

DELAWARE DEPARTMENT OF EDUCATION
EXCEPTIONAL CHILDREN AND EARLY CHILDHOOD EDUCATION BRANCH

FINAL REPORT
ADMINISTRATIVE COMPLAINT RESOLUTION

DE AC 10-04

On September 16, 2009, the Delaware Department of Education ("the Department") received a written complaint from Legal Guardian on behalf of Student.¹ The complaint alleges the Colonial School District ("District") violated State and federal regulations concerning the provision of special education services to children with disabilities. Specifically, Legal Guardian claims the District violated certain regulatory requirements related to the provision of services in accordance with Student's individualized education program ("IEP") that was in effect at the start of the 2009-2010 School Year.

This 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 the allegations in the complaint, as well as September 30, 2009 phone interviews with Legal Guardian and District's Supervisor of Student Services.

FINDINGS OF FACT

1. Student is 11 years old and has been identified as a student with disabilities and receives special education services at an Elementary School within the District. Student is eligible for these services under the Individuals with Disabilities Education ("IDEA") and 14 Del. C. § 3101 et seq. Student has an educational disability classification of "Other Health Impaired" as defined in 14 DE Admin Code § 925.6.14.
2. The IEP that was in effect at the start of the 2009-2010 School Year requires that Student receive "full time" special education services to address her identified needs, and these services are to be provided by certified special education personnel.
3. On September 15, 2009, Legal Guardian notified District personnel of her concern that Student was not receiving special education services by a certified teacher during social studies class.
4. From the time District staff, specifically, Director of Student Services, was informed that Student was not receiving special education services in accordance with applicable State and federal requirements, immediate steps were taken to address this violation. Beginning on September 16, 2009, a certified special education teacher was assigned to

¹ The Final Report identifies some people and places generically to protect personally identifiable information about 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

the social studies class and began providing the special education services to Student in accordance with the approved IEP.

CONCLUSIONS

In a September 30, 2009, conversation with this Complaint Investigator, the District's Director of Student Services acknowledged that the violation alleged in the complaint to the Department was valid. **As a result, I find a violation of state and federal regulations concerning the requirement to provide special education services to Student based on the needs identified in her IEP.** After discovering its noncompliance, however, the District took immediate steps to self-correct the regulatory violation. Specifically, Legal Guardian was informed that the District was immediately assigning a certified teacher to implement Student's IEP in social studies class. Additionally, District consulted with Legal Guardian, and in a telephone conversation on October 12, 2009, the parties agreed that Student would receive compensatory services equal to the time services were missed at the start of the school year. It was also agreed that the services would be provided during the regular school day as requested by Legal Guardian. District's Director of Student Services confirmed the agreement in correspondence dated October 19, 2009, to Legal Guardian.

Additionally, correspondence dated October 19, 2009 from the District's Director of Student Services to the Department outlined steps taken by school staff to ensure that the problem does not recur in the future.

CORRECTIVE ACTIONS

The District has self-corrected the regulatory violation, and took appropriate steps to remediate the violation for Student consistent with Legal Guardian's proposed resolution. Additionally, the District has taken steps to address the appropriate future provision of services to students with disabilities regarding the violation identified in this case. Therefore, the Department requires no further corrective actions. The Department appreciates the steps taken by the District and Legal Guardian in addressing and resolving this matter.

By: /s/ Edward L. Wulkan

Edward L. Wulkan

Assigned Investigator

Consultant

Date Issued: November 15, 2009