

**Delaware Department of Education
Exceptional Children Resources**

State Complaint Decision

DE SC #26-26

Date Issued: June 18, 2026

On April 21, 2026, REDACTED (Guardian) filed a complaint with the Delaware Department of Education (Department). The complaint alleges that REDACTED (School) within the Red Clay Consolidated School District (District) violated certain state and federal regulations regarding the provision of a free, appropriate public education (FAPE) to REDACTED (Student) under the Individuals with Education Act (IDEA)ⁱ. 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. C.* §§ 923.51.0–923.53.0.

The investigation included a review of Student’s educational records and email communication between Guardian, School, and District. Investigator interviewed Guardian, Speech Language Pathologist (SLP), Special Education Coordinator (Coordinator), District Liaison (Liaison), Director of Special Education Services (Director), and Supervisor of Special Education (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 *Del. Admin. C.* § 923.53.2.4. In this case, the Department received the complaint on April 21, 2026. Therefore, the Department’s findings address violations from April 21, 2025, to April 21, 2026.

Complaint Allegation

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

1. Failing to provide Prior Written Notice as required under IDEA (34 CFR § 300.503) and Delaware regulations (14 *Del. Admin. C.* § 926).

Factual Findings

1. Student is REDACTED years old and is a REDACTED grade student attending REDACTED (School) within the District. Student is eligible to receive special education and related services as a child with primary educational classification of Other Health Impairment.
2. Guardian is Student's biological sibling and serves as Student's legal guardian.
3. On February 7, 2025, the IEP Team met to determine Student's initial eligibility for special education and related services under the educational classification of Speech or Language Impairment.
4. On April 1, 2025, Pediatrician diagnosed Student with Attention Deficit Hyperactivity Disorder (ADHD) predominantly inattentive type. Guardian shared the medical documentation with the School.
5. On April 5, 2025, District issued a Permission to Evaluate (PTE) for a 504-plan eligibility.
6. On May 7, 2025, District held a 504 meeting for Student and an initial 504 accommodation plan was established. Director reported that the team acknowledged the ADHD diagnosis through the 504 Plan as there was not an educational impact to look at IDEA eligibility. Director reported that based on the screening data and curriculum-based measures, Student did not require intensive intervention in academic areas and made progress with Tier 2 supports in math.
7. On September 16, 2025, per the nurse report in the February 2025-February 2026 IEP under Data Considerations, Student failed a hearing test. Nurse conducted a re-test on October 28, 2025, for which a referral was made for additional testing.
8. According to a Nemours Neuropsychological evaluation dated November 2, 2025, Student's follow up with Audiology revealed mild conductive hearing loss rising to normal hearing in the left ear, and normal hearing thresholds in the right ear. Auditory processing concerns were ruled out.
9. On December 10, 2025, Guardian sent District an email sharing results from a neuropsychological evaluation conducted by Nemours Children's Health. Guardian requested information on how to move forward with an educational re-evaluation.
10. On December 18, 2025, District sent Parent a Permission to Evaluate (PTE) and a Prior Written Notice (PWN) proposing to conduct a re-evaluation. The re-evaluation was to include areas of academic/functional, cognitive/intellectual functioning, speech/language, adaptive skills, and social, emotional, and behavioral.

11. On December 18, 2025, Guardian signed consent for re-evaluation.
12. On January 9, 2026, District reported that Guardian sent an email to School Counselor (504 Coordinator) and shared the Nemours neuropsychological evaluation report and requested a 504 review meeting.
13. On January 16, 2026, District reported there was a 504 review meeting and Guardian provided team with the neuropsychological evaluation from Nemours, which triggered Child Find under IDEA. Director stated that at the 504 meeting, the team discussed the referral for autism evaluation. The previous PTE listed psychoeducational and speech areas but did not include autism because the team was not aware that Nemours was considering autism until after reading the report. School Counselor then contacted Special Education Coordinator and School Psychologist regarding a PTE & PWN for Autism. The SEC contacted the Autism Evaluation Team for wording on the PTE and PWN to make sure that the new PTE included everything that Autism Evaluation Team needed in addition to the psychoeducational evaluation.
14. On January 30, 2026, District issued PWN proposing an evaluation for Autism/Sensory due to results of Nemours' neuropsychological and screening assessments.
15. On February 6, 2026, IEP Team met for Student's annual IEP meeting. IEP Team reviewed progress on Student's previous IEP goal and noted "Student is currently in the process of being evaluated for speech and language services as well as a comprehensive psychoeducational evaluation. Results from these evaluations will help guide goal development and service recommendations." District PWN proposed implementation of an annual IEP for Student. IEP Team reviewed progress on Student's previous IEP goal. "Student will receive services to support the following areas of need: Speech Sound Production. Student will receive direct speech and language therapy 6 times per month for 5 minutes individually in the special education setting. A review of annual progress indicates that Student has mastered the goal from the previous IEP. Student is currently in the process of being evaluated for speech and language services as well as a comprehensive psychoeducational evaluation."
16. On March 5, 2026, IEP Team met to review current assessments and determine Student's eligibility. The PWN stated that IEP Team reviewed the results from the Nemours' neuropsychological evaluation and the District's comprehensive evaluation. IEP Team found Student eligible for special education services with a primary educational classification of Other Health Impairment due to Student's history of Neonatal Abstinence Syndrome (NAS), which can impact Student's attention, executive functioning, learning and emotional regulation, anxiety, hearing loss and ADHD-Inattentive Type. IEP Team also identified a secondary educational classification of

Specific Learning Disability in math calculation and math problem solving. The IEP Team determined speech and language would be provided as a related service and agreed to reconvene when the Team completed the autism evaluation.

17. Prior to the March 5, 2026 eligibility determination meeting, Guardian requested evaluation reports in advance for review. After the eligibility meeting and upon review of the Evaluation Summary Report (ESR), Guardian noticed a discrepancy in information. While the Speech Language Pathologist (SLP) provided information SLP observed when working with Student, Guardian noted the ESR did not contain that information. Guardian, then, requested SLP service logs, which again did not contain documentation of all SLP's observations.
18. As a result, Guardian asked District how they made the determination of eligibility for Speech and Language services, what data was utilized, and what data/observations were omitted. Guardian stated outside reports pointed to the same conclusions, and School's own testing similarly reflected below average scores. Guardian commented District omitted observation data which could impact evaluation outcomes.
19. During interview with Investigator, Guardian questioned whether the educational classification matched Student's needs and whether District lacked sufficient data to determine if Student qualified for speech and language services. Guardian also reported concerns about Student's articulation, receptive and expressive language, communication, and social pragmatic skills, noting that school testing showed below-average scores and District did not include those needs in Student's IEP for speech services.
20. SLP reported Student had low receptive language scores in 2025 but average to high average receptive scores. When Student retested this school year, SLP gave a different assessment [CASL-2] that "would dig in a little deeper." In some assessments [it] came out average or borderline, just below average, (i.e. Standard Score= 84 on Expressive Language) and in another assessment it was low 80s Standard Score, or mild impairment. The ESR report stated Student presents with moderate speech sound production disorder, average receptive, and borderline expressive language skills.
21. The March 5, 2026, PWN stated Guardian questioned whether the CASL-2 could show growth because District used the CELF-5 in 2025. Guardian requested that SLP administer the CELF-5 again for comparison. IEP Team agreed to issue an additional PTE for the CELF-5 and conduct a speech and language evaluation using CELF-5 after Guardian consented.
22. On March 18, 2026, Guardian withdrew request for the CELF-5 assessment, notifying District by email.

23. On March 19, 2026, Guardian submitted a written request to District for a PWN regarding concerns related to Student's speech-language evaluation and associated documentation. Guardian requested PWN for concerns that included:
- a. "Omission of a documented classroom observation conducted on February 10, 2026, from the final speech-language evaluation report."
 - b. "Conflicting explanations provided by Staff regarding the omission of that observation."
 - c. "Inclusion of an observation dated January 16, 2026, in the report without corresponding documentation in the service logs."
 - d. "Discrepancies between services outlined in the IEP and services documented as delivered in services logs."
24. According to Director and Supervisor, Guardian stated that the observation date recorded in the ESR was a day school was not in session, so Guardian questioned if this was the day that the observation occurred. SLP reviewed notes and corrected the date and told the Guardian it was a typo. Guardian also asked whether the SLP had conducted any other observations. SLP reported that she had observed Student on another date and Supervisor stated that "that's when the back and forth about why it wasn't included started because it sounded like SLP was withholding information." After speaking with SLP, Director and Supervisor did not believe that the SLP had intentionally withheld information; instead, they viewed the omission as an oversight.
25. On March 19, 2026, Guardian initiated an email exchange with SLP, and other District staff which included Director, Supervisor, and Coordinator, seeking clarification regarding the eligibility determination and the speech-language related observation. This email exchange includes a request for PWN regarding the decision of SLP to exclude the February 10, 2026, observation for the speech-language evaluation report including a rationale for that decision, data that was used to determine exclusion and any policies, procedures or guidelines to support this determination. Special Education Coordinator reached out to District Liaison for assistance regarding the request because it was beyond the scope of decision that the Special Education Coordinator would capture within a PWN.
26. On March 20, 2026, Guardian email to Director and Supervisor stated, "After reviewing the evaluation, I have significant concerns and do not believe it accurately reflects Student's needs or abilities. Based on this disagreement, I am formally requesting an Independent Educational Evaluation (IEE) at public expense for speech and language."

27. On March 23, 2026, District issued a PWN that District will not proceed with the autism evaluation and CELF-5 assessment for Student at this time due to Guardian's revocation of consent. Guardian obtained an independent outside autism evaluation from the Swank Autism Center, Nemours Children's Health for Student. Guardian shared that the outside evaluator determined that Student does not meet criteria for Autism.
28. On March 24, 2026, District issued IEE approval letter for a Speech-Language evaluation.
29. On March 30, 2026, the IEP Team met to conduct a new annual IEP. District issued a PWN stating that IEP Team met to propose implementation of the IEP. "Student will receive Direct speech therapy 2 times per month 30 minutes each session, small group in a special education setting and Direct speech therapy 6 times per month 5 minutes each session individually in a special education setting. Student will also receive consultative services 15 minutes per month in the general education setting. Services for math calculation and math word problems will be in the special education setting. Student will receive support for needs in the areas of speech sound production and language accommodations, math calculation, math word problems, and executive functioning. Guardian will receive weekly communication summarizing services delivered, including service type, setting, and duration. Student meets criteria for Extended School Year in the areas of math problem solving and math calculation."
30. Guardian submitted additional written requests for PWN on April 1, 14, and 17, 2026 that captured Guardian concerns stated in Guardian's March 19, 2026, email.
31. In the April 1, 2026, email request to Supervisor, Guardian stated, "I did want to note that there was no PWN included with your response. Please provide a PWN with specific details regarding why the February 10, 2026, observation was not included in the Speech-Language report. As previously stated by SLP in email, the observation was not included for 'no particular reason' rather than an 'oversight' on her part. For documentation purposes, I am requesting that this be formally captured in writing."
32. On April 1, 2026, Supervisor responded to Guardian's email and invited Guardian to come in and review testing protocols. The email stated, "a request was made for a Prior Written Notice to capture why the February 10, 2026, observation was not in SLP report. As SLP stated in [SLP's] email March 19, 2026, this was an oversight and not intentional where a decision was made to exclude the data which prompted the IEE request on your part. When we review the IEE results, we can add in details of why the request was made due to significant concerns of the school's evaluation not reflecting Student's needs or abilities regarding the accuracy and completeness of the Speech Language evaluation provided by the school."

33. On April 17, 2026, District responded in email that a PWN [addressing Guardian concerns] would not be provided at that time and would instead be addressed during a future IEP meeting. Supervisor emailed Guardian, “When we have the meeting for the IEE review, we will create a PWN that will capture the details you are referencing below [in emails] as well as the information from the meeting. This will allow for IEP Team to have discussion around each of these topics and answer any questions you may have. Please let us know if there are any additional concerns we need to address when we have the meeting to review the IEE results.”
34. On April 21, 2026, Guardian filed the current state complaint.
35. On April 23, 2026, District created a PWN addressing Guardian’s concerns. The email to Guardian with PWN had attachments for Session Notes from 2024-25 SY, Session Notes from 2025-26 SY, Session Notes from Data Service Center (DSC) 2024 to present, and Observation Notes from SLP February 10, 2026, and January 16, 2026. District Office created the PWN based on parent emails dated March 19, 2026, March 24, 2026, April 14, 2026, and April 17, 2026, to capture details related to:
- The omission of the February 10, 2026, observation from the evaluation report
 - The conflicting explanations regarding that omission
 - The lack of documentation for the January 16, 2026, observation
 - Any differences between the services outlined in the IEP and those documented as delivered – this is in reference to the SY 24/25 IEP.
36. District Liaison stated in an interview with Investigator that Guardian asked for certain things to be documented into a PWN such as observation and dates were wrong in the report and later clarified via email. As Guardian was going through documentation, Guardian realized there was an error/typo and wanted PWN issued that clarified the correct date. “It was kind of tied to a meeting, but not a standalone meeting.” In a PWN District issues a summary of what District or Guardian proposes or refuses in a meeting. “What makes this PWN out of the ordinary is that this was based on emails and how Guardian wants things documented in emails. We explained this wasn’t necessarily within the confines of the law, but Guardian was adamant. Parent input is very highly considered. Guardian has received everything asked for. However, there has not been a consensus for speech and language services. There is an IEE and we are waiting for that to convene.”
37. SLP stated in an interview with Investigator that [SLP] accidentally wrote January 26 instead of January 16 as a testing date. When questioned about the date [by Guardian], SLP realized another observation was done in February and “literally just forgot – there was no hidden agenda.” Guardian was upset it was not included. SLP asserted there was never an intent to hide anything – “there was a lot going on.” SLP has gone over data with Guardian, as well as that second observation in question. Guardian asked for raw

data for everything, and School provided, such as providing what was worked on in a [SLP] session and accuracy percentages for each element.

38. District reported in interview with Investigator the dispute was one driven largely by communication over email rather than through the usual IEP Team process. After Guardian expressed dissatisfaction with the speech-language evaluation, District responded by approving an IEE and intended to address broader concerns through that process and later PWN. District said Guardian repeatedly changed what was being requested and continued to seek specific documentation in PWN about SLP's omission of an observation from the report, even though District views the omission as an acknowledged mistake rather than a separate action requiring formal notice. District emphasized that these exchanges did not occur in team meetings, which it describes as the standard forum for discussing evaluation concerns, revising reports, considering additional assessments, or obtaining a second opinion. Staff stated they invited Guardian to meet after spring break so all team members could participate, and the concerns could be addressed comprehensively, but Guardian declined the meeting. District's view is Guardian did not want further discussion with SLP and instead wanted an outside evaluation, so District bypassed its typical meeting step and approved the IEE to move the process forward.

Legal Conclusions

Allegation #1 Failing to provide Prior Written Notice as required under IDEA (34 CFR § 300.503) and Delaware regulations (14 DE Admin Code § 926).

14 *Del. Admin. C.* § 926-3.0 sets out the content requirements for prior written notices issued by a public agency under Delaware special education regulations. It ensures parents receive clear, complete information before a school district or charter school initiates or refuses actions regarding a child's identification, evaluation, educational placement, or provision of a free appropriate public education (FAPE). Section 926-3.0 aligns Delaware's procedures with the Individuals with Disabilities Education Act (IDEA). Its goal is to protect parental rights and ensure transparency in special education decisions. By requiring detailed written explanations, the rule supports informed parental participation and helps prevent disputes over educational programming or placement for students with disabilities.

Written notice that meets the requirements of subsection 3.2 shall be given to the parents of a child with a disability no less than 10 school days before the public agency:

3.1.1 Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

3.1.2 Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; and

3.1.3 In cases involving a change of placement for a disciplinary removal, written notice shall be provided no less than 5 school days before the public agency proposes to change the child's placement.

The regulation mandates that written notice include several core elements:

1. A description of the proposed or refused action and the reasons for it.
2. A description of each evaluation, assessment, record, or report used as a basis for the decision.
3. A statement informing parents of their procedural safeguards under state and federal law.
4. Sources for parents to obtain assistance in understanding these safeguards.
5. Descriptions of other options considered and reasons they were rejected.
6. Any other factors relevant to the agency's proposal or refusal.

The complaint submitted concerned the failure to submit a PWN to Guardian. District issued PWN for meetings in which actions were proposed on December 18, 2025; January 30, 2026; February 6, 2026; March 5, 2026; March 23, 2026; and March 30, 2026. Those notices were timely, appropriately issued, and included the required elements. The District's timeline also reflects emails from Guardian on March 19, March 24, April 1, April 14, and April 17, 2026, requesting that email exchanges and responses between District and Guardian be documented in a PWN. The District determines those email exchanges between Guardian and the District did not involve decisions, proposals, or refusals made at a meeting and therefore did not require a separate PWN. The District also noted that Guardian declined an opportunity to discuss these concerns at the upcoming IEE results meeting.

However, a standalone PWN was later generated on April 23, 2026, at Guardian's request. According to District interview information, the dispute centered on concerns about Student's speech and language evaluation, including omitted observations, the reliability of the report, and disagreement about whether Student qualified for additional speech services. These discussions occurred outside of an IEP meeting. The District stated that the omission of a speech-language observation was inadvertent and did not warrant a separate PWN because it had already agreed to Guardian's request for an IEE, which it addressed through an approval letter and related correspondence. Guardian, however, viewed the evaluation reports as inconsistent and incomplete and sought formal documentation of the exchanges in a PWN. The April 23, 2026, PWN reflected the substance of the email exchanges and shared information.

District wrote in its response letter "it is important to note that this [April 23rd] PWN simply outlines the communications and information provided by SLP and does not include decisions made by District outside of the approval of the IEE. While we provided a PWN to summarize the communications provided by SLP in response to Guardian's request, a PWN was not required in this situation and goes beyond the scope of the purpose of the PWN document."

The District did not make decisions without providing notice. The District did not convene an additional meeting specifically to address Guardian's concerns that involved proposing or refusing actions. Guardian requested corrections to certain information, and the District addressed those requests; however, District determined that clarifying errors and correcting typographical mistakes did not trigger the requirement to issue a PWN under applicable regulations. Despite the lack of a requirement to provide the PWN, the District provided the April 23, 2026, PWN anyway. The District provided all required PWNs in a timely manner.

Therefore, I find no violation of IDEA or state special education regulations with respect to District failing to issue a PWN.

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, a violation of Part B of the IDEA was not identified.

Respectfully submitted,

REDACTED

REDACTED

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.