordinator 1 asked Parent what Parent wanted District to share with DHSS since Child did not have an IEP. Parent responded that Coordinator 1 could respond to DHSS that District does not provide services to Child.
81. On February 28, 2025, Coordinator 1 responded to DHSS stating that Child did not receive services or have an IEP with the District at that time.
82. On March 6, 2025, Contractor 3 emailed Parent confirming Supervisor approved IEE.
83. On March 7, 2025, Contractor 3 left Parent a voicemail. Parent indicated voicemail described a conversation with District that insinuated cognitive testing would not be included in IEE because District had right to do cognitive testing first. In a later follow up conversation with Investigator, Contractor 3 clarified Contractor 3's concern expressed was regarding autism testing (Autism Diagnostic Observation Schedule (ADOS) module 2) and appropriateness of "IQ" vs. cognitive/developmental assessments given age of Child. Contractor 3 also commented there were certification/training requirements for specific modules of ADOS.
84. On March 10, 2025, meeting was held to consider Child's initial eligibility for school-based special education and/or related services and proposed eligibility for Speech and Language service. Discussion included District's proposed updating evaluations since information shared at the meeting indicated Child had made gains in a variety of areas. Child was now attending the pre-school program at REDACTED 4 days a week for a total of 8 hours. PWN stated District proposed obtaining a ROI for REDACTED. Also, upon request from Advocate on behalf of Parent, District approved IEE to be completed by Contractor 3, waiving District's right to conduct IQ testing and agreed Contractor 3 could conduct IQ testing and autism testing without ADOS.

Investigator's review of transcript of audio recording of meeting Parent made and submitted with the Complaint, included Supervisor review of IEE history and status, including conversation Supervisor had with Contractor 3 in which Contractor 3 stated, according to the law, an independent evaluator must review District testing first. District acknowledged willingness to do cognitive test; however, District had not received Parent permission to conduct cognitive testing.

Also, captured in transcript was Parent's expressed concern about "full individual IEE" due to family history of learning disabilities and vision loss. District Psychologist explained there were no "red flags" in terms of Child's cognitive functioning based on Parent report and specialist observation of early skills that appeared to be appropriate for Child's age. Psychologist also shared testing for learning disabilities does not occur until a child is at least 5 years old. Discussion also included educational classifications and assessment reliability for children under age 5.

85. On March 10, 2025, after meeting, Supervisor contacted Contractor 3 to discuss IEE.
86. On March 11, 2025, Supervisor emailed Parent because Supervisor had not heard from Contractor 3.

87. On March 12, 2025, Advocate filed State Complaint on Parent's behalf. District confirmed IEE testing by Contractor 3 was scheduled for April 7, 2025. Coordinator 1 emailed (per Parent request not to send via DocuSign) Parent the following documents: 1. Prior Written Notice, 2. Evaluation Summary Report, 3. Initial Consent for the Provision of Special Education, 4. Release of Information, and 5. Procedural Safeguards with request for Parent to reach out if Parent needed any assistance or preferred hard copies.
88. On March 12, Supervisor and Contractor 3 had a phone conversation regarding what would be included in the IEE scheduled to occur on April 7, 2025.

LEGAL CONSIDERATIONS

Allegation #1 District failed to follow state regulations concerning the right to an Independent Educational Evaluation (IEE).

Per 14 *Del. Admin. Code* § 926 2.4, a parent has the right to an independent educational evaluation at public expense if the parent **disagrees with an evaluation obtained by the public agency**. In this case, the Parent initially requested an IEE for testing related to Autism. On August 8, 2024, District approved an IEE to include psychoeducational, speech and language, and autism evaluations. However, the independent evaluators that Parent chose would not or could not complete the evaluation due to a variety of issues as described in Fact Findings #29 and #56 above.

On May 2, 2024, Parent signed the Transition IFSP that specified the Child's initial evaluation would consider eligibility for a classification of Autism, in addition to Child's identified needs related to Speech or Language Impairment.

On August 7, 2024, Parent sent letter to District stating Parent disagreed with initial evaluation and requested an IEE. On the same day, the District sent letter of approval for IEE.

On December 11, 2024, Parent requested that the IEE now include IQ/Cognitive testing. This testing was not included in the initial evaluation. There had been no mention of concerns related to intellectual abilities in Child's IFSP or by District Psychologist during observation of Child. IQ testing at the age of 3 is rare and generally considered unstable. District did have the right to conduct the new requested testing. However, **if Parent disagreed with the results of the District's evaluation, the Parent could then request, in writing, an IEE.**

The District waived District's right to do IQ/cognitive testing and cognitive testing was included in proposed IEE with Contractor 3, per PWN dated March 10, 2025.

Advocate stated to Investigator in phone interview on March 24, 2025, that the PTE, dated May 16, 2024, had cognitive testing listed under Individual Psychoeducational Evaluation. The PTE states, "This will include an appropriate evaluation by a certified psychologist. ...This evaluation **may** consist of individual measures of: intellectual potential, academic achievement, ...**or** additional assessments as needed." The same PTE also notes under "Other evaluations as indicated and described below ...," "Observation by school district specialists, current teacher, specialist and parent input and any additional assessments **to determine eligibility under the classification of Autism.**"

Therefore, I find no violation of IDEA or state regulations regarding parental rights to an IEE.

Allegation 2: District deliberately delayed the initiation of the IEE for Child.

Per 14 *Del. Admin. Code* § 926 2.9 2.9 Agency criteria: If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria that the public agency uses when it initiates an evaluation.

IDEA nor state regulations dictate a timeline for completion of IEE.

On July 30, 2024, the Parent requested an IEE related to determination of eligibility of services under the classification of Autism. On August 7, 2024, District approved the IEE and provided a list of independent evaluators. Parent also had the right to request an evaluator not on the District's list. Over the next four months, Parent contacted and selected three evaluators.

On August 22, 2024, Contractor 1 indicated, upon review of District evaluation, District had provided a good evaluation and did not feel additional assessments were needed. Contractor 1 did not agree to provide an IEE.

On December 11, 2024, Parent requested for IQ/cognitive testing be included in the IEE. District sent Parent PTE.

As of December 18, 2024, Contractor 2 had not provided information required by the District and State for vendor services, including TB test and vendor # information. Additionally, the approval letter states, **"...the evaluator will confirm the District's commitment to fund before initiating the assessment."** This requires the contractor to initiate contact with District to confirm "scope of evaluation must conform to that of the evaluation conducted by the District with which (Parent) disagrees and arrangement for payment (contract) for services **prior to assessment**."

On March 6, 2024, Contractor 3 confirmed District approved of IEE, inclusive of cognitive testing.

In the letter, dated August 7, 2024, District approved IEE and offered assistance in securing an evaluator, should the Parent request it. The Parent contacted and interviewed evaluators from September until December and approved the evaluators described above. Delays in IEE were due to Contractor 1 choosing not to provide assessments in late August; Contractor 2 not providing vendor information required by the District, mandated by State as of mid- December; and Contractor 3 was not secured until late February/early March. District was not responsible for securing the IEE provider, therefore did not "deliberately" delay provision of the IEE.

Throughout the timeline of this Complaint, there were numerous delays of meetings, signatures for PTEs, etc. due to Parent's schedule, or limited responses to consistent calls/ emails from District since April 22, 2024. District made multiple attempts to move forward to determine eligibility of Child, so as not to have lapse in Child's transition of services from Part C to Part B. Documentation evidences District consistently communicated eligibility determination meetings could occur "while waiting for IEE results," at which time eligibility and services could be updated

by the Team. However, Parent repeatedly did not consent to signing ESR or Initial Provision of Special Education Services form, mandated by state regulation, preferring to wait for IEE results. Therefore, District has not provided services to the Child.

Therefore, I find no violation of IDEA or state regulations regarding deliberate delay of initiation of IEE for Child.

CORRECTIVE ACTIONS

The Delaware Department of Education is required to ensure that corrective actions are taken when violations of the requirements are identified through the complaint investigation process. See, 14 Del. Admin. C. § 923-51.3.3.

In this case, the investigator found no violation of Part B of the IDEA. Therefore, no further action by the Department shall be taken.

Respectfully submitted by,

REDACTED

Investigator