

**DELAWARE DEPARTMENT OF EDUCATION
EXCEPTIONAL CHILDREN RESOURCES**

**FINAL REPORT
ADMINISTRATIVE COMPLAINT RESOLUTION**

DE AC #16-06 (January 15, 2016)

On November 19, 2015, Parent filed a complaint with the Delaware Department of Education. The complaint alleges the Christina School District (“District”) violated state and federal special education regulations related to ensuring parent participation at IEP meetings. The complaint has been investigated as required by federal regulations at 34 C.F.R. §§ 300.151 to 300.153 and according to the Delaware Department of Education’s regulations at 14 DE Admin Code §§ 923.51.0 to 53.0. The investigation included a review of Student’s educational records, staff correspondence and documentation provided by the District, as well as interviews conducted with Parent, Advocate, and school staff.

COMPLAINT ALLEGATION

The complaint alleges the District failed to adhere to requirements to ensure parent participation at Student’s IEP meeting.

FINDINGS OF FACT

1. Student is twelve years old and receives special education services at a Middle School (“School”) in the District. Student is eligible for these services under the Individuals with Disabilities Education Act (“IDEA”) and 14 Del. Code § 3101 *et seq.* as a student with a Learning Disability as defined by federal regulations at 34 C.F.R. § 300.8 (c) (10) and in 14 Del. Admin. Code § 925.6.11.
2. On September 28, 2015, an Email was sent from Parent to Educational Diagnostician (“E.D.”) requesting an IEP meeting be scheduled for Student as soon as possible.
3. Parent had the assistance of a Special Education Advocate (“Advocate”), and Advocate began communicating with the school on Parent’s behalf.
4. On October 7, 2015, a fax was sent from Advocate to Principal requesting an official IEP meeting on Parent’s behalf. It was shared by Email with the E.D.
5. On October 8, 2015, an Email was sent from E.D. to Parent, and copied to Principal, to schedule an IEP meeting for Student, and some dates were provided that Students’ teachers could attend.
6. On October 13, 2015, an Email was sent from E.D. to Parent to follow up on the October 8, 2015 Email and inquire about mutually available dates to schedule an IEP meeting.

7. On October 13, 2015, an Email was sent from E.D. to Parent attaching an Invitation of Meeting for an October 28, 2015 IEP meeting. The purpose of the meeting was to develop, review, and/or revise Student's IEP. The E.D. stated E.D. would send a copy home with Student. According to E.D., attempts to notify Parent by phone were not successful.
8. The IEP meeting scheduled for October 28, 2015 was canceled by Parent because Advocate had an illness. In an October 27, 2015 E-mail, Parent requested the school to call Advocate's office to reschedule the meeting.
9. On October 27, 2016, E.D. called Advocate's office and left a phone message to determine dates Advocate was available to reschedule the meeting.
10. On November 2, 2015, an Email was sent from E.D. to Parent, and copied to Advocate, confirming the school had left a message for Advocate in order to reschedule the meeting.
11. On November 4, 2015, an Email was sent from E.D. to Parent, and copied to Principal, confirming Student's accommodations and new IEP were planned to be discussed at the October 28, 2015 meeting, but it had been canceled by Parent, and E.D. requested new dates from Parent and Advocate.
12. On November 4, 2015, an Email was sent from Parent to the RTI Coordinator regarding Parent's concerns for Student's academic progress. RTI Coordinator responded that Parent's concerns were to be discussed at the upcoming IEP meeting.
13. On November 5, 2015, an Email was sent from E.D. to Advocate, attempting to schedule a meeting with Student's academic teachers. E.D. provided Advocate with proposed dates. E.D. also left a phone message with Advocate the following day.
14. Schools records indicate a phone message was left for Advocate on November 6, 2015 in another attempt to schedule the IEP meeting.
15. On November 12, 2015, an Email was sent from E.D. to Parent, and copied to Advocate, asking Parent if Parent had contact with Advocate to reschedule the IEP meeting. E.D. indicated E.D. made several attempts to contact Advocate, but was not successful. E.D. provided Parent with several meeting date options.
16. On November 13, 2015, an Email was sent from Advocate to E.D. confirming November 19, 2015 as the best time for Advocate to attend the IEP meeting.
17. On November 13, 2015, an Email was sent from the E.D. to Advocate confirming the November 19, 2015 IEP meeting date. The Email stated E.D. was not able to contact Parent by phone and an Invitation to Meeting letter would be given to Student to take home.

18. E.D. reports E.D. gave the Invitation to Meeting to Student to take home to Parent on November 16, 2015. E.D. also reports E.D. mailed the Invitation to Meeting to Parent's home.
19. The Invitation to Meeting stated the purpose of the meeting was to develop, review, and/or revise Student's IEP.
20. According to Parent, Parent did not receive the November 19, 2015 Invitation to Meeting from Student.
21. According to Advocate, Advocate did not receive the November 19, 2015 Invitation to Meeting.
22. E.D. reports that Student confirmed to school staff Student delivered the letter to Parent.
23. On November 19, 2015, the meeting was held at the school. An agenda was provided describing the meeting as a "best interest meeting". The agenda listed introductions, parent input, teacher progress updates, review accommodations and recommendations for the upcoming IEP items.
24. The meeting attendance sheet describes the purpose of the meeting to review Student's current IEP and accommodations.
25. Parent did not attend the meeting. Advocate called Parent, and Parent participated by phone.
26. According to Parent and Advocate, the meeting began by school staff stating it was a "best interest meeting".
27. School staff report the meeting was an IEP meeting and "best interest meeting", and staff used the terms interchangeably.
28. On November 19, 2015, Advocate filed this complaint on Parent's behalf.
29. An IEP meeting is now scheduled for January 22, 2016.

CONCLUSIONS

Parent participation at IEP meetings is an important procedural safeguard under the IDEA. The IDEA and corresponding state and federal regulations require school districts to ensure one or both parents of a child with a disability are present at each IEP team meeting for the child, or are afforded the opportunity to participate. *See*, 34 C.F.R. § 300.322; 14 DE Admin Code § 926.1.3.

School districts must schedule IEP team meetings with parents at a mutually agreed upon date, time, and place. 34 C.F.R. § 300.322(a)(2); 14 DE Admin Code § 925.22.1.2.

School districts must also provide proper written notice to ensure that parents of children with disabilities have the opportunity to participate in IEP meetings. State regulations at 14 DE Admin Code §§ 925.22.1.1 require school districts to notify parents of an IEP meeting, in writing, no less than ten (10) school days prior to the IEP team meeting (unless mutually agreed otherwise) to ensure the parents will have an opportunity to attend.

The notice of IEP meeting must also include the purpose, time, and location of the meeting, and a list of the persons who will be in attendance. In addition, the notice must inform the parents of the right to include other individuals on the IEP team who have knowledge or special expertise regarding the child. 34 C.F.R. § 300.322(b)(1); 14 DE Admin Code § 925.22.2.

In this case, the District made attempts to schedule the IEP meeting when Parent requested it. However, the District did not adhere to all the regulatory requirements to ensure parent participation at IEP team meetings. The District was required to provide written notice of the IEP meeting to Parent ten (10) school days prior to the meeting. Parent did not receive the required notice of meeting ten (10) school days in advance of the November 19, 2015 meeting. In addition, the District conferred with Advocate to determine a mutually agreed upon date and time, but did not do so for Parent. The District did not confer with Parent to determine if November 19th was a mutually agreeable date and time for Parent.

In addition, school staff described the November 19th meeting as an IEP meeting and “best interest meeting”, and used the terms interchangeably. Given the specific regulatory requirements for IEP team meetings and notice to parents, the use of these terms interchangeably made it inherently confusing to Parent in this case. All correspondence from the District leading up to the November 19, 2015 IEP meeting referred to an IEP meeting. But, the agenda for the meeting lists it as a “best interest meeting”. Both parties account of the purpose of the meeting contradicted each other, making it impossible to ascertain what was actually said at the meeting. For the reasons stated, ***I conclude the District is in violation of IDEA and corresponding state and federal regulations regarding the District’s responsibilities to ensure parent participation at IEP meetings and the provision of proper notice of IEP team meetings.***

CORRECTIVE ACTION

The Department 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 IDEA was identified. Therefore,

- A) On or before February 10, 2016, the District shall ensure an IEP team meeting is held, with proper notice to Parent, in response to Parent’s request to revise and/or review Student’s IEP.
- B) By March 1, 2016, the District shall provide documentation to the Director of Exceptional Children Resources for the Department of Education to demonstrate the IEP meeting was held and the District complied with the regulations to ensure parent participation at the IEP team meeting.

- C) The District shall develop a plan to ensure parent participation at IEP meetings is properly implemented according to state and federal regulations as described herein. The plan shall include specific training requirements for District staff and provisions to address how compliance will be monitored and data collected, reviewed and reported. The District will submit the proposed plans to the Director of Exceptional Children Resources for the Department of Education by April 1, 2016.

/s/ _____
Complaint Investigator

Date: January 15, 2016