

**Delaware Department of Education
Exceptional Children Resources**

State Complaint Decision

DE SC # 26-25

Date Issued: June 4, 2026

On April 14, 2026, REDACTED (Parent 1) filed a complaint with the Delaware Department of Education (Department). The complaint alleges that the Caesar Rodney School District (District) violated state and federal regulations governing the provision of a free, appropriate public education (FAPE) to Student under the Individuals with Disabilities Education Act (IDEA).^[1] The Department investigated the complaint as required by federal regulations at 34 C.F.R. §§ 300.151 through 300.153 and by the Department's regulations at 14 DE Admin. Code §§ 923-51.0 through 923-53.0.

The investigation included a review of Student's educational records; correspondence, including emails and phone logs between Parent 1 and relevant District personnel; outside court documents; and interviews with Parent 1, the District Director of Special Programs (Director), the Supervisor of Special Programs (Supervisor), the District Special Education Teacher (Teacher), and the School Building Principal (Principal).

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 April 14, 2026. Therefore, the Department's findings address violations from April 14, 2025, to April 13, 2026.

Complaint Allegations

Parent 1 alleges the District violated Part B of the IDEA and implementing regulations, by the following:

1. Failing to provide Parent 1 with the opportunity to participate in the Student's Individual Education Program (IEP) planning and approval process.

Factual Findings

1. Student is REDACTED years old and attends REDACTED (School). Student qualifies for special education and related services under the educational classification of Other Health Impairment (OHI) due to a diagnosis of Attention Deficit Hyperactivity Disorder.

2. Student is enrolled in a Spanish Immersion REDACTED classroom in the regular education setting. Student receives specially designed instruction in the general education setting and occupational therapy in a special education setting.
3. Student resides with Mother (Parent 1), who has primary placement. A Court Order dated May 21, 2020, and updated on December 14, 2021, grants Parent 1 and Father (Parent 2) joint legal custody of Student. The Court Order does not designate either parent with primary authority to make educational decisions for the Student.
4. On May 22, 2025, Parent 1 and Parent 2 agreed the District could proceed with the evaluation to determine Student's eligibility for Section 504 services.
5. On June 12, 2025, the District determined Student qualified for Section 504 services. The District developed a Section 504 Plan, and both Parents agreed to the accommodations. The Plan began on September 2, 2025, with a Plan end date of June 11, 2026.
6. On December 2, 2025, the District revised Student's Section 504 Plan due to District classroom staff and Parent 2 concerns regarding Student's behavior and lack of academic progress. Parents agreed to a revised Plan.
7. On November 17, 2025, both Parent 1 and Parent 2 requested District conduct a comprehensive, multidisciplinary evaluation of Student. On December 10, 2025, both Parents consented to the evaluation.
8. The District held two separate eligibility determination meetings due to the Parents' scheduling conflicts. District met with Parent 1 on February 20, 2026, and with Parent 2 on February 27, 2026. District separately informed each Parent that the Student meets the eligibility criteria for special education and related services under the educational classification of as Other Health Impairment resulting from the Student's diagnosis of Attention Deficit Hyperactivity Disorder.
9. On February 20, 2026, at the eligibility determination meeting with Parent 1, Parent 1 disagreed with the eligibility determination and did not sign the Evaluation Summary Report (ESR) or Consent for the Initial Provision of Services. The District asked Parent 1 to sign the ESR to record disagreement and to submit a written statement explaining why Parent 1 disagreed with the determination. Parent 1 did not sign the ESR and did not submit a written statement, disagreeing with the eligibility determination.
10. Also, on February 20, 2026, Parent 1 sent an email to District, requesting services not be initiated for the Student. In the email, Parent 1 stated that because Parent 1 disagreed with the eligibility determination and did not want services initiated, the District should not proceed with planning for an Individual Education Program (IEP) meeting.
11. On February 25, 2026, the District responded to Parent 1's email, indicating District would seek guidance how to proceed with the Parent 1's request to not proceed with IEP planning and would get back to the parent.
12. On February 27, 2026, the District held an eligibility determination meeting with Parent 2. Parent 2 agreed with the eligibility determination, signed the ESR, and the Consent for Initial Provision of Special Education and Related Services.

13. On March 4, 2026, the District responded to Parent 1's request, "If two parents disagree with the eligibility decision, the parent that disagrees has the right to indicate on the eligibility documents that they disagree and why. Eligibility decisions do not require agreement from both parents. As long as one parent agrees with the eligibility decision, qualifying for services, eligibility is legally upheld. Disagreements between parents regarding decisions would not be handled by the IEP Team." The District indicated that Parent 2 did agree with the evaluation and the Student's eligibility for special education services. The District indicated, with Parent 2's approval, the District will proceed with planning and implementing an IEP for Student.

In the same email correspondence, the District stated that it made a note of Parent 1's dissent with the Prior Written Notice (PWN) and that the meeting minutes from February 20, 2026, reflect Parent 1's disagreement. The District requested Parent 1 sign the ESR noting disagreement with the results of the evaluation, sign the Consent for Initial Provision of Special Education and Related Services, indicating disagreement with implementation of services for the Student, and provide a written statement reflecting why Parent 1 did not agree with the evaluation results.
14. On March 10, 2026, Parent 1 requested an Independent Educational Evaluation (IEE).
15. On March 12, 2026, the District approved Parent 1's request for the IEE.
16. On March 13, 2026, District sent IEP Meeting Invitation letters to both Parent 1 and Parent 2. Parent 1 noted on the IEP Meeting Invitation record receiving second notice of the IEP meeting, via Student on March 16, 2026.
17. On March 19, 2026, the District received notice from Parent 1 that Parent 1 would be attending the IEP meeting scheduled for March 26, 2026.
18. On March 26, 2026, the District held the IEP meeting with both Parent 1 and Parent 2 in attendance. Parent 2 agreed to the implementation of the IEP. Parent 1 did not sign the IEP and requested the IEP be implemented after the IEE is completed. Parent 1 requested that the District allow both Parent 1 and Parent 2 time to discuss the proposed IEP and start date for services.
19. On March 29, 2026, District emailed both Parent 1 and Parent 2 the updated draft of the IEP.
20. On March 30, 2026, Parent 2 emailed the District the following, "Thank you for sending Student's updated IEP draft. I have reviewed the document, and I do not have any questions at this time. As mentioned during our meeting on Wednesday, March 25, 2026, I recommend moving forward with the current draft. Once the independent evaluation is completed, we can revisit the plan and make any necessary adjustments."
21. Also on March 30, 2026, Parent 1 emailed the District the following, "As Parent 2 and myself are still discussing this matter. Please note that we will be taking the full 10 days to continue the discussion until we reach consensus. We will update everyone once school resumes on April 13th."

22. On March 31, 2026, Parent 2 engaged in a phone conversation with the District and reiterated that Student's IEP begin immediately.
23. On April 8, 2026, Parent 1 approved the release of information of the student's records to the outside IEE agency. The IEE was initiated on April 8, 2026, with an approved school psychologist to complete independent evaluation.
24. In a Prior Written Notice (PWN), dated April 13, 2026, the District noted the IEP initiation date as April 13, 2026, due to school closing for spring break. "After the IEE is completed, the IEP Team will make any necessary revisions to [Student's] IEP."
25. On April 15, 2026, Parent 2 signed the PWN waiving parent's 10 day rights.

Legal Conclusions

Allegation 1: Failing to provide Parent 1 with the opportunity to participate in the Student's Individual Education Program (IEP) planning and approval process.

The Court Order, provided by Parent 1, reflected the Delaware Court System stipulation that both Parent 1 and Parent 2 share joint custody of Student, with each parent having an equal say in all matters regarding Student. No parent is designated as having primary authority for Student's educational decision-making.

Parent 1 indicated that Parent 2 agreed to the Student's eligibility for special education and related services, and to IEP implementation, while Parent 1 did not agree with Student's eligibility determination, and wanted the District to delay IEP implementation until after completion of the IEE. Therefore, Parent 1 alleges not being afforded an equal opportunity to participate in the Student's IEP planning process as a parent.

As per 14 DE Admin. Code §925-1.1, Parental consent for initial evaluation: The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability shall, after providing notice consistent with 14 DE Admin. Code §926-3.0 through 926-4.0, obtain informed written consent from the parent of the child before conducting the evaluation. District received consent from both Parent 1 and Parent 2 on November 17, 2025.

As per 14 DE Admin Code §926-1.3, Parent participation in meetings: The parents of a child with a disability shall be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child. The District held two separate eligibility meetings to accommodate the parents' inability to attend the same meeting due to calendar conflicts. Both Parents attended their individual meetings. There was no consensus between Parent 1 and Parent 2 on the District's determination that Student was eligible for special education and related services. Parent 2 agreed to the determination, and Parent 1 did not. Each parent had the opportunity to participate in the decision-making process.

As per 14 DE Admin. Code §926-3.1, Each public agency shall provide notice consistent with 14 DE Admin. Code §925-9.0 to ensure that parents of children with disabilities have the opportunity to participate in meetings described in subsection 1.3. On March 13, 2026, the

District sent invitation letters to both Parent 1 and Parent 2 to attend the IEP meeting scheduled for March 26, 2026. A call and email were sent to Parent 2 as a reminder for the meeting on March 13, 2026. The District stated that no call or email was made to Parent 1 after Parent 1 disagreed with the eligibility determination and requested an IEE. A second notice was sent to Parent 2 on March 16, 2026.

As per, 14 DE Admin. Code §925-1.2 Parental consent for services: A public agency that is responsible for making FAPE available to a child with a disability shall obtain informed consent from the parent of the child before the initial provision of special education and related services to the child. Both Parent 1 and Parent 2 attended the IEP planning meeting. There was no consensus among Parent 1 and Parent 2 on the content of the IEP or the initiation of the Student's IEP. Parent 2 signed agreement with the IEP on March 26, 2026, and Parent 1 did not sign the IEP and indicated disagreement with it. Each parent had the opportunity to participate in the decision-making process.

Parent 1 and Parent 2 have equivalent authority to consent or not consent to what happens to Student in the educational setting according to the Court Order. Parent 1 and Parent 2 had multiple opportunities to participate in the Student's eligibility determination and IEP planning processes. Parent 1 did not agree with the Evaluation Summary Report that reflected the Student's eligibility for special education. The District requested, on two separate occasions, that Parent 1 document the disagreement in a written statement and submit the statement to the District. Parent 1 did not submit the written statement. Parent 1 requested an IEE for the Student. The District agreed to the request, and initiated the IEE. On March 31, 2026, Parent 2 requested that the IEP be implemented immediately and requested that the IEP Team review the IEE results following completion and make adjustments to the IEP if necessary.

Parent 1 and Parent 2 were offered multiple opportunities to participate in both the eligibility determination and IEP planning processes. State regulations require that a parent agree to the eligibility determination and to the implementation of the IEP and placement. There is no requirement in either the IDEA or State regulations that requires the consent of both parents in joint custody situations. Because both parents have equal custody and decision-making authority regarding the Student's educational welfare, either parent can provide the consent necessary to implement the IEP. This is further supported by the use of the word "parent" and not "parents" in 14 DE. Admin. Code §925-1.2. Any disagreement between Parent 1 and Parent 2 must be resolved by the Parents and is not the District's obligation to resolve. **Therefore, I find no violation of IDEA or state special education regulations.**

Respectfully submitted,

REDACTED