

**Delaware Department of Education
Exceptional Children Resources**

**State Complaint Decision
DE SC #26-09
Date Issued: January 16, 2026**

On November 17, 2025, REDACTED and REDACTED (Parents) filed a complaint with the Delaware Department of Education (Department). The complaint alleges REDACTED (School) and Capital School (District) did not provide a safe environment for their child, REDACTED (Student), due to not reporting an alleged medical event. 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 §§ 923.51.0–923.53.0.¹

The investigation included review of Student's records and communication, as well as correspondence with REDACTED (Parent 1) and REDACTED (Parent 2); REDACTED Director of Student Services (Director); and REDACTED, Supervisor of Student Services (Supervisor).

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 November 17, 2025. Therefore, the Department's findings address violations from November 17, 2024, to November 17, 2025.

Complaint Allegations

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

1. Failure to report and communicate with the student's Parents regarding a reported medical incident involving the student.
2. Failure to respond to Parents request for Homebound services.

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. Student is a REDACTED year-old REDACTED attending school in the District and receiving special education and related services under the primary educational classification of Autism.
2. On March 17, 2025, the Individualized Education Program (IEP) Team conducted Student's annual IEP meeting. During the meeting, the IEP Team identified Student's needs in expressive and receptive language, sensory processing, and social engagement. The IEP Team provided Student with Speech therapy and Occupational therapy services. The IEP Team did not identify any medical needs at the eligibility meeting nor during the IEP development meeting.
3. On October 24, 2025, Dean of Students (Dean) contacted Parent 1 and left a voicemail regarding Student's behavior. Parent 1, who was at work, relayed the message to Parent 2 and requested that Parent 2 return the call.
4. On October 24, 2025, in response to the voicemail, Parent 2 contacted the School to speak with the school nurse, believing that Student had been seen by the nurse that day. The School Nurse (Nurse 1), was not present at the School on October 24, 2025. The substitute nurse that day (Nurse 2), informed Parent 2 that Student did not visit the nurse's office on October 24, 2025. Nurse 2 further stated that according to nursing records, Student had been seen in the nurse's office on October 23, 2025, due to a seizure. Parent 2 confirmed with Nurse 2 that they were discussing the correct Student and noted that Student had no prior history of seizures. Nurse 2 stated that she would verify the reported seizure and follow up with Parents. Nurse 2 did not contact Parents later that day.
5. On October 26, 2025, Parent 2 emailed Nurse 1 requesting information and clarification about the reported seizure. Later that same day, Nurse 1 responded, confirming through nursing notes, that Student had experienced a possible seizure. Nurse 1 also stated that she would report Parents' concerns about the failure to communicate the incident to School leadership and would follow up with Parents.
6. On October 26, 2025, Parents obtained a medical evaluation for Student at Nemours Children's Hospital. Nemours Children's Hospital did not diagnose Student with a seizure disorder. Parents did not share the medical evaluation with the School's special education team.
7. On October 27, 2025, REDACTED teacher (Teacher), emailed Parents, apologized for the incident, and stated that the school nurse held responsibility for communicating medical incidents to Parents.
8. On October 28, 2025, Parent 2 emailed the Director, Supervisor, Dean, Teacher, Principal of REDACTED and the REDACTED (Principal), and Special Education Coordinator (Coordinator) to notify them of the medical incident and the School's failure to notify them. Parent 2 also informed the District that Parents would keep Student out of school due to safety concerns. The District did not respond.

9. Also on October 28, 2025, Parent 2 canceled a previously scheduled IEP meeting for that date with the Coordinator. The Coordinator requested that Parents contact Coordinator when they were prepared to reschedule the meeting.
10. On October 31, 2025, Parent 2 again contacted the School and explained that Parents removed Student from school due to the District's failure to communicate regarding the medical incident. Parent 2 requested Student's IEP progress reports and a plan for Student's return to either the School or another REDACTED within the District. The District did not respond. According to the District's formal response to the state complaint, the District mailed Student's progress reports to Parents on November 21, 2025, when the marking period ended.
11. On November 7, 2025, Parent 2 again contacted the School and requested the development of a plan for Student, including information regarding the availability of homebound services. Parent 2 stated that a breakdown in trust with the School prompted their decision to keep Student at home until the District established such a plan.
12. According to the District's formal response to the state complaint, the Director forwarded the Parents' email to the Officer of Equity and Inclusion (Officer) because Parents requested homebound services based on a breakdown in trust rather than an alleged violation of the Individuals with Disabilities Education Act (IDEA). The Officer oversees school nurses and all homebound service requests for the District. The Supervisor also followed up with the Officer by email and verbally requested that the Officer contact Parents.
13. On November 14, 2025, the Principal acknowledged receipt of Parents prior emails but did not provide any information regarding a plan for Student.
14. On November 17, 2025, after receiving no response from the School or the District, Parents filed a state complaint.
15. On November 25, 2025, Parent 2 emailed the Investigator to inquire whether Parents could file the complaint as a medical complaint against the School rather than as a special education complaint. The Investigator, directed Parents to the Department's Office of Student Services (DOE Student Services), which oversees school nursing services.
16. On December 5, 2025, Parent 2 left a voicemail with the DOE Student Services, explaining concerns regarding the failure to report the medical incident and requesting a return call.
17. On December 9, 2025, a representative from DOE Student Services responded to Parents, stating that they had followed up with Nurse 1 and confirmed that local leadership was already addressing the matter. DOE Student Services further stated that the Local Education Agency's Officer of Equity and School Improvement, who supervises the school nursing team, was aware of the situation and actively involved. Because the matter constitutes a local operational issue, DOE Student Services indicated that it could not intervene directly but encouraged Parents to continue communicating with the school nurse and district leadership.

Legal Conclusions

Allegation # 1: Failure to report and communicate with the student's Parents regarding a reported medical incident involving the student.

Reporting a medical incident involving an alleged seizure is not a requirement under the Individuals with Disabilities Education Act (IDEA). However, the state complaint alleged concerns regarding a lack of communication among the District, the School, and the Parents. The Parents reported to the Investigator that, had Parent 2 not inadvertently contacted the nurse's office on the day following the incident, they may not have otherwise been notified of the reported seizure. The Student's disability and IEP did not indicate any needs related to health or medical concerns. Issues related to communication with parents related to medical incidents that occur in school is not unique to special education and is outside the scope of IDEA, unless such notification is related to the student's disability and procedures outlined in the student's IEP were not followed.

Therefore, this allegation is beyond the purview of this Investigator and cannot be addressed through the IDEA complaint process.

Allegation #2: Failure to respond to Parents request for Homebound services.

On October 28, 2025, Parent 2 emailed the School and the District regarding the non-reporting of a medical incident involving the Student, as well as the Parents' decision to keep the Student home due to safety concerns. The Parent did not receive a response.

On October 31, 2025, Parent 2 again emailed the School and the District concerning the non-reporting of a medical incident involving the Student and additionally requested Progress Reports and a plan for the Student's return to School. The Parent did not receive a response to this email. According to the District's response to the State Complaint, the Parents were provided the Student's Progress Reports at the conclusion of the marking period on November 21, 2025; however, the Progress Reports were not provided in response to the Parents' request.

On November 7, 2025, Parent 2 again emailed the School and the District requesting a plan for the Student's return to School and inquiring about the possibility of Homebound services until such a plan could be developed. The Parent did not receive a response until November 14, 2025, when the Principal acknowledged receipt of the communications. The response did not include any reference to a plan.

Despite the Student being identified as a student eligible for special education services, the District, through its Director and Supervisor, referred the matter to the District's Officer. The District made this determination based on the Parents' request for Homebound services, which the District characterized as being based on a lack of trust rather than an alleged violation of IDEA. Notwithstanding the stated rationale for the request for Homebound services, and the Parents decision to keep the Student at home, the Student remained eligible for special education services; therefore, the District was required to either issue a Prior Written Notice (PWN) to the Parents denying Homebound services and providing the rational for such denial, or convene an Individualized Education Program (IEP) Team meeting to discuss Homebound

services and develop a plan for the Student to receive special education services or return to School.

At the time the State Complaint was filed, the Student had missed fourteen (14) days of School. As of the date of this decision, the Student has missed forty-six (46) school days.

Pursuant to 14 Del. Admin. Code § 926.3.1.2 (Procedural Safeguards and Prior Written Notice), when a District refuses to initiate or change the identification, evaluation, or educational placement of a child, or the provision of a Free Appropriate Public Education (FAPE) to the child, the District is required to issue Prior Written Notice (PWN) identifying the rationale for such refusal. As of the date of this decision, the District has not communicated with the Parents regarding the Student's special education services or the request for Homebound services. The absence of such communication is indicative of a refusal to consider the Parents' request for Homebound services.

Therefore, I find that there was a violation of FAPE because the District failed to meet state special education regulations under procedural safeguards.

Corrective Actions

Student Level

1. By **February 5, 2026**, the School shall hold an IEP meeting to:
 - Review Student's Least Restrictive Environment (LRE) to determine the appropriate placement;
 - Discuss the medical event that occurred and whether or not a safety or medical plan needs to be put in place;
 - Develop a plan to transition student back into their education environment as soon as possible due to the amount of services the student has missed;
 - Develop a detailed PWN that reflects the Team's discussions and decisions regarding LRE.

Evidence of Meeting Notice, any IEP revisions and PWN from the meeting, shall be sent to the Director of Exceptional Children Resources by **February 27, 2026**.

2. The District shall provide the Student with compensatory education services to address the identified needs set forth in the Student's current Individualized Education Program (IEP). The Student shall receive a total of 4.6 hours of compensatory education services, to be provided in the areas of Speech Therapy, Occupational Therapy, and social engagement.

The compensatory education calculation was determined based on the amount of service time the Student was entitled to receive from the date the Parents requested Homebound services on **November 7, 2025**. The calculation reflects the five (5) weeks of services missed and is based on the service hours specified in the Student's current IEP.

Pursuant to the current IEP, the Student receives direct Speech Therapy services for thirty (30) minutes per week, consultative Occupational Therapy services for ten (10) minutes per week, and support with social engagement for fifteen (15) minutes per

week. Accordingly, the compensatory education services shall consist of one hundred fifty (150) minutes of direct Speech Therapy, fifty (50) minutes of consultative Occupational Therapy, and seventy-five (75) minutes of support for social engagement.

The School shall provide the Parents with written documentation detailing the offer of compensatory education services and shall submit a copy of such documentation to the Director of Exceptional Children Resources no later than **February 13, 2026**. All compensatory education services shall be completed no later than **April 24, 2026**. Documentation verifying the completion of all compensatory education services, including a log of service hours, shall be submitted to the Director of Exceptional Children Resources on or before **May 15, 2026**.

School District Level

1. Professional development related to Procedural Safeguards and the development of PWNs shall be provided to all Special Education Coordinators and Special Education Leadership personnel. Such training shall be completed no later than **April 24, 2026**. Training materials, including but not limited to PowerPoint presentations, media, handouts, and sign-in sheets, shall be submitted to the Director of Exceptional Children Resources no later than **May 15, 2026**.

Respectfully submitted,

REDACTED

State Complaint Investigator