

**DELAWARE DEPARTMENT OF EDUCATION  
EXCEPTIONAL CHILDREN RESOURCES**

**FINAL REPORT  
ADMINISTRATIVE COMPLAINT RESOLUTION**

**DE AC #16-01 (September 3, 2015)**

On July 6, 2015, Grandparent filed a complaint with the Delaware Department of Education (DDOE). The complaint alleges that Indian River School District (District) violated state and federal regulations concerning the provision of a free, appropriate public education (FAPE) 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 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 District, as well as interviews conducted with Parent, Grandparent, District and School staff.

**COMPLAINT ALLEGATION**

The complaint alleges that District failed to notify Parent or Grandparent of the start date for extended school year services (ESY) and thus failed to provide Student with ESY services as outlined in Student's Individualized Educational Program (IEP).

**FINDINGS OF FACT**

1. Student is eleven years old and receives special education services at an Elementary School (School) in the District. Student is eligible for these services under the Individuals with Disabilities Education Act (IDEA) and 14 Del. Admin. Code § 3101 *et seq.* as a student with an Other Health Impairment as defined by federal regulations at 34 C.F.R. § 300.8 (c) (9) and in 14 Del. Admin. Code § 925.6.14.
2. The District calendar indicates that the last day of the 2014-2015 school year for students was June 11, 2015. The Director of Special Education stated that the first day of ESY services for students was June 30, 2015.
3. On February 12, 2015, District provided professional development training to Elementary Special Education Coordinators that addressed ESY regulations and procedures using a Power Point developed by DDOE.
4. The IEP, dated March 13, 2015, indicates that Student is eligible for ESY services due to Student's regression of skills over breaks. Parent was in attendance at the IEP meeting and was in agreement with the decision.
5. On May 15, 2015, District provided professional development training to District and Building administrators that outlined ESY services for the 2014-2015 school year.

6. Prior to the end of the school year, Grandparent stated he/she had two conversations with the Assistant Principal inquiring about the start date for ESY services. Grandparent reported that the Assistant Principal was unable to give him/her dates because they had not been finalized and that dates would be shared with Parent when a decision had been made. This statement was confirmed as accurate when the investigator interviewed the Assistant Principal.
7. Prior to the end of the school year, Parent stated he/she had a conversation with the Assistant Principal inquiring about ESY services but did not receive start date information. Parent informed Assistant Principal that Student should be picked up and dropped off at Grandparent's house. This statement was confirmed as accurate when the investigator interviewed the Assistant Principal.
8. The Assistant Principal reported that he/she gave Grandparent's address to the Secretary and that Secretary contacted Parent regarding ESY.
9. On June 5, 2015, Secretary contacted Parent to inquire if Student would be attending ESY and to confirm the 6:45 a.m. pickup time and drop off location. Parent stated location would be at Grandparent's residence. Parent asked for the start and end dates of ESY. Secretary shared the June 30, 2015 start date of ESY with the Parent.
10. On June 8, 2015, ESY roster with Student's name was completed by School and forwarded to District staff responsible for transportation.
11. Investigator reviewed ESY roster and confirmed that Student's name and Grandparent's address were on the spreadsheet.
12. On June 12, 2015, District staff responsible for transportation sent ESY routes to bus contractor.
13. The Assistant Principal and District staff responsible for transportation reported that bus drivers contact parents with ESY start dates and pick up times.
14. On June 27 and June 29, 2015, Bus Driver contacted Parent to inform Parent of the 6:45 a.m. pick up time and the June 30, 2015 start date. Both times, bus driver left Parent messages but did not receive any return calls.
15. On June 30, 2015, Bus Driver reported he/she went to pick up Student at Grandparent's house at 6:45 a.m. and beeped the horn. Bus Driver reported that he/she continued to stop by the Grandparent's house in the morning until he/she was notified by the school on July 9, 2015 that the Student was not coming to school.
16. During the investigation, the Grandparent reported that he/she did not observe the bus stop at his/her house in the morning to pick Student up for ESY services because he/she was never given a start date.

17. On July 1, 2015, a new staff person took over as Special Education Coordinator at the School. During the first week of ESY, the Coordinator asked the ESY teacher about Student's attendance. Teacher reported that Student was absent from school on June 30 and July 1, 2015.
18. On July 2, 2015, Grandparent informed the Director of Special Education that he/she had not received information about the start date for ESY. The Director informed Grandparent that Student's name was on ESY roster and that ESY started on June 30, 2015.
19. On July 6, 2015, Grandparent filed administrative complaint.
20. On July 6, 2015, Director reported that he/she attempted to contact Parent and Grandparent by phone and was unsuccessful. Director asked the Assistant Principal to contact Grandparent.
21. On July 9, 2015, after several unsuccessful attempts to reach Parent by phone, the Assistant Principal reported that he/she spoke with Parent to inquire if Student would be attending ESY. Parent informed him/her that Student would not be attending ESY.
22. Parent and Grandparent reported that once the complaint was filed, they received phone calls and message from several District and School staff but they declined to start Student with ESY services after the June 30, 2015 start date.
23. Parent and Grandparent stated that they started Student at a youth center the week of June 28, 2015 because Student had no activities scheduled for the summer. Student will be attending a youth center one week during the months of June, July and August.

## CONCLUSIONS

IDEA addresses ESY (34 C.F.R. § 300.106; *See also* 14 DE Admin Code 923.6.0;) and ensures that extended school year services must be provided if a child's IEP Team determines, on an individual basis, that the services are necessary for the provision of FAPE. The IEP Team made this determination at the March 13, 2015 IEP meeting. Parent was in agreement as documented by his/her signature, as well as in the IEP Minutes.

Parent and Grandparent report that they were not informed of the start date for ESY services after several inquiries were made to the Assistant Principal. Assistant Principal confirmed that he/she was transferred to another school within the District on July 1, 2015. Although this may have prevented the Assistant Principal from reporting the start date of ESY once he/she knew of it, both the Secretary and Bus Driver reported they did communicate the start date and pick up times of ESY to the Parent prior to June 30, 2015. The Director also conveyed the start date of ESY to the Grandparent two days after ESY began. Although the investigator was unable to confirm the break in communication that prevented the Student from getting on the bus the first day of ESY, the investigator is satisfied that District ESY procedures were in place and followed. ***Therefore, I have not identified a violation of the IDEA or corresponding state or federal regulations with respect to implementing ESY services.***

## **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 (IDEA Regulations § 34. C.F.R. § 300.151(b); *See also* 14 DE Admin. Code § 923.51.3.3.) In this case, no violation of IDEA was identified. Therefore, “no further action by the DDOE shall be taken” (14 DE Admin. Code § 923.51.3.2).

By: /s/  
Assigned Investigator