

**DELAWARE DEPARTMENT OF EDUCATION  
EXCEPTIONAL CHILDREN AND EARLY CHILDHOOD EDUCATION  
BRANCH**

**FINAL REPORT  
ADMINISTRATIVE COMPLAINT RESOLUTION**

**DE AC 08-05  
(March 10, 2008)**

On December 11, 2007, Parent filed a complaint with the Delaware Department of Education (“Parent Complaint”) on behalf of her son (“Student”).<sup>1</sup> The complaint alleges that the Colonial School District (“District”) violated state and federal laws relating to children with disabilities. Parent believes that the District failed to properly implement the student’s Individualized Education Plan by not providing Free and Appropriate Education (FAPE).

The complaint has been investigated pursuant to federal regulations at 34 CFR§ 300.151 to 300.153 and the Department of Education’s regulations and procedures. Specifically, the investigation included interviews with the Special Education Director of the District, the Deputy Superintendent, the Educational Diagnostician at Student’s current school; and several interviews with Parent. The investigation also included a review of Student’s educational records, including his individualized education program (“IEP”), evaluation and assessment reports, meeting minutes, incident report, and progress reports and other administrative documents provided by the District.

**FINDINGS OF FACT**

1. Student attends a High School within the District (“High School”) and is eligible for special education and related services.
2. Student’s IEP team revised his current IEP in October 2007. The current IEP provides that Student receive English, Math, Science, Social Studies and Academic Strategies in an inclusive setting.
3. Parent complaint is based on an incident that occurred on the school bus where the Student was suspended for five days. Parent complaint alleges that the Student was not provided FAPE (Free and Appropriate Education) in between the suspension and placement in the Alternative Educational Setting.

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<sup>1</sup> The Final Report identifies some people and places generically, to protect personally identifiable information about the student from unauthorized disclosure. An index of names is attached for the benefit of the individuals and agencies involved in the investigation. The index must be removed before the Final Report is released as a public record.

4. The incident occurred on August 27, 2007. Parent was advised by the district to bring the Student in the afternoon to complete the investigation process. District reported that Parent did not bring the Student.
5. On August 28, 2007 Parent came to the School without the Student to meet with the District and provide written statements. Parent was advised that in order to conclude the investigation process so discipline procedures could be followed, the Student needed to be present.
6. The District needed the student to provide a statement for a District disciplinary review that was to be conducted. The District reported that a new meeting was scheduled.
7. There were varying accounts of agreed to dates and reports of contact between District and Parent regarding rescheduling the investigative meeting.
8. On September 4, 2007, Parent and Student came to School and a disciplinary hearing was conducted. Student was suspended for five days.
9. On September 12, 2007, the District contacted the Parent. The Parent returned the call to the District and agreed to meet with Student's IEP team on September 13, 2007 for a manifestation determination meeting. Parent confirmed this statement.
10. On September 13, 2007 the District held the IEP/Manifestation meeting. The recommendation was to assign the Student to an alternative school site for one marking period with homebound instruction while arrangements were made. Parent signed agreement to this arrangement.
11. Student was counted unexcused absent for six days, September 11, 12, 13, 14, 17, 18, 2007.
12. On September 18, 2007, the intake meeting was held at the alternative site for the Student to begin services.
13. District states that the homebound teacher contacted the Parent on September 18, 2007 to schedule visits. Homebound teacher verbally verified that Parent refused homebound instruction because Student was starting the alternative placement the next day. Parent indicated that she did not refuse homebound instruction.
14. Student started alternative placement on September 19, 2007.

### **CONCLUSION and CORRECTIVE ACTION PLAN**

State and federal regulations governing the education of children with disabilities require that public agencies receiving assistance under the IDEA offer a free, appropriate public education to children with disabilities, including providing special education and related

services “in conformity with an individualized education program...” (*IDEA Regulations 34 CFR §§ 300.17, 300.320*).

Per IDEA Regulations 34 CFR §§ 300.536, the District can remove a child with a disability who violates the code of student conduct from his current placement to an appropriate interim alternative educational setting, another setting or suspension for not more than 10 consecutive school days, provided the same change of placement would be made in the case of a student without a disability. In this case, the district provided supplemental materials to the Parent for missed days, and arranged for homebound instruction and was able to place the Student into an alternative placement in a quick and timely fashion.

The District was conscientious in scheduling meetings to address Parent’s concerns. Meeting minutes provided by the District indicate that due to Parent work schedule, meetings had to be delayed. Documentation from the District indicates that homebound instruction was offered but the Parent refused due to the fact that the Student was starting the alternative placement the next day. Time in which instruction did not occur included the 5 suspended days and an additional 6 days of unexcused absence. Homebound instruction was available on day 11, September 18, as required under the IDEA. Therefore, I find no violation to the IDEA in respect to Parents’ complaint about denial of Free and Appropriate Education (FAPE).

Finally, Parent has identified numerous issues of concern since the incident in August 2007, however, these issues are not IDEA related but are related to strained relations with the District. Mediation or IEP facilitation has been offered.

Having found no denial of services or systemic regulatory violation, no corrective action plan is appropriate or required. And to that extent, the Student was not denied the free, appropriate public education to which he is entitled.

*\* Reports to the Department of Education should be sent to the Director of the Exceptional Children and Early Childhood Education Group.*

By: \_\_\_\_\_  
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