

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

**FINAL REPORT
ADMINISTRATIVE COMPLAINT RESOLUTION**

**DE AC 08-06
(March 28, 2008)**

On January 28, 2008, Parent filed a complaint with the Delaware Department of Education (“Parent Complaint”) on behalf of her son (“Student”).¹ The complaint alleges that the Capital 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 appropriate educational services. Parent defines this as not providing speech therapy services and not providing a one-on-one paraprofessional to the Student at all times.

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, Associate Principal of the High School, Student’s Teacher, Principal of the Delaware Autism Program; 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 reports, 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 an IEP developed and agreed to on September 27, 2007 in March 2008. The March 2008 IEP provides that the Student receives a separate special education program in an integrated setting. Student receives Speech and Language Therapy individually one time a week for 30 minutes, social skills training individually for one time a day for 30 minutes and paraprofessional support individually as needed.

¹ 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.

3. An Individualized Education Plan (IEP) was developed with all required participants on September 27, 2007. Appropriate notices were sent for this meeting and Parent signed in agreement. Speech and Language Therapy Services were added.
4. Parent states that Speech and Language Therapy Services were not delivered to her son since it was written into his IEP on September 2007. Speech and Language Therapy notes were reviewed and the Speech Pathologist's schedule indicates that she provides Speech and Language Therapy services to the Student on Tuesdays for 45 minutes. Documentation from the District through Speech and Language Therapy notes, written documentation and evaluations indicates that there was no lapse in Speech and Language Therapy for this Student.
5. Parent states that a one-on-one paraprofessional was to be provided to the Student during the Extended School Year (ESY) program of 2007 and during this time her son was lost for three hours due to lack of supervision.
6. IEP in place for ESY summer program 2007 does not include a one-on-one paraprofessional and Parent signed in agreement.
7. Student eloped from the ESY summer program during the 2007 school year.
8. District states that the response included searching the building and contacting Parent. Additionally, two district office staff as well as the resource officer went to the High School to assess the situation. A complete inside search of the High School was done by numerous officials as well as a search at the Student's home. The surrounding neighborhood was searched and a Center where the Student had training experience previously was searched.

District reports that during this time period, school officials were in constant communication with one another. After reviewing the cameras and consulting with the custodian, they narrowed the search down and found the Student outside on the loading dock. After assessing the situation, district officials were told by the Parent that the Student was intentionally hiding from classmates and staff members because he was reluctant to come to school that morning due to a difficult time getting up and out of the house.

9. The District conducted a meeting with the Parent and grandparent on the day of the incident. The recommendation was made to revisit his Behavior Intervention Plan and make sure provisions were made to avoid further incidents of this nature. District reported that the Parent added a consequence to her son that his jewelry would be taken and the Student seemed to respond to this.
10. An additional informal arrangement was agreed to by the teacher that she would meet the Student at the van each morning and escort him to the van at the end of the day.

Other Incidents needing paraprofessional support

11. Parent also states that during a several incidents in which her son was arrested, the paraprofessional was not present.

12. When Student's current IEP was written in March 2008 where police were called, a detailed schedule was created that included one on one paraprofessional support.
13. There is a specific three-tiered plan in place when the Student's two paraprofessionals are present. When one staff member is missing, an alternate plan is in place and when two staff members are not present, another plan is in place to ensure proper implementation of the Student's IEP. The Parent is also alerted when two paraprofessionals are not present.
14. The District has documented clearly all incidents that have occurred with this Student. The paraprofessionals were consistent in documenting on a daily basis the Student's behavior, reward system, discipline procedures and contacts with other District professionals, Parent and students. During all incidents where the Student was charged, it is clearly noted that a paraprofessional was present at all times. During most incidents, there was more than one adult present to document the incident. Currently, the Student has two paraprofessionals assigned to help implement the IEP.

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..." and "each public agency must ensure that reviews of the child IEP are periodically, but not less than annually to determine whether the annual goals for the child are being achieved..." (*IDEA Regulation 34 CFR §§ 300.17, 300.320, 300.324 (b) (i) (ii)*).

IEP'S were appropriately developed in a timely manner with all required participants. Appropriate interventions, behavior modifications, reward, and documentation of speech services were evident. I find that the District has appropriately responded to the elopement incident and the inappropriate behaviors that have led to involvement of law enforcement by revising the IEP to include increased adult supervision limit time with female peers and provide Student instruction. Therefore, I find no violation to the IDEA, 34 CFR §§ 300.101, in respect to Parents' complaint about implementation of the identified IEP services.

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.

*By: _____

Lisa D.V. Cuff
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Assigned Investigator

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