

**DELAWARE DEPARTMENT OF EDUCATION
EXCEPTIONAL STUDENT RESOURCES**

STATE COMPLAINT DECISION

DE SC # 25-15

Date Issued: July 3, 2025

On May 6, 2025, REDACTED (Parent) filed a complaint with the Delaware Department of Education (Department). The complaint alleges the Appoquinimink School District (District) violated state and federal regulations concerning the provision of a free, appropriate public education (FAPE) to REDACTED (Student) under the Individuals with Disabilities Education Act (IDEA).¹ The complaint has been investigated as required by federal regulations at 34 C.F.R. §§ 300.151–300.153 and according to the Department’s regulations at 14 DEL. ADMIN. CODE §§ 923.51.0–923.53.0. The investigation included a review of Student’s educational records, therapist’s notes, evaluation results and interviews.

ONE YEAR LIMITATIONS PERIOD

In accordance with IDEA and corresponding state and federal regulations, the complaint must allege violations that occurred not more than one (1) year prior to the date the Department receives the complaint. See, 34 C.F.R. § 300.153(c); 14 *Del. Admin. Code* § 923.53.2.4. In this case, the Department received the complaint on May 6, 2025. Therefore, the Department’s findings address violations from May 6, 2024, to May 6, 2025.

COMPLAINT ALLEGATIONS

Parent alleges District violated Part B of the IDEA and implementing regulations by the following:

1. Failure to implement the Individualized Education Program (IEP);
2. Failure to place Student in the appropriate placement;
3. Failure to allow parent/guardian meaningful participation in educational decision-making;
4. Failure to provide education and related services in the identified least restrictive environment (LRE);
5. Pre-determining placement and educational services outside of the IEP process;
6. Inappropriate use of restraints;
7. Failure to train staff in the area of Student’s disability; and
8. Failure to allow Student to participate in extracurricular activities to the same extent as general education peers.

¹ To protect personally identifiable information about Student from unauthorized disclosure, this complaint decision identifies people and places generically. The temporarily attached index lists the name corresponding to each generic role exclusively for the benefit of the individuals and education agency in the investigation. The index must be removed before the complaint decision is released as a public record.

FACTUAL FINDINGS

1. Student is a REDACTED-year-old REDACTED who attends District REDACTED school and receives special education and related services as a student with a primary educational classification of Autism and a secondary educational classification of Other Health Impairment (OHI) due to Attention Deficit Hyperactivity Disorder (ADHD).
2. Student's IEP contains goals in the areas of Communication to address expressive and receptive language with the use of an Augmentative and Alternative Communication (AAC) device and Occupational Therapy to address visual motor integration skills, bilateral coordination, and precision for cutting. In addition, Student has a Behavior goal to address targeted behaviors (aggression, elopement, pinching, biting, screaming and self-injury in alignment with a Behavior Support Plan (BSP) that contains a Safety Plan to address crisis situations. Lastly, Student has a Social Interaction goal to assist with requesting wants and needs across the school day.
3. On May 17, 2024, IEP Team met to revise Student's IEP due to behavior concerns. During the meeting, District proposed changing Student's LRE to a "C" setting due to Student's need for specialized, direct instruction in a setting that focuses on communication and social skills, but Parent declined. The IEP Team agreed to change Student's Least Restrictive Environment (LRE) from an "A" setting to a "B" setting. The Team also added Adult Support to Student's IEP.
4. On June 3, 2024, the Team met for Student's annual IEP. During the meeting, the Team agreed to continue Student's behavior, communication, occupational therapy and social interactions goals. The IEP Team also agreed to accept Student's updated BSP and decided Student's LRE would continue to be in a "B" setting, Student qualified for 12-month programming and to initiate the IEP one day after the meeting.
5. On August 8, 2024, Student's summer progress report showed Student making satisfactory progress toward annual communication and behavior goals. However, Student did not demonstrate progress on social interaction and one of the occupational therapy goals.
6. Teacher communicated with Parent throughout the school year about Student's behavior and participation with peers in the general education settings as evidenced by excerpts from the Parent Teacher Communication Log." Between September 2024 and March 2025, Teacher made the following notes:
 - On September 6, 2024, Teacher noted Student was very busy throughout the day.
 - On September 11, 2024, Student was a little rough with his hands.
 - On September 24, 2024, Student enjoyed going to the library.
 - On September 26, 2024, Student was doing a great job verbalizing choices. Student also punched his belly while saying "poop." Student also enjoyed movement time during gym.

- On October 2, 2024, Student was very tired and out of sorts during the day.
 - On October 9, 2024, Student was very engaged and verbal throughout the day.
 - On October 10, 2024, Student did a great job talking, requested snack during break and said all done when finished.
 - On October 15, 2024, Student went to the library with the class and chose a book.
 - On January 28, 2025, Student went to the library with the class and chose a book about elephants.
 - On February 4, 2025, Student went to the library with the class and enjoyed the “Goose” book. Student went to the gymnasium with the class and participated in a Power Plant Day presentation.
7. Additionally, Parent alleges that Student did not receive the services outlined in the IEP because the teacher on record was on maternity leave. District contends that there were special education certified teachers who collaborated with the general education teacher to ensure that all classroom-based services were delivered in accordance with the IEP.
 8. Student was absent from school 27 days from September 9th through May 6, 2025 due to illness and doctor’s appointments. Additionally, Student was tardy 22 times from September 23rd through May 6, 2025 due to behavior occurrence prior to school. Additionally, Student was dismissed early 10 times from October 10th through May 6, 2025 due to doctor’s appointments.
 9. On September 18, 2024, Teacher made a note in the Parent communication log that stated Student had multiple aggressions toward staff and episodes of screaming and attempting to elope even when given breaks every 3-5 minutes. Teacher also noted that the classroom had started taking data on aggressions to attempt to identify trends in activities. Additionally, during the months of September and October, Student had more than 150 aggressions (hit/pinch/bite/kick), more than 100 screaming episodes, and multiple attempts to elope from area.
 10. On September 30, 2024, Speech Language Pathologist (SLP), who has worked with Student since Prekindergarten, emailed device manufacturer’s AAC Consultant and asked to schedule a meeting with Student’s kindergarten classroom staff to provide technical assistance so they could support Student’s use of the AAC device across the school day.
 11. On October 1, 2024, SLP emailed AAC Consultant and requested an in-person visit so that AAC Consultant could see the classroom setting. SLP also informed AAC Consultant that Student attended school 5 days a week.

12. On October 2, 2024, Parent emailed SLP after speaking with SLP days earlier. During the earlier conversation, SLP and Parent discussed SLP reaching out to the AAC consultant for staff training, Student's progress, and interventions utilized during the school day. Parent agreed with SLP's collaborative approach and stated that there was a signed Release of Information (ROI) to speak with Children's Hospital of Pennsylvania (CHOP). Parent requested that SLP coordinate with Student's private speech therapist at CHOP to collaborate and discuss classroom implementation and adding pages to Student's device as needed. Additionally, Parent cc'd the CHOP specialist on the email.
13. On October 3, 2024, SLP emailed Student's private speech therapist and asked for dates and times to speak by phone or zoom to plan for the upcoming AAC Consultant visit. Student's private speech therapist agreed to meet on October 7, 2024.
14. On October 8, 2024, Student's private speech therapist emailed SLP, and cc'd the AAC Consultant, a list of items that would be helpful for the AAC Consultant to review with the Team during training.
15. On October 16, 2024, SLP and AAC Consultant agreed to meet with the classroom team on November 13, 2025, at 8:30 am.
16. On October 23, 2024, Parent emailed Educational Diagnostician (ED), Principal, SLP, and Teacher regarding Student's AAC device not being used all day. Parent stated that AAC device had the same phrase ("go school") on it that was modeled prior to going to school. Parent also stated that Student's IEP called for access to the AAC device throughout the day. Parent was also concerned that Student's communication accommodations were not being consistently followed. Additionally, Parent stated that Student's teams at CHOP and Nemours had previously recommended 1:1 support in the classroom for modeling communication on Student's AAC, and that the concern had been discussed during Student's most recent IEP meeting. Parent also voiced concern over whether the "additional adult support," documented in Student's IEP, rather than the recommended 1:1 support would be sufficient to support Student's communication needs.
17. Parent received a Notice of Meeting (NOM) on October 25, 2024 and a second notice on October 28, 2024 for an IEP meeting to be held on October 30, 2024 as Student demonstrated an increase in challenging behaviors. Parent waived the 10 days NOM. However, the meeting did not occur on the scheduled date as Student was sick.
18. On November 1, 2024, Student's progress report showed Student making satisfactory progress toward annual communication and Occupational Therapy goals. However, Student did not make progress with behavior and social interaction goals.
19. On November 6, 2024, SLP emailed AAC Consultant and asked AAC Consultant to bring a device to model its use with the team. SLP also stated that Student would arrive at 9 am. AAC Consultant agreed to bring device.

20. Also on November 6, 2024, Student had nearly 100 aggressions (hit/pinch/bite/kick), 20 screaming episodes, and several attempts to elope. During the month of November, Student had nearly 200 aggressions, nearly 100 screaming episodes, and multiple attempts to elope from area.
21. On November 7, 2024, the Team met to review behavior data collected and revise Student's IEP due to continued behaviors. During the meeting, the Team added consultative Board-Certified Behavior Analysis (BCBA) services to Student's IEP. IEP Team also reviewed Student's use of the AAC device, to collaborate with the private speech therapist and to hold a meeting to revise Student's speech language goals if the data supported the revision. Additionally, the Team proposed a "C" setting, but Parent declined.
22. On November 7, 2024, ED contacted Parent regarding Consent to Release of Information to coordinate school BCB A services with Student's private BCBA at Nemours. ED asked Parent for the name of the private BCBA. Parent provided the name and asked ED why Parent was unable to speak to school BCBA. ED informed Parent that the school BCBA would not be working directly with Student and was a consult for the classroom teacher. ED informed Parent that IEP draft and Consent to Release Information would be sent to Parent and that changes made to the IEP included note of the addition of BCBA consultative services.
23. On November 12, 2024, Parent contacted ED requesting that it be indicated in the prior written notice that data provided by Parent regarding AAC use was reviewed. Parent also asked ED to communicate with school BCBA to request that Applied Behavior Analysis (ABA) strategies of planned ignoring/extinction, discrete trial training, hand over hand modeling, full body prompting, token exchange programs, Picture Exchange Communication System (PECS) protocol, and food as a reinforcer not be used with Student. ED confirmed that the review of AAC use data was indicated in prior written notice and stated that ED would resend revised IEP for Parent signature.
24. On November 12, 2024, AAC Consultant emailed SLP to cancel the November 13th meeting due to the death of a family friend. Meeting was rescheduled to November 21, 2024.
25. On November 21, 2024, the classroom staff met with AAC Consultant. SLP contacted the Team following the training to provide notes from discussions, observations, and practice. SLP stated that there would be a follow-up meeting with AAC Consultant in January to progress monitor and plan. After the meeting, and at the request of classroom staff, SLP emailed AAC Consultant to ask if there were "basic needs" materials for the AAC device that Student could use to communicate wants and needs.
26. On November 22, 2024, SLP emailed AAC Consultant and shared a question from Teacher concerning only using the AAC device for curriculum vocabulary when it applied. Teacher questioned whether all of the pictures for the "basic needs" materials had to be changed from the existing pictures Student was already using. Teacher also stated that Student was verbalizing wants and needs. SLP asked AAC Consultant to share thoughts and also asked for availability to meet in-person in January.

27. On November 25, 2024, AAC consultant asked SLP to send a picture of the front of Student's device. SLP responded stating students were not present due to the holiday. SLP also let AAC Consultant know that the device had 60 cells. Also, AAC Consultant informed SLP that AAC Consultant wanted to add low tech supports that matched Student's icons on the device and to also help support staff learning the icons on the device. AAC Consultant gave classroom staff a "Low Tech" unity board and unity poster for Student's use.
28. On December 2, 2024, Student had 50 aggressions (hit/pinch/bite/kick) and 45 screaming episodes. During the month of December, Student had more than 200 aggressions, more than 150 screaming episodes, and continued to attempt to elope throughout the school day.
29. On December 3, 2024, Parent emailed ED, Principal, school psychologist, and SLP regarding Student's AAC device not being used, again, in the classroom despite training provided by AAC Consultant since the words listed on the device's data usage page were the same as the words listed when Student left for school in the morning. Parent requested that the aforementioned email recipients follow up with the classroom team to ensure that the plan developed at the AAC Consultant meeting be implemented as recommended.
30. On December 3, 2024, ED replied to Parent's email regarding device usage concerns and stated that they would talk to the team about device usage.
31. On December 5, 2024, SLP contacted Parent following a meeting with the classroom team regarding AAC device usage. SLP informed Parent that the following was discussed, recommended, and agreed upon: Follow Student's lead; Recognize Student's communication attempts, especially if Student says "stop" or "all done;" Use AAC device to model vocabulary for Student to develop comprehension and receptive skills; Encourage Student to use his device to respond or build on expressive verbal language; use AAC functionally for basic communication needs; Use AAC functionally across the curriculum to support comprehension and engagement such as describing actions or prepositions or locations; Use the "FIND A WORD" feature as necessary; Use "Tricky Words" created by AAC Consultant as Student's peers would use them; and Use curriculum visuals to give Student access to curriculum. SLP stated that they would follow up with AAC Consultant to schedule January consult visit and inquire about Unity symbols to support curriculum.
32. On December 5, 2024, Parent responded to SLP's email thanking SLP for meeting with the team and helping the team navigate AAC device usage. Parent stated that the plan sounded great and that Parent did not expect perfection or device usage for 100% of the school day but that not using device at all throughout the day was unacceptable. Parent acknowledged that AAC device was new to everyone, especially as Student's verbal communication expands and the curriculum becomes more challenging. Parent stated appreciation for the team's collaboration and willingness to make adjustments as needed for Student.

33. On December 10, 2024, SLP emailed Parent and AAC Consultant to see if a curriculum-based vocabulary, that included speech sounds and math, update was made to Student's device. AAC Consultant reported that an update was made. SLP informed Parent that the update was shared and modeled with the classroom staff so that letter sound use could be addressed. Additionally, SLP informed Parent that a page containing weapons appeared during use and that the page was hidden within the device.
34. On December 10, 2024, AAC Consultant emailed SLP and asked if the classroom team could have a follow up meeting on January 6, 2025.
35. On December 10, 2024, Parent received invitation to Reevaluation Eligibility Determination meeting scheduled for January 29, 2025.
36. On December 11, 2024, SLP let AAC Consultant know that the January 6th date worked and a 8:30am – 9:30am time was identified. SLP also asked if the AAC Consultant could stay beyond 9:30 am because Student did not arrive until 9:15 am. AAC Consultant agreed to stay.
37. On December 11, 2024, SLP emailed Parent and Consultant asking if there was a way to see on the device how many times Student communicates using AAC device because SLP kept having to stop sessions to document data. SLP also stated that Student was attempting to communicate verbally and using AAC device more and more each session. Consultant stated that Parent could pull the data from the device and Parent confirmed and asked SLP if SLP wanted the data solely for the days that SLP provides therapy or if SLP wanted the information daily. Parent indicated that the information would be sent electronically. Parent was able to provide the following data related to Student's AAC use:
- 10/24/25: 23 minutes of use; 23 words activated
 - 10/25/25: 7 minutes of use; 3 words activated
 - 10/28/25: 14 minutes of use; no words activated—only “Keyboard” was used to spell words
 - 10/29/25: 21 minutes of use; 13 words activated
 - 11/5/25: 12 minutes of use; 18 words activated
 - 11/6/25: 31 minutes of use; 40 words activated
 - 11/7/25: 36 minutes of use; 29 words activated
 - 11/8/25: 13 minutes of use; 7 words activated
 - 11/20/25: 6 minutes of use; no words activated—only “Keyboard” was used to spell words (presumably because the staff did not know how to locate the words on the AAC)
 - 11/21/25: 55 minutes of use; 68 words activated
 - 11/22/25: 34 minutes of use; 38 words activated
 - 12/2/25: 31 minutes of use; 49 words activated
 - 12/3/25: AAC data showed it was not used at all. Email was sent to the team.
 - 12/4/25: 51 minutes of use; 67 words activated
 - 12/5/25: 86 minutes of use; 65 words activated
 - 12/6/25: 40 minutes of use; 44 words activated

12/9/25: 51 minutes of use; 29 words activated
12/11/25: 81 minutes of use; 59 words activated
12/12/25: 59 minutes of use; 41 words activated
12/13/25: 62 minutes of use; 38 words activated
12/16/25: 100 minutes of use; 130 words activated
12/19/25: 66 minutes of use; 53 words activated

38. On January 3, 2025, Student had at least 50 aggressions, (hit/pinch/bite/kick) and at least 75 screaming episodes. During the month of January, Student had 90 aggressions, 100 screaming episodes, and few attempts to elope.
39. On January 7, 2025, Parent received NOM for Annual IEP meeting to be held on January 29, 2025.
40. On January 7, 2025, SLP emailed AAC Consultant to inform AAC Consultant that Student would not be present on the previously scheduled January 9th classroom visit. SLP also informed AAC Consultant that classroom visit dates and times for consideration would be sent.
41. On January 15, 2025, SLP notified AAC Consultant that Student had returned to school and asked that AAC Consultant provide dates for a classroom visit, preferably at 10:00 am because Student works on curriculum at that time.
42. On January 16, 2025, Parent signed NOM to Reevaluation Eligibility Determination meeting scheduled for January 29, 2025, confirming planned attendance.
43. On January 16, 2025, Parent signed NOM to Annual IEP meeting scheduled for February 5, 2025, confirming planned attendance. However, this meeting was rescheduled to February 12, 2025.
44. On January 16, 2025, Teacher notified Team via email, that while attempting to assess Student in the calm down room, Student threw AAC device on the ground and damaged the screen.
45. On January 16, 2025, AAC Consultant emailed Parent and SLP and asked if February 19th or 20th would work for a classroom visit. Parent responded by saying that Student threw AAC device and shattered the screen and that the repair process was initiated but could take 4-6 weeks. Additionally, Parent shared that paperwork was submitted requesting a loaner device, but a response was not received. AAC Consultant asked to be notified once Student was given a loaner so a date for classroom visit could be identified. SLP responded and asked to be notified when a loaner was provided but also stated that University of Delaware could be contacted to determine if they had a loaner device. Parent thanked SLP.
46. On January 24, 2025, Student's progress report showed Student making satisfactory progress toward annual Communication and Occupational Therapy goals. However, Student did not make progress with behavior and social interaction goals.

47. On January 24, 2025, Parent provided Psychologist with a letter from developmental pediatrician regarding Student's diagnoses, which remained as Autism and ADHD, and recommendations via email, asking that it be shared as needed and kept in Student's file.
48. On January 29, 2025, Parent received NOM to an eligibility determination meeting to be held on February 12, 2025 due to a weather closing. Parent signed NOM confirming attendance.
49. On January 30, 2025, the Team met with Autism Resources Peer Review Committee (PRC) to discuss Student's behavior and to garner feedback to assist with support moving forward. During the meeting, the Team presented behavior data charted between November and December of 2024. The data showed that behaviors primarily occurred to avoid demands and when transitioning from a preferred activity to a non-preferred activity. Additionally, the data showed staff are using a variety of different responses following behaviors, including verbal redirection (23.3% of collected data), visual redirection (15.1% of data), redirection by modeling replacement behaviors (13.7% of data), giving breaks (13.7% of data), and offering forced choices (11% of data). Furthermore, the data presented documented attempts to escape non-preferred activities as the function of Student's behavior. During these times, Student had hit, kicked, bitten, punched staff and eloped from areas. Classroom staff positioned themselves between Student and peers to avoid physical aggression toward peers.
50. On February 4, 2025, Student had 40 aggressions (hit/pinch/bite/kick), at least 10 screaming episodes, and attempted to elope from area multiple times. During the month of February, Student had more than 100 aggressions, at least 40 screaming episodes, and at least 20 attempts to elope from area. It should be noted that classroom staff reported changes in medication, and probable seizure activity may have impacted total frequency of behaviors.
51. On February 5, 2025, Psychologist received Student's PRC notes from the January 30th meeting and shared the information with the team.
52. On February 5, 2025, Parent received NOM for Student's Annual IEP meeting scheduled for February 25, 2025. Parent signed, confirming attendance.
53. On February 6, 2025, Psychologist emailed PRC behavior and functional communication data in response to the notes received the previous day.
54. On February 12, 2025, the Team held the reevaluation meeting via zoom due to a weather related school closing. The IEP Team considered but rejected a classification of Intellectual Disability even though Student's cognitive scores were below 70. The IEP Team felt as though Autism as a primary educational classification and OHI as a secondary educational classification better described Student. Also, the Team reviewed and accepted Student's new FBA identifying the behavior antecedents as; demands, transitions, proximity of staff, denied access, waiting and listening to instructions. Additionally, Parent shared information about Student having a first time seizure and also stated that Student was tested and that results would be shared with

- the IEP Team. District offered to develop a seizure action plan if needed. Special Education Services Coordinator (Coordinator) emailed Parent and offered support with the IEP process moving forward.
55. On February 13, 2025, Parent thanked Coordinator for attending the February 12th meeting and appreciated offer to support Student. Parent voiced concern over Teacher not contributing positive feedback surrounding Student's day-to-day, as well as difficulty sitting in a meeting where only deficits are highlighted. Coordinator offered Parent times to discuss concerns. After continued correspondence, Parent and Coordinator identified February 19th after 1 pm as a mutually agreeable meeting date.
56. On February 14, 2025, Teacher emailed Parent that Student was having a tough time getting regulated and was very agitated, had been screaming, hitting, and pinching. Teacher also added that Student spent time in the de-escalation room with books, but kept dropping to the floor, rolling around, and yelling. Additionally, Teacher informed Parent that Student threw the AAC device, so it was taken away for a while. Student jumped on the table and tried to elope. Teacher reported that all the usual "things" that help student calm did not seem to be helping. Teacher inquired whether something happened in the morning or if there was a different morning routine. Parent responded informing Teacher that Student seemed off the previous night and exhibited similar behaviors to those seen in class. When Student woke up in the morning, Student seemed fine, but as the morning progressed, Student seemed to get more agitated and impulsive. Parent also informed Teacher that Student's grandmother had a difficult time getting Student to transition from house to school and from car into school. Parent stated that it is hard to tell if something is bothering Student because Student cannot tell us if something is wrong. Parent thought it best if grandmother picked Student up early.
57. On February 20, 2025, Teacher emailed Parent to report Student was having a rough time regulating and that Student was throwing materials, screaming throwing self to the floor, refusing to transition and attempting to elope. Teacher also added that the AAC device was taken because Student was attempting to throw it. Parent asked if anything was different with Student's routine. Parent also added that Student's grandmother would pick Student up. Teacher reported Student's daily routine was normal with all normal supports in place; however, Teacher added that the previous day's schedule changed due to a school dance, but Student had a much better day considering the changes.
58. On February 21, Parent emailed Teacher to give an update on Student's afternoon and evening. Teacher responded stating Student continued to have heightened moods, but there were moments where Student was calm and content and that any little thing would set Student off and Student would get upset and yell. Parent indicated Student had trouble falling asleep but eventually did and woke up at the normal time. Later in the day, Teacher emailed Parent because Student had not arrived. Parent informed Teacher that Student had a big meltdown but was calming down. Parent informed Teacher that Student would be staying home. Parent reported contacting Student's doctor and doctor was aware of the recent concerns.

59. On February 25, 2025, IEP Team held Student's annual IEP meeting. Team adopted Student's revised BSP to include the updated FBA information.
60. On February 28, 2025, Parent notified the Team via email that Student's current medication had been discontinued and that Student would be starting a new medication in the mornings prior to attending school.
61. On March 2, 2025, Parent signed the February 25th meeting PWN, waiving Parent's rights to review the document for 10 days.
62. On March 2, 2025, Parent contacted ED after signing updated annual IEP, expressing that Parent did not agree for Student to be placed in REDACTED (REDACTED) program for the following school year at this time as Parent had not toured. The REDACTED program is specialized for students who need more intense support due to their disability. This 12-month program is designed to meet the complex needs of students with the autism classification. Parent asked if it would be possible to observe REDACTED before making a final decision.
63. On March 3, 2024, Student had more than 100 aggressions (hit/pinch/bite/kick), more than 40 screaming episodes, and more than 20 attempts to elope from area. During the month of March, Student had more than 150 aggressions (hit/pinch/bite/kick), more than 100 screaming episodes, and more than 50 attempt to elope from area. It should be noted that classroom staff reported changes in medication, and probable seizure activity may have impacted total frequency of behaviors. March 3, 2025, Teacher emailed Parent to report that Student was having a rough day. Teacher added that Student was taken to the de-escalation room due to aggressive and self-injurious behavior, but that Student was eventually able to settle down. Teacher also added that Student was given multiple breaks during the day. Parent responded via email thanking Teacher and informed Teacher that the information would be relayed to Student's doctor to monitor how Student was reacting to new medication.
64. On March 4, 2025, Teacher emailed Parent to report that Student's behaviors were escalated. Teacher also stated that Student was given wait time and frequent breaks in and out of the classroom. Teacher also added that there were times when Student would not walk and had to be carried and/or assisted by 2 adults out of class during transitions. Student had Occupational Therapy (OT) and Therapist could not get Student to the hallway to work, so Therapist worked with Student in an office close to where Student dropped to the floor. Teacher also stated that Therapist reported Student pinching and hitting self to avoid the activity. Teacher also added that Student was starting to be able to sit and engage with activities during academic periods; however, on that day, Student threw materials, screamed, and hid under the table. Parent thanked Teacher for the classroom staff's efforts to support Student throughout the school day.
65. On March 5, 2025, Teacher emailed Parent to report Student attempted to kiss staff and Student would only sit on a staff person's lap during class time. Student began to scream, hit arms on the table and pinch during academic activities. Student was taken to the de-escalation room to calm. Student's behavior escalated when staff attempted to return Student to the classroom. Teacher informed Parent that Student spent 30

- minutes outside of the classroom but was able to return during snack time. Student's behavior continued to escalate through the day and Staff attempted to block Student's hands so that Student would not be hurt during attempts to hit the table. Classroom staff did breathing exercises and moved Student to a rug in the classroom to prevent self-injuries. When Student was calm, classroom staff offered preferred activities.
66. On March 6, 2025, Parent responded to the email and thanked Teacher for the information and indicated information would be shared with Student's doctor. Parent reported that Student's behavior continued to escalate at home. Student experienced facial tics at home and asked if Teacher had observed any at school. Parent also stated that Student's grandmother could pick up early if Student's behavior escalated. Teacher reported Student had been observed squinting, clicking and face tensing during class.
67. On March 13, 2025, Teacher contacted Parent regarding Student's behaviors, stating that Student had spent time in the de-escalation room as Student was unable to self-regulate and was pinching and hitting teachers and harming self (punching stomach, elbow on table, dropping to the ground.) Teacher gave Student breaks to help Student calm down and Student ate some of lunch and used AAC device, as well as verbally requested pretzels throughout the day.
68. On March 14, 2025, Parent responded to Teacher's email regarding Student's behavior, indicating that Student had been dealing with constipation that could account for stomach punching. According to Parent, Student recently started tearing paper at home and that they provide REDACTED with construction paper to rip instead.
69. On March 14, 2025, Teacher contacted Parent regarding a team meeting taking place the following Monday to discuss strategies to use with Student, stating that they would reach out to Parent after the meeting. Parent replied and stated that Parent looked forward to hearing about the meeting.
70. On March 18, 2025, Parent contacted Principal after receiving a call about Student's behaviors. Parent responded that Parent would be picking Student up early and that Parent understood the importance of Student being at school for the team to figure out how to work with Student, but Parent expressed concerned with Student's level of agitation and self-harm and did not want Student to get hurt. Parent would be reaching out to the doctor again.
71. On March 24, 2025, School Nurse contacted Parent regarding Student's appointment the previous Friday and asked if there were any changes school should know about. School Nurse also sent Nemours Consent to Release Information Form and asked that Parent complete and return the form, stating that School Nurse knew Student had a lot of changes in the past month so it would help to keep School Nurse up to date on Student's changes and care. In response, Parent informed School Nurse that the appointment on Friday went well and that the doctor decided to taper Student off current medication as it was causing behavioral side effects and that Student had started a new medication on Saturday. Parent indicated that a Consent Form was already on file.

72. On March 25, 2025, Parent contacted Principal after Student was restrained 15 times that day. Parent acknowledged that documentation stated that safety care holds are necessary when behavior would result in imminent serious injury to Student or others and asked for more insight into that day's situation that required 10-15 holds. Parent stated that Parent knew pinching, biting, and scratching self-had been an issue but wondered what occurred that day that was different and required this level of intervention. Principal did not respond to Parent's email but called Parent later that evening to discuss.
73. On March 25, 2025, Parent received NOM for an IEP Revision Meeting scheduled for March 27, 2025. Parent signed NOM, confirming attendance. In addition, District submitted a request for support to the Delaware Department of Education's Autism Resources Workgroup due to Student's increased aggressive and self-injurious behavior.
74. On March 27, 2025, an IEP Revision meeting was held to discuss the increase in Student's self-injurious behaviors and physical behaviors towards others. The IEP Team reviewed attendance data showing Student attended school an average of 3.7 days per week. The IEP Team proposed to modify Student's schedule to reflect Student attending Wednesday, Thursday and Friday 9 am-12 pm. Parent declined the modified time of 9 am-12 pm because 12 pm was a difficult time to pick up Student so the IEP Team agreed on a 10 am – 1 pm timeframe. The IEP Team also agreed to change placement to a "C" setting for the remainder of the school year. Additionally, the Team agreed that Student would attend LRE "C" setting REDACTED Autism program for summer academy beginning July 7, 2025. The IEP Team proposed that Student attend the REDACTED program at a different elementary school effective September 2, 2025. During the meeting, Parent shared that Parent had toured the REDACTED program at School and would like Student to attend the program starting September 2, 2025. The Team also proposed revising the BSP to reflect the modified schedule and to include additional information to the crisis safety plan. Additionally, the Team developed a 3-step process to determine Student's ability to access the general education setting throughout the day and proposed Parent sign a ROI for Nemours, the Delaware Autism Program-The Brennen School, and CHOP so the Team could collaborate toward Student's education. Parent declined to sign ROI for CHOP because Parent wanted to keep Student's medical and educational side separate from Student's medical side. Parent proposed Student receive a 1:1 staff member throughout the day but District declined stating Student receives adult support throughout the school day as outlined in the IEP.
75. Parent alleges District utilized the de-escalation room as Student's designated LRE from mid-March through April 2, 2025 when Student's modified schedule began. However, District contends that Student only accessed the de-escalation room during times when Student's and staff's safety was at risk.
76. On March 28, 2025, Parent contacted IEP Team following Student's transition to a modified schedule. Parent asked to be provided with Science, Social Studies and Math work that Student would miss with the modified schedule each day and the work

Student would miss on Mondays and Tuesdays that Student would not be attending school. Parent wanted Student to continue to attempt academic work and attention to task even when not scheduled to be in school. Parent also asked Parent needed to submit an early dismissal for Student each day or if the office would be aware of Grandparent pick up, and whether there was anything to sign to give Grandparent permission to pick Student up while on a modified schedule.

77. On March 28, 2025, Parent contacted ED with follow-up concerns regarding Student's modified schedule. Parent stated that the Prior Written Notice (PWN) only mentioned the change being made due to self-injurious behaviors, but the data used for that decision included behavior towards others as well. Furthermore, the PWN did not indicate that data would be reviewed weekly and adjustments would be made as needed. Parent stated PWN indicated that this placement was through the end of the school year but was under the impression this placement would be temporary with the goal being to get Student back into the classroom full time.
78. On March 31, 2025, ED contacted Parent to confirm that edits had been made. ED confirmed that Student's placement in REDACTED program would continue until the end of the year and Team agreed to meet in 6-8 weeks to determine if changes could be made, stating that when the data shows that those changes can be made, the IEP will be revised. In response, Parent expressed that Parent thought Principal would be meeting weekly with the team to review data to determine if any changes could be made and that District Special Education Director said Team did not have to wait 6-8 weeks to make changes. Parent acknowledged that on paper the end date needed to reflect what was currently happening but wanted to make sure that weekly review would still be happening as discussed and that if data were to show Student's day can be extended or days could be added to Student's modified schedule before 6-8 weeks, that this would happen. ED confirmed that the team would be meeting weekly to discuss data and that if they found that a revision was warranted, they would have it sooner than later, as the goal was to have Student return to school. Additionally, Parent signed the PWN for the March 27th meeting.
79. On April 8, 2025, Parent contacted ED and School Psychologist regarding coordination between school and private BCBA. Parent stated that private BCBA had not heard from anyone regarding coordination and that the best way to contact private BCBA was to arrange a call was through email.
80. On April 9, 2025, Student had more than 250 aggressions (hit/pinch/bite/kick), more than 200 screaming episodes, and more than 30 attempts to elope from area. During the month of April, Student had more than 300 aggressions, more than 300 screaming episodes, and at least 50 attempts to elope from area. It should be noted that classroom staff report changes in medication, implementation of a modified schedule, and probable seizure activity may have impacted total frequency of behaviors.
81. On April 9, 2025, ED contacted Student's private BCBA via email to report Parent signed a Consent to Release information form. The ED also shared 3 meeting dates and times for the BCBA to consider.

82. On April 16, 2025, Parent contacted Principal, ED, and School Psychologist after Student was restrained twice the previous day. Parent wanted to check in on Student as Parent did not receive a call so assumed the day was better than the previous day. Parent did not receive a response. It should be noted that this Investigator requested District send the restraint documentation to Investigator and it was not provided.
83. On April 17, 2025, Parent contacted Principal asking if Parent would receive documentation for the restraints that took place on April 15, 2025, as it was not sent home the previous day. Parent also asked if Student's daily activities sheet would be modified for more insight into Student's day as discussed previously. In response, Principal confirmed that documentation was being sent home in Student's book bag that day and that daily activities sheet was also being changed to reflect more of Student's complete day.
84. On April 28, 2025, kindergarten teacher contacted Parent stating that kindergarten teacher would be down staff on May 9, 2025 and asked if Student could come Tuesday, Wednesday, and Thursday the following week instead of Friday to ensure familiar staffing for Student. Parent confirmed that Student would attend school on Tuesday instead of Friday.
85. On May 1, 2025, Parent contacted ED asking for dates and times to schedule Student's IEP meeting.
86. On May 2, 2025, ED replied to Parent and scheduled Student's IEP meeting for May 14, 2025. In response, Parent stated that they had expressed wanting to discuss extending Student's time since the end of the year was approaching and Parent had mentioned wanting Student to have more time/days in school during each meeting and felt the conversation was being delayed. Parent requested that a meeting be coordinated sooner than 2 weeks, stating that the team was meeting for their scheduled meeting the following Monday and asked if extending Student's time could be discussed at this meeting. Parent did not receive a response.
87. On May 2 and May 7, 2025, Student had a total of more than 200 aggressions (hit/pinch/bite/kick), 200 screaming episodes, and multiple attempts to elope from area. It should be noted that classroom staff report changes in medication, implementation of a modified schedule, and probable seizure activity may have impacted total frequency of behaviors.
88. On May 2, 2025, Parent received a SMORE communication (electronic newsletter) regarding a field trip but did not receive a permission slip for Student. Parent brought up concerns with the team on May 5, 2025 and was told that this was not intentional and that Student could attend the field trip.
89. On May 6, 2025, Parent contacted District Special Education Director after receiving a voicemail the previous day regarding scheduling a meeting. Parent stated being under the impression that Principal had reached out to District Special Education Director to see what more time would look like for Student per Parent's request for additional time

in school and not just to schedule a meeting and that they hoped to schedule a meeting as soon as possible.

90. On May 6, 2025, Parent contacted ED after receiving invitation to IEP meeting scheduled for May 14, 2025. Parent stated having expressed wanting to have a meeting sooner and that this date did not work due to having to change work schedule because of Student's modified schedule. Parent indicated availability on Mondays at any time and might be able to make arrangements on other days. Parent also asked whether the meeting discussed with District Special Education Director would be a separate meeting in addition to the IEP meeting and asked if Psychologist would be attending IEP meeting.
91. On May 6, 2025, ED sent a second email to Student's private BCBA and offered 3 additional meeting dates. Private BCBA responded on May 7, 2025 and offered to meet with ED on Wednesday May 7, 2025.
92. On May 6, 2025, Parent filed a state complaint.
93. On May 7, 2025, ED replied to Parent's email stating that District Special Education Director had been attempting to contact Parent with new dates/times for IEP meeting and confirmed that Psychologist would be attending the meeting. ED asked for Parent's availability on May 12, 2025 and May 19, 2025. In response, Parent confirmed receipt of District Special Education Director's voicemails and that May 12, 2025, would work for IEP meeting. ED cancelled NOM for May 14, 2025 and sent a new NOM for May 12, 2025. Additionally, the Parent received a "take home note" from Teacher stating that peers would be invited to the classroom to watch the Aladdin musical with Student instead of Student going to another location to view the activity.

LEGAL CONCLUSIONS

1. Failure to implement Student's Individual Education Plan (IEP)

According to 14 DE Admin. Code § 923.1.2, A Free Appropriate Public Education (FAPE) shall be available to all children with disabilities residing in Delaware beginning no later than the child's third birthday, or an earlier age as otherwise provided in these regulations, until the receipt of a regular high school diploma or until August 31st of the school year in which the child attains the age of 22, whichever occurs first. FAPE shall also be available to children with disabilities who have been suspended or expelled from school, as provided for in this section and 14 DE Admin. Code 926, subsection 30.4.

1.2.1 Each public agency receiving funds under part of the Act, or receiving state funding for the education of children, shall ensure that FAPE is made available to each eligible child beginning no later than the child's third birthday, or an earlier age as otherwise provided in these regulations; and that an IEP is in effect for the child by that date, in accordance with 14 DE Admin. Code 925, subsection 23.1. 1.2.3 Children advancing from grade to grade: Each public

agency shall ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.

District and School staff implemented Student's IEP while Student was placed in an "A" setting. Parent voiced concern about Student's AAC device being used on 2 separate occasions but progress reports and the AAC data log showed multiple days that the device was used show Student making progress toward the communication goal. Behavioral occurrences and data collected during the 2023 -2024 school year supported the decision to convene an IEP meeting to discuss Student's behavior and to determine Student's LRE. The Team, including Parent, agreed with the proposed change to a "B" setting so that Student could receive an appropriate education. The Team also relied on behavior progress and daily data tracking to reconvene during the 2023-2024 school year where the District Team proposed Student be educated at the District REDACTED program located in another building due to student's need for specialized instruction. However, Parent, declined the proposal and Student continued to be educated in the same building in a "B" setting. However, the Team agreed to add adult support throughout the school day and the classroom staff received AAC device training to support Student's IEP implementation.

During the 2024-2025 school year the Team met several times to review behavior data due to Student's continued aggressive and self –injurious behaviors. The Team also received AAC training from Student's private communication specialists' so that Student could be supported. Student's 1st and 2nd marking period progress reports showed Student making satisfactory progress toward annual Communication and Occupational Therapy goals. However, Student did not make progress with behavior and social interaction goals during either marking period. It was due to this that District reached out to multiple Autism resources and Student's private communication and behavior specialists to receive supports that are specific to Student's disability and proposed to change Student's LRE to a "C" setting where Student could receive more specialized support. District proposed and the IEP Team agreed to modify Student's weekly schedule. Parent expressed that Parent thought Principal would be meeting weekly with the team to review data to determine if any changes could be made and that Director said Team did not have to wait 6-8 weeks to make changes. Parent acknowledged that on paper the end date needed to reflect what was currently happening but wanted to make sure that weekly review would still be happening as discussed and that if data were to show Student's day can be extended or days could be added to Student's modified schedule before 6-8 weeks that this would happen. ED confirmed that the team would be meeting weekly to discuss data and that if they found that a revision was warranted, they would have it sooner than later, as the goal was to have Student return to school. In addition, District utilized multiple certificated staff to support Student during Student's assigned Teachers maternity leave to ensure supports were being provided. **Therefore, I find there was not a violation of IDEA and state special education regulations regarding a failure to implement Student's Individual Education Plan (IEP).**

2. Failure to place Student in the appropriate Least Restrictive Environment (LRE)

According to 14 DE Admin. Code § 923.14.2, Each public agency shall ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of cannot be achieved satisfactorily.

District and School staff implemented Student's IEP while Student was placed in an "A" setting. Behavioral occurrences and data collected during the 2023 -2024 school year supported the decision to convene an IEP meeting to discuss Student's behavior and to determine Student's LRE. The Team, including Parent, agreed with the proposed change to a "B" setting so that Student could receive an appropriate education. The Team also relied on behavior progress and daily data tracking to reconvene during the 2023-2024 school year where the District Team proposed Student be educated at the District REDACTED program located in another building due to student's need for specialized instruction. However, Parent, declined the proposal and Student continued to be educated in the same building in a "B" setting. However, the Team agreed to add adult support throughout the school day to Student's IEP. During the 2024-2025 school year the Team met several times to review behavior data due to Student's continued aggressive and self-injurious behaviors. Student spent time in the de-escalation room during times when Student's and/or staff/peer safety was at risk and when Student was not able to access the classroom. Parent alleges District utilized the de-escalation room as Student's designated LRE from mid-March through April 2, 2025 when Student's modified schedule began. However, District contends that Student only accessed the de-escalation room during moments when Student's and staff's safety was at risk. During that timeline Student attended 5 of 10 school days. **Therefore, I find there was not a violation of IDEA and state special education regulations and a denial of FAPE regarding a failure to place and educate Student in the appropriate LRE. However, there was a denial of FAPE related to accessing the general education throughout the duration of a full school day.**

3. Failure to allow parent/guardian meaningful participation in educational decision-making

According to 14 DE Admin. Code § 926.1.3 Parent participation in meetings: The parents of a child with a disability shall be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child.

1.3.1 Each public agency shall provide notice consistent with 14 **DE Admin. Code** 925, Section 9.0 to ensure that parents of children with disabilities have the opportunity to participate in meetings described in subsection 1.3.

1.3.2 A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

1.4 Parent involvement in placement decisions: Each public agency shall ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

1.4.1 In implementing the requirements of subsection 1.4, the public agency shall use procedures consistent with the procedures described in 14 DE Admin. Code 925, Section 9.0.

The IEP Team met on numerous occasions to discuss Student's academic, behavior and related service needs. During each occurrence, Parent mutually agreed to meeting dates and times, contributed to discussions concerning Student during and outside of meetings, and agreed with and/or declined proposals. More specifically, Parent was present and contributed to discussion at the meeting when Student's schedule was modified and when the BSP was revised. Parent also signed the PWN after each meeting. **Therefore, I find there was not a violation of IDEA and state special education regulations and a denial of FAPE regarding a failure to allow parent/guardian meaningful participation in educational decision-making**

4. Failure to provide education and related services in the identified LRE

According to District and School, staff implemented Student's IEP while Student was placed in an "A" setting. Behavioral occurrences and data collected during the 2023 - 2024 school year supported the decision to convene an IEP meeting to discuss Student's behavior and to determine Student's LRE. The Team, including Parent, agreed with the proposed change to a "B" setting so that Student could receive an appropriate education. The Team also relied on behavior progress and daily data tracking to reconvene during the 2023-2024 school year where the District Team proposed Student be educated in the District REDACTED program located in another building due to student's need for specialized instruction. However, Parent, declined the proposal and Student continued to be educated in the same building in a "B" setting. However, the Team agreed to add adult support throughout the school day to Student's IEP. During the 2024-2025 school year the Team met several times to review behavior data due to Student's continued aggressive and self-injurious behaviors. During each meeting, District proposed that Student be educated in a "C" setting in its REDACTED program so that Student could receive specialized education services. Parent declined. Additionally, Parent alleges that Student's placement was changed due to the use of the de-escalation room. Student's behavior interfered with Student's and peers ability to learn which necessitated the use of the de-escalation room to support Student's behavioral needs. Classroom staff utilized the supports outlined in Student's BSP prior to Student being removed from the class. Additionally, classroom staff communicated

with Parent throughout the school day and gave detailed information in regards to how Student's day was going so that Parent was aware of times when Student was not able to remain safe and in the environment outlined in the IEP. **Therefore, I find there was not a violation of IDEA and state special education regulations and a denial of FAPE regarding a failure to provide education and related services in the identified LRE**

5. Pre-determining placement and educational services outside of the IEP process

According to 14 DEL. ADMIN. CODE § 925.6.1, Upon completion of the administration of assessments and other evaluation measures, the child's IEP team shall determine whether the child is a child with a disability, and shall determine the educational needs of the child.

The IEP Team met on March 27th to discuss the increase in Student's self-injurious behaviors and physical behaviors towards others. Team agreed to modify Student's schedule, Wednesday, Thursday and Friday 10 am-1 pm, and to change placement to a "C" setting for the remainder of the school year. Parent agreed and signed the PWN. During the meeting, the Team proposed, again, that Student attend the District's REDACTED program effective July 7, 2025. The Team also revised the BSP to reflect the modified schedule and to include a crisis safety plan. Additionally, the team agreed to review Student's behavior data so that an informed decision regarding increasing Student's time in the building could be made. Additionally, the Team developed a 3-step process to determine Student's ability to access the general education setting throughout the day. These revisions were made during the meeting that Parent attended and agreed with the proposal. Additionally, Parent signed the PWN. However, Student's modified schedule prevented access to the general education setting during the duration of time that Student was not in school in alignment with the modified and implemented Schedule. **Therefore, I find there was not a violation of IDEA and state special education regulations regarding determining placement and educational services outside of the IEP process.**

6. Inappropriate use of restraints

Regulation 34 CFR §300.156 speaks to ensuring that teacher, related service and paraprofessional personnel are appropriately and adequately prepared and trained.

In order to properly implement Student's IEP and in order to comply with Delaware regulations surrounding restraint and seclusion, District is required to provide de-escalation training. District was able to show that staff were trained using Safety Care Techniques as outlined in Student's BSP. District was also able to show that less restrictive interventions were ineffective before a restraint was used. **Therefore, I find there was not a violation of IDEA and state special education regulations and a denial of FAPE regarding the inappropriate use of restraints.**

7. Failure to train staff in the area of student's disability

According to 14 DEL. ADMIN. CODE § 92.56.1 General: Personnel necessary to carry out the purposes of these regulations shall be appropriately and adequately prepared and trained and shall have the content knowledge and skills to serve children with disabilities, all as established in DOE certification regulations and requirements.

56.2 Related services personnel and paraprofessionals: The requirements in subsection 56.1 include qualifications for related services personnel and paraprofessionals. Such requirements shall be interpreted consistent with any State approved or State recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and ensure that related services personnel who deliver services in their discipline or profession:

56.2.1 Meet the requirements of subsection 56.2; and

56.2.2 Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

56.2.3 Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of these regulations to be used to assist in the provision of special education and related services under these regulations to children with disabilities.

56.3 Qualifications for special education teachers: The qualifications described in subsection 56.1 shall ensure that each person employed as a public school special education teacher in the State who teaches in an elementary school, middle school, or secondary school is highly qualified as a special education teacher by the deadline established in section 1119(a)(2) of the ESEA.

56.4 Policy: In implementing this section, LEAs shall take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under these regulations to children with disabilities.

Whereas professional certification qualifications, review and reporting are the responsibility of school districts and outside of this Investigator's purview. District attempted to and was successful with its efforts to collaborate with Student's outside communication support staff so that the classroom team could appropriately support Student's educational needs. The Team was unsuccessful with multiple attempts to collaborate with Student's outside BCBA at the time of the state complaint submission. **Therefore, I find there was not a violation of IDEA and state special education regulations and a denial of FAPE regarding a failure to train staff in the area of student's disability**

8. Failure to allow student to participate in extracurricular activities to the same extent as general education peers

According to 14 DEL. ADMIN. CODE § 925.6.1. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in subsections 7.1 and 7.2, each public agency shall ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency shall ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

Student's IEP documents that Student needs adult support while accessing the cafeteria during lunch, the playground during recess and related arts. During the school year the classroom staff utilized a home-school communication system to document Student's day and week. The communication log shows that Student participated in gym, library, and lunch activities on a regular basis. Student also participated in school-wide activities such as viewing an Aladdin Musical and watching the Power Plant presentation along with peers. Parent alleges that Student did not attend a spring concert due to the lack of communication from the school regarding supports that would be in place to allow Student to attend. The concert was held at 2 separate evening times at a District high school and open to the community. Parent could have taken Student to the concert without the involvement of school staff because the event occurred beyond the school day and permission was not needed. District and Parent did not communicate regarding Student potentially attending and ultimately it was Parent's decision not to attend. At no point did District inform Parent that Student would or would not have supports in place during the concert. **Therefore, I find there was not a violation of IDEA and state special education regulations and a denial of FAPE regarding a failure to allow student to participate in extracurricular activities to the same extent as general education peers.**

CORRECTIVE ACTIONS

Student Level

1. School shall schedule and hold an IEP meeting with Parent to discuss Student's progress and Parent concerns. During the meeting, the IEP Team, including Parent, shall discuss how the District will provide **90.5 hrs (11 half days x 3.5 hrs = 38.5 hrs & 8 full days x 6.5 hrs = 52 hrs)** of compensatory education regarding educational and related services for the date range of **April 2, 2025 through May 6, 2025**. All compensatory education must be completed by **May 1, 2026**. Student's IEP, BSP, and a Prior Written Notice (PWN) from the meeting, and documentation outlining the amount of compensatory education owed and a plan for the provision of services shall be provided to Parent and a copy shall be sent to the Director of Exceptional Student Resources by **August 30, 2025**.

District Level

1. District shall conduct professional development with all District general and special education, and related service staff regarding the following:

- Procedures for ensuring that a student's IEP is implemented with fidelity,
- Procedures for ensuring that an IEP Team periodically reviews the child's IEP to determine whether the annual goals for the child are being achieved; and revises the IEP, as appropriate.

This professional development must take place by **September 30, 2025**. All materials, as well as staff sign-in sheets must be sent to the Director of Exceptional Children Resources by **October 15, 2025**.

Respectfully submitted,

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