

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

**FINAL REPORT
ADMINISTRATIVE COMPLAINT RESOLUTION**

DE AC 12-12 (June 15, 2012)

On April 18, 2012, Parent filed a complaint with the Delaware Department of Education ("DOE") on behalf of Student.¹ The complaint alleges the Christina School District ("the District") violated state and federal regulations regarding the provision of special education and related services to Student.

The complaint has been investigated as required by federal regulations at 34 C.F.R. §§ 300.151 to 300.153 and according to the Department of Education's regulations at 14 DE Admin Code §§ 923.51.0 to 53.0. The investigation included a review of records, and interviews with District staff and Parent.

FINDINGS OF FACT

1. Student is enrolled in a Special Program for children with disabilities in the Christina School District. Student is eligible for special education and related services under the Individuals with Disabilities Education ("IDEA") and 14 *Del. C.* § 3101 *et seq.*
2. Parent alleges the District failed to provide Student with educational services from approximately March 24, 2011 through September 2011. Student did not attend school during this period for the reasons addressed in a prior State complaint decision (#11-3) dated June 3, 2011.
3. In the prior complaint (#11-3), Parent claims Student had been assaulted by two male students in the school bathroom on or before March 23, 2011. Parent claims the school failed to conduct an investigation and follow up on her concerns. Parent also contends the Para-Educator assigned to Student was responsible for supervising Student during restroom breaks, and failed to do so resulting in injuries to Student. In the prior complaint (#11-3), Parent requested that Student no longer be supervised by or assigned to the Para-Educator, as well as other relief.
4. In response, the District contends it thoroughly investigated the assault reported by Parent, and concluded no misconduct occurred. The District claims Student's IEP was implemented, and Student was properly supervised by Special Program staff.
5. On June 3, 2011, the DOE issued its decision concerning complaint no. #11-3. The

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.

Department did not find a violation of Part B of the IDEA or any corresponding state law or regulation. The Department did not find a denial of FAPE to Student.

6. In September 2011, Student returned to school and received services under the educational program and placement described in his IEP.
7. The school decided to provide Student with speech services to make up for the period of time he was out of school between March and September 2011. The school provided 21 hours of speech language services at the rate of two hours a week between September 2011 to January 2012 to make up for the time he missed.
8. In this complaint (#12-3), Parent claims Student is also entitled to compensatory education for the period of time he was out of school between March and September 2011, and the District has failed to provide it.
9. The claim is denied. The DOE did not find a denial of FAPE to Student for the period March to September 2011 that would give rise to the duty to provide compensatory instruction.
10. Parent also alleges the District failed to provide Student with an opportunity to take his SATs because Student was not in attendance in when administered in the spring 2011.
11. The District shall make arrangements for Student to sit for the SAT and the District will promptly determine the testing sites and dates and provide them to Parent. As reported by the District, Student can receive the testing accommodations for the SAT as permitted by the Educational Testing Service ("ETS"). ETS has an approved list of accommodations to support students taking the SATs. The District cannot provide Student with additional accommodations on the SAT unless identified on ETS' approved list. As a result, Student may have testing accommodations described in his IEP that are not supported by the SAT, but are applied to other standardized tests taken by Student.

CONCLUSIONS

The Department has not identified a violation of Part B of the IDEA or corresponding state regulations.

By: /s/ Jennifer L. Kline_____
Jennifer L. Kline
Assigned Investigator
Education Associate

Date Issued: June 15, 2012