

Delaware Department of Education Exceptional Children Resources

State Complaint Decision DE SC #26-04

Date Issued: December 2, 2025

On October 3, 2025, REDACTED (Parents), filed a complaint with the Delaware Department of Education (Department) on behalf of REDACTED (Student). The complaint alleges the Appoquinimink School (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 DE Admin. Code §§ 923.51.0–923.53.0.

The investigation included a review of Student’s educational records; interviews with Parents, Advocate, Supervisor of Special Education, School Psychologist, Educational Diagnostician; and email correspondence with Summer School Administrator and School Counselor.

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 DE Admin. Code § 923.53.2.4. In this case, the Department received the complaint on October 3, 2025. Therefore, the Department’s findings address violations from October 3, 2024, to October 3, 2025.

Complaint Allegations

Parents allege the District violated Part B of the IDEA and implementing regulations by the following:

1. Failing to provide appropriate instruction despite documented 5+ year academic deficits;
2. Failing to implement Student’s IEP;

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.

3. Failing to provide extended school year (ESY) services in math, despite being documented as needed;
4. Failing to provide homebound instruction as District ignored physician's documentation and delayed four weeks before responding;
5. Failing to provide transportation as a related service;
6. Failing to allow parental participation in the IEP process as District made unilateral service decisions without full consideration of parent and medical input; and
7. Failing to protect Student from peer bullying as District ignored harassment and hostile environment.

Parents allege violations of Section 504 of the Rehabilitation Act by the following:

1. Excluding student from equal access due to incontinence and academic deficits;
2. Failing to provide reasonable accommodations – Refusal to honor bathroom needs and homebound services; and
3. Dismissing bullying and medical needs, worsening hostile environment.

Parents allege violations of the Americans with Disabilities Act by the following:

1. Failing to provide equal access to school program not accessible to a student with severe medical needs and
2. Failing to remedy hostile environment by not addressing disability-based bullying, leading to trauma and suicidal ideation.

Parents allege violations of Title IX of the Education Amendments of 1972 by the following:

1. Failing to address sexual harassment as bus driver's demand for sexual favors constitutes sexual harassment by a school employee and
2. Failing to investigate and protect as District did not take corrective action or protective measures.

Factual Findings

1. Student is REDACTED years old and attends a middle school within District. Student receives special education and related services with a primary educational classification of Other Health Impairment (OHI) due to Attention Deficit Hyperactivity Disability (ADHD). Student also has a secondary educational classification of Specific Learning Disability (SLD) in the following areas: Basic Reading Skills, Written Expression, and Mathematics Problem Solving. Student has goals in the following areas: task completion, math computation, reading decoding/fluency, reading comprehension, and written expression.
2. On August 26, 2024, Parent received and submitted documentation to District, from Nemours Children's Hospital, stating Student was under the hospital's care due to REDACTED; a urinary system medical condition. The family doctor requested that District allow Student to drink fluids and use the bathroom as

needed. Additionally, the family doctor requested Student ride the bus the shortest distance from home possible, stating that an ideal situation would be for Student to be picked up and dropped off at the family's front door.

3. On September 26, 2024, the IEP Team met to discuss Parents' concerns that Student no longer received door-to-door transport to and from school. Parent contended that the previous bus driver picked up and delivered Student to/from the family's home. Parent also shared concerns that Student's need to urinate frequently lead to bathroom accidents if Student had to walk to/from the bus stop. During the meeting, the Team proposed to continue Student's current bus route. The Team also agreed that Student would walk from the family's driveway to the corner of the street to board the bus. The Team also agreed that Parents would contact District if Student began to have difficulty walking to and/or from the bus.
4. On October 9, 2024, Educational Diagnostician (ED) emailed to inform Parents that Student had incomplete assignments in American Sign Language (ASL) class. Parent replied and thanked ED for reaching out and stated that Student would complete the missing assignments. Parent emailed ED later that day, stating that Student was adamant that the assignments were completed. Parent asked ED to make contact if the assignments were not completed.
5. On October 27, 2024, ASL teacher emailed Parent with an update on Student's class progress indicating Student is completing assignments but needs to put more effort into the work to improve the grade.
6. On October 28, 2024, Parent responded via email thanking ASL teacher for the information. Parent also added that Student disagreed with ASL teacher. Parent requested a meeting with the teacher and Student to figure out what was going on with Student at school. Parent indicated District had not ensured Student was making progress. Additionally, Parent stated Student will not focus on completing any work at home and that it is upsetting to hear that Student was doing the same thing at school. Parent added that if Student did not get additional help from outside learning centers, Student would continue to fall behind. Parent requested that ASL teacher reach out with a date and time to talk.
7. On October 30, 2024, District provided Notice of Meeting by phone and then again on October 31, 20-24, via email, for Student's IEP revision meeting scheduled for November 12, 2024.
8. On October 31, 2024, Parent signed Notice of Meeting indicating Parent would attend.

9. On November 1, 2024, progress report showed Student made satisfactory progress toward annual goals in math computation, reading decoding/fluency, reading comprehension, and task completion. However, Student did not make progress toward the written expression annual goal.
10. On November 12, 2024, The IEP Team met to discuss Parent's concerns surrounding Student's academic progress. During the meeting, the Team declined Parent's request that Student receive tutoring from Sylvan Learning. However, District proposed that Student receive tutoring from Club Z or Back to Basics, District contracted tutoring services. District proposed that Student receive 3 hours of tutoring per week to work on academic areas. Parent disagreed with the number of hours per week but agreed to review academic progress at Student's triennial reevaluation and annual IEP meeting in January 2025.
11. On November 14, 2024, Parents received Permission to Evaluate, requesting to re-evaluate Student for special education and related services.
12. On November 25, 2024, District provided Parent Notice of Meeting (NOM) for Student's annual IEP/triennial reevaluation meeting scheduled for January 8, 2025, by sending NOM via mail. District sent NOM via mail again on November 26, 2024, hard copy sent home with Student on December 2, 2024, and via email on December 12, 2024.
13. On January 3, 2025, Parent signed Notice of Meeting and requested to participate by telephone.
14. On January 4, 2025, progress report showed Student made satisfactory progress toward annual goals in math computation, reading decoding/fluency, reading comprehension and task completion. However, Student did not make progress toward the written expression annual goal.
15. On January 8, 2025, IEP Team met to determine Student's continued eligibility for special education and related services. During the meeting, IEP Team determined that Student met the eligibility criteria to receive special education and related services under the primary educational classification of OHI-ADHD. Team also determined that Student met the criteria to receive special education and related services under the secondary educational classification of SLD in the areas of basic reading skills, reading comprehension, mathematics problem solving, and, written expression. The Team agreed that Student would continue to be supported in a B-setting to receive specialized reading, writing, and math instruction in small groups with significant levels of accommodations and supports. These accommodations and supports were the same as were provided in the previous IEP. The Team determined Student qualified for Federal Reading and Math Extended School Year (ESY) services. Team agreed to increase Student's tutoring services to 4 hours per week.

16. On March 27, 2025, Student's Progress report showed Student making progress toward each IEP goal.
17. On April 14, 2025, Science-Special Education Teacher (Teacher²) emailed Parents to discuss Student's frequent bathroom trips during instructional time, inquiring about whether Student had underlying medical conditions that would require frequent bathroom breaks. Teacher stated that when Student was informed that Parents would be emailed about this concern, Student indicated that Student would call Parents to report Teacher.
18. On April 14, 2025, Parent replied to Teacher² email indicating that Student did have a medical condition that required frequent bathroom breaks and would be getting surgery to attempt to correct the condition the following Wednesday. Parent informed Teacher² that assignments for the next few weeks would need to be sent home, as the surgery would be done in two parts, thus Student would be missing school. Parent asked that Student's fluid intake be cut down and that Student use the bathroom before and after class, or during independent sessions if it could not wait.
19. On April 16, 2025, Student had REDACTED surgery at Nemours Children's Hospital (Hospital).
20. On April 21, 2025, District received school release form from Hospital, stating that Student should refrain from physical activity and recess until April 30, 2025. The release also indicated that Student would have a second surgery on April 30, 2025.
21. On April 29, 2025, Teacher emailed Parents asking how Student's first surgery went. Parent replied indicating that the first procedure went well and that Student would be getting the next procedure the following day, with an anticipated two-week recovery.
22. On April 30, 2025, Student had a second REDACTED surgery at Hospital. Student was absent from school from April 28, 2025 through May 9, 2025. The Team did not meet to discuss Student's surgery, absences and whether homework would be sent home for Student.
23. On June 9/2025, Student's Progress report showed Student making progress toward each IEP goal.

24. On June 18, 2025, Student's report card documented passing grades in all subjects except for math. No IEP progress reporting was provided for the end of the school year.
25. Beginning on July 7, 2025, through August 5, 2025, Student participated in Reading and Math ESY. Parent voiced concern that Student's math goal was not addressed during ESY. However, Student math work samples from 7/15/25, 7/23/25, 7/29/25, and 7/31/25 document 64% progress toward the marking period goal of 65%.
26. On July 24, 2025, Parent emailed ED to report that Student was being bullied by another student. Parent also added that Student and the alleged bully were in class during the prior year and that bullying occurred then. ED spoke with District summer school administrator who followed up with the staff and students who were in Student's class. Administrator reports that staff were unaware of any inappropriate incidents and that the alleged offender had a Paraprofessional assigned during summer school. Additionally, the summer administrator relayed the bullying investigation findings to Parents via phone call.
27. On August 5, 2025, summer progress report documented that Student was making satisfactory progress toward all annual goals: Math Problem Solving, Written Expression, Reading Comprehension, and Decoding/Fluency.
28. On August 28, 2025, Counselor emailed Parent, who reached out about Homebound services due to Student being bullied, and wrote, "Thank you for contacting me. Please send me any documentation that you have, and I will get started on the process."
29. On September 4, 2025, Counselor emailed Parent to follow up on Parent's homebound inquiry. Counselor asked if Parent planned on sending documentation from doctor or if Student would be returning, as Student was currently being marked absent daily.
30. On September 5, 2025, Parent sent Counselor documentation from the family's doctor requesting Student receive homebound services due to mental health needs. The family doctor also stated that Student was under the care of a psychiatrist and therapist but "lost care continuity." The family doctor added that Student's "mental health needs are being taken care of by Primary care while we establish and bridge the gap in Student's very much needed mental health support services."

31. On September 5, 2025, Counselor emailed Secretary following receipt of the homebound document from Parent, asking if homebound paperwork should be completed despite telling Parent that a doctor's note would be needed to move forward. Secretary forwarded the inquiry to Senior Coordinator of Health Services/Lead Nurse (Lead Nurse).
32. On September 5 Lead Nurse emailed Counselor asking if Student had been in school and successfully completed the previous school year in person. Lead Nurse stated that the letter should have a diagnosis and a time frame to not exceed 60 days. Lead Nurse stated that Student should try to start coming to school as Student would need to be out for at least 10 days before homebound would start, many supports were available, and that anxiety related to school and bullying was not a homebound reason.
33. On September 5, 2025, Counselor informed Lead Nurse that Student had not been in the building at all this school year. Student had attended summer school beginning on July 7, 2025, but was out of school from April 28, 2025 through May 9, 2025 of the previous school year following surgery.
34. On September 9, 2025, Lead Nurse emailed Counselor asking what was going on with Student.
35. On September 11, 2025, Nurse emailed Parent to request access to Student's Nemours medical information.
36. On September 15, 2025, ED sent Parents a reminder to sign IEP meeting invitation originally scheduled for September 24, 2025. Parent replied stating that they would be able to meet on September 25, 2025, at 10:00 AM. ED asked whether they prefer the meeting be held in person or on Zoom, and Parent indicated that Zoom would work. ED sent a revised NOM with the new date and time, including the Zoom link.
37. On September 18, 2025, Advocate emailed IEP Team indicating that the scope and agenda for the September 25th meeting were unclear. Advocate stated that Parents' goal was to initiate homebound for Student, but that Parents never received homebound application. Advocate requested that Advocate and Parents be provided with the following: agenda and main objective of the scheduled IEP meeting, a homebound application for Parents, tutoring services to resume for Student while they awaited homebound, an emailed copy of current IEP and evaluation summary report (ESR), and copies of any assessments/evaluations performed within the last year.

38. On September 25, 2025, Parent emailed District requesting complete educational records for Student, including any and all records maintained by teachers, service providers, administrators, related service personnel, contractors, and third-party providers. Parent requested they be sent within 10 days as required by IDEA and FERPA and in electronic PDF format, as well as written explanation for any withheld records regarding the legal basis for refusal.
39. Also on September 25, 2025, Supervisor of Special Education (Supervisor) responded to Parent's record request informing Parent that state regulations require the District to comply with record requests within 45 calendar days. Supervisor indicated that records would be shared prior to 45 calendar days, but the Team would need time to collect the data that spans across several school years and buildings. Supervisor told Parent to look forward to an email containing the requested records within 15 school days.
40. On September 30, 2025, Advocate emailed Director of Special Education (Director) stating that Advocate and Parent were requesting the most updated copy of IEP and ESR on file for Student, as they currently only had the 2022 IEP. Advocate requested that updated copies be sent by the end of the day on September 30, 2025.
41. On September 30, 2025, Supervisor emailed Parent and Team stating that District was currently working on September 25, 2025, record request, restating that records would be shared within 15 school days. Supervisor reminded Parent that additional medical information was still needed to support with homebound approval request for the upcoming IEP meeting.
42. On September 30, 2025, Advocate emailed Director to voice concern that Parents emails had not received responses.
43. On October 3, 2025, Advocate emailed Director on behalf of Parents. The email contained letters from Christiana Care and Nemours requesting homebound services for Student.
44. On October 3, 2025, Parent submitted a state complaint.

Legal Conclusions

Allegation #1 Failing to provide appropriate instruction despite documented 5+ year academic deficits

According to *14 DE Admin. Code § 923.12.0*, Each public agency shall ensure that an IEP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability

The IEP Team reviewed Student's academic progress during a November 2024, revision meeting. During the meeting, the Team reviewed progress report data that showed Student was making satisfactory progress toward all but one annual goal, written expression. The Team agreed to 3 hours of tutoring per week, despite Students documented progress in reading, math and task completion, to assist Student toward progress in all areas. Additionally, the Team utilized information gathered and contained in Student's ESR to develop and implement the current IEP that Parents agreed to and signed. Student was supported in a B setting and received and the IEP supported each area of need identified within the ESR. Student also attended ESY where each academic goal area was addressed and Student continued to make progress toward reading fluency, comprehension, written expression, and math goals. **Therefore, I find no violation of IDEA or state special education regulations.**

Allegation #2 Failing to implement Student's 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.

Student received services inside of a B-setting classroom where multiple accommodations and supports were implemented. Student showed progress toward reading comprehension, decoding/fluency, task completion, and math computation goals during the current progress report period and also made progress toward the written expression goal at the March 2025, and June 2025, progress reporting period and during summer ESY. Student also received 4 hours of tutoring during the school year and in addition to ESY. In addition to IEP progress, Student passed all but 1 class during the 2024-2025 school year. **Therefore, I find no violation of IDEA or state special education regulations.**

Allegation #3 Failing to provide Extended School Year (ESY) services in math, despite being documented needed

According to 14 DE Admin. Code § 923.6.0, Each public agency shall ensure that extended school year services are available as necessary to provide FAPE, 6.2. extended school year services shall be provided only if a child's IEP Team determines, on an individual basis, in accordance with 14 DE Admin. Code 925, Sections 20.0 through 24.0, that the services are necessary for the provision of FAPE to the child or are otherwise specifically authorized by statute.

Student attended ESY where each academic goal area was addressed and Student continued to make progress toward reading; fluency, comprehension, written expression, and math goals. Student math work samples from; 7/15/25, 7/23/25, 7/29/25 and 7/31/25, document 64% progress toward the marking period goal of 65% and support the fact that Student received ESY services for math. **Therefore, I find no violation of IDEA or state special education regulations.**

Allegation #4 Failing to provide homebound instruction

According to 14 DE Admin. Code § 930, a student enrolled in a school district or charter school is eligible for supportive instruction when the district or charter school receives the required certification that one or more of the following conditions will prevent the student from attending school for at least ten (10) school days:

- 2.1.1 Sudden physical or mental illness;
- 2.1.2 Accident;
- 2.1.3 Episodic flare up of a chronic physical or mental health condition;
- 2.1.4 Injury; or
- 2.1.5 Pregnancy, childbirth or related medical condition.

A licensed clinical mental health provider (such as a Licensed Clinical Social Worker, psychiatric nurse practitioner, psychologist, or psychiatrist) must certify absences due to a mental illness or mental health condition.

Parent contacted District in September 2025 inquiring about homebound services for Student. Additionally, Parent submitted a letter from the family's doctor requesting Student receive homebound services due to mental health concerns. Counselor let Parent know that a mental health provider had to complete documentation to support a change of placement to homebound if the reasoning behind the change of placement was due to mental health needs. However, the Team met on September 25, 2025, and requested Parent submit documentation from a mental health professional to support homebound for Student. Parent submitted documentation that supported Student's need to receive homebound due to mental health concerns on October 3, 2025. However, October 3, 2025, is the same date Parent submitted the state complaint. In this case, the One Year Limitations Period addresses violations from October 3, 2024, to October 3, 2025. Any subsequent IEP meeting to

review the documents provided by Parent to determine Student's placement does not fall under the facts of this case. **Therefore, I find no violation of IDEA or state special education regulations.**

Allegation #5 Failing to provide related services (Transportation)

According to 14 DE Admin. Code § 923, Each public agency shall take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

7.2 Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

7.3 Transportation: *Transportation of all children to and from school shall be provided in accordance with 14 Del.C. Ch. 29.*

7.3.1 *When special transportation needs are identified in the IEP of a child with a disability, transportation shall be deemed a related service. Transportation provided to accommodate a related service shall be at the expense of the LEA or other public agency, including the costs of travel to and from school and between schools, and any required specialized equipment.*

The IEP Team met on September 26, 2024, to discuss Parents concern that Student did not receive the same door-to-door bus transport that was previously provided. However, Student's IEP did not require transportation as a related service nor was it added during the meeting. The /team reviewed documentation from the family doctor requesting Student ride the bus the shortest distance from home possible The family doctor also stated that an ideal situation would be for Student to be picked up and dropped off at the family's front door. The Team agreed to provide Student with the shortest distance from the home and agreed to monitor Student's ability to walk from the driveway to the corner of the family's street. Additionally, Parent agreed to communicate with District if Student's transportation needs changed. There was two IEP meetings held after the September 2024 transportation discussion where transportation as a related service was not identified as a need and the current IEP does not identify transportation as a related service. **Therefore, I find no violation of IDEA or state special education regulations.**

Allegation #6 Failing to allow parental participation in the IEP

According to 14 DE Admin. Code §925, Each public agency shall take steps to ensure that 1 or both parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate.

Parent attended, was given and signed NOM and PWN for the September 2024, November 2024 and January 2025 IEP meetings. Parental concerns were documented and discussed at each meeting. During the November 12, 2024, meeting, Parent requested and Student received tutoring services. During the January 8, 2025, meeting, Parent requested and District agreed to an additional hour of tutoring services for Student. **Therefore, I find no violation of IDEA or state special education regulations.**

Allegation #7 Failing to protect Student from peer bullying

According to 14 DE Admin. Code § 14 Del.C. §§4161 and 4164, Each school district and charter school shall prohibit bullying and reprisal, retaliation, or false accusation against a target, witness, or one with reliable information about an act of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

Parent contacted District to voice concern that Student reported being bullied by another student during summer school. However, when Student's classroom staff was questioned, they could not substantiate the allegation. Additionally, the student accused of bullying Student is supported by a Paraprofessional who also did not witness bullying by the alleged offender. **Therefore, I find no violation of IDEA or state special education regulations.**

Parents allege violations of Section 504 of the Rehabilitation Act by the following:

1. Excluding student from equal access due to incontinence and academic deficits;
2. Failing to provide reasonable accommodations – Refusal to honor bathroom needs and homebound services; and
3. Dismissing bullying and medical needs, worsening hostile environment.

Section 504 of the Rehabilitation Act allegations are beyond the purview of IDEA investigation. Therefore, this allegation is beyond the purview of this investigator and cannot be addressed through the IDEA complaint process.

Parents allege violations of the Americans with Disabilities Act by the following:

1. Failing to provide equal access to school program not accessible to a student with severe medical needs and
2. Failing to remedy hostile environment by not addressing disability-based bullying, leading to trauma and suicidal ideation.

Americans with Disabilities Act allegations are beyond the purview of IDEA investigation. Therefore, this allegation is beyond the purview of this investigator and cannot be addressed through the IDEA complaint process.

Parents allege violations of Title IX of the Education Amendments of 1972 by the following:

1. Failing to address sexual harassment as bus driver's demand for sexual favors constitutes sexual harassment by a school employee and
2. Failing to investigate and protect as District did not take corrective action or protective measures.

Title IX of the Education Amendments of 1972 allegations are beyond the purview of IDEA investigation. Therefore, this allegation is beyond the purview of this investigator and cannot be addressed through the IDEA complaint process.

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 DE Admin. Code § 923.51.3.3. In this case, no violation of Part B of the IDEA was identified. Therefore, no further action by the Department shall be taken. The Department will make itself available to the District to provide technical assistance regarding the allegations documented in this state complaint.

Respectfully submitted,

~~REDACTED~~

REDACTED