

**DELAWARE DEPARTMENT OF EDUCATION  
EXCEPTIONAL STUDENT RESOURCES**

**STATE COMPLAINT  
DECISION DE SC # 26-05  
Date Issued December 5, 2025**

On October 10, 2025, REDACTED (Complainant) filed a complaint with the Delaware Department of Education (Department). The complaint alleges REDACTED Elementary School (School) and Red Clay Consolidated School District (District) violated state and federal regulations concerning the provision of a free, appropriate, public education (FAPE) to Students in the Autism Program (Students) under the Individuals with Disabilities Education Act (IDEA).<sup>1</sup> 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.

**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 October 10, 2025. Therefore, the Department's findings address violations from October 10, 2024, to October 10, 2025.

The investigation included review of students' records and communication, as well as correspondence with REDACTED, (Complainant); Senior Director of Student Services and Special Education (Director); Principal of Autism Services (Principal); REDACTED, Director of Human Resources (HR Director); and REDACTED Instructional Paraprofessional (Paraprofessional). This investigation also included gathering information from the Department regarding an additional complaint made by Complainant related to professional licensure requirements. Investigator reached out to meet with Complainant twice, but Complainant chose to only communicate via email.

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<sup>1</sup> 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.

## **COMPLAINT ALLEGATIONS**

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

1. Failure to assign a certified Special Education teacher to deliver specially designed instruction (SDI), as well as to oversee the development, implementation, and progress monitoring of Individualized Education Programs (IEPs) within the Autism Program at School; therefore, denying a free appropriate public education (FAPE).
2. Payment of Paraprofessional at a lower rate rather than paying higher cost of a highly qualified teacher.

## **FACTUAL FINDINGS**

1. According to Director, during the 2023-2024 school year, Paraprofessional served as a long-term substitute in the fourth/fifth grade classroom within the Autism Program at School, for one marking period, until District hired a certified teacher in Autism the remainder of that school year. That teacher did not return the following school year.
2. According to Director, District assigned Complainant as an instructional paraprofessional at the REDACTED School (School 2) for the 2024-2025 school year. Due to a reduction in autism support classrooms in School 2, Complainant was transferred to the first-grade autism support classroom at School for the 2025-2026 school year.
3. According to Director, Complainant attended three days of the in-service week in August and then went out on leave.
4. According to Director and Complainant, Complainant did not have access to IEPs, progress monitoring reports, or instructional programming information for students in the fourth/fifth grade classroom within the Autism Program in School.
5. At the beginning of the 2024–2025 school year, District assigned Paraprofessional as the long-term substitute for the Autism classroom of fourth and fifth graders in School due to the District's inability to recruit and hire a certified Autism teacher.
6. Director reported District uses this option as a last resort to ensure that classrooms are covered with responsible and dependable staff that are familiar with instructional strategies for the student population.
7. During the 2024–2025 school year, District continued to recruit and post for a certified Autism teacher.

8. Throughout the 2024–2025 school year, the Paraprofessional was provided professional development in the areas of Applied Behavior Analysis, de-escalation, and personal emergency response techniques, as well as coaching, through Devereux as the District contracted with them to provide this service.
9. Paraprofessional worked under the supervision of the administrative team at the School, as well as a teacher certified in special education and Autism/Severe Disabilities (Instructional Coach), who served as the teacher of record for all special education students in the fourth/fifth grade classroom.
10. Instructional Coach provided coaching in lesson planning, assessment practices, and evidence-based instructional strategies.
11. Paraprofessional and Instructional Coach collaborated to monitor, develop, implement and evaluate students' IEPs. They attended bi-weekly team meetings and all IEP meetings together. Additional topics reviewed included:
  - September 2024 - student IEPs and goal implementation
  - October 2024 - instructional materials
  - November 2024 - progress reporting data
  - December 2024 - State testing, revising schedules to meet student need
  - January 2025 - possible revisions
  - March 2025 - end of year checks
  - April 2025 – IEP development
12. During the 2024–2025 school year, the Paraprofessional applied to and was accepted into an alternative route to certification (ARTC) program (Grow Your Own) at Wilmington University. Paraprofessional applied the previous year and was put on a wait list.
13. In July 2025, the Paraprofessional began taking classes at Wilmington University.
14. Director reported Paraprofessional supported seven students in the fourth/fifth grade classroom during the 2024-2025 school year. Five of the seven students pushed out into the general education setting (least restrictive environment (LRE) B) and received specially designed instruction across settings. The other two students were primarily in a self-contained classroom (LRE C) and received specially designed instruction within Paraprofessional's classroom.
15. A review of the IEPs and progress reports for the seven students who were in the class during the 2024-2025 school year indicated that five students made adequate progress toward their IEP goals. Two students demonstrated one marking period of inadequate progress on a single goal during one benchmark but showed improvement in the subsequent benchmark. One student moved into a less restrictive environment due to progress.

16. During the 2025–2026 school year, District assigned the Paraprofessional as the long-term substitute for the Autism classroom of fourth and fifth graders in School due to the District's inability to recruit and hire a certified Autism teacher, while the District continues to recruit and post for this position.
17. Director reported District uses this option as a last resort to ensure that classrooms are covered with responsible and dependable staff that are familiar with instructional strategies for the student population.
18. In August 2025, Paraprofessional began providing instruction to seven fourth and fifth grade students in the Autism classroom.
19. As was done previously, Paraprofessional works under the supervision of the administrative team at the School and the Autism Services administrative team, as well as a teacher certified in special education and Autism/Severe Disabilities (Instructional Coach). The Instructional Coach continues to serve as the teacher of record for all special education students in the Autism classroom and is responsible for IEP development in collaboration with the classroom staff and related service providers.
20. The administrative team is responsible for overall supervision of staff including classroom walk-throughs, observations, and staff evaluations.
21. Instructional Coach meets with Paraprofessional weekly and provides coaching in lesson planning, specially designed instruction, assessment practices, and evidence-based instructional strategies.
22. Paraprofessional and Instructional Coach collaborate to monitor, develop, implement and evaluate students' IEPs. They attend bi-weekly team meetings and all IEP meetings together.
23. According to a review of IEP records, all students are making progress on IEP goals for marking period one of the 2025-2026 school year.
24. When Complainant was asked how Complainant came to be aware that students were not making progress, Complainant reported having heard this from other paraprofessionals within District. Complainant confirmed never having seen the IEPs of students in fourth/fifth grade Autism classroom.

## **LEGAL CONCLUSIONS**

**Allegation # 1:** Failure to assign a certified Special Education teacher to deliver specially designed instruction (SDI), as well as to oversee the development, implementation, and progress monitoring of IEPs within the Autism Program at School and therefore denying FAPE.

According to 14 *Del. Admin. Code* §923.56.0 Personnel Qualifications:

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.

Anyone working with children with disabilities must have the right training and skills as required by the Department. Paraprofessionals can assist in providing services if they are properly trained and supervised. School Districts must take measurable steps to recruit, hire and train and retain qualified people to provide special education services. In this instance, the District elected to utilize an instructional paraprofessional who had worked in the specific classroom for several years and had consistently demonstrated the ability to provide instruction under appropriate supervision. This paraprofessional received and continues to receive close supervision from a certified teacher in Autism and Severe Disabilities (Instructional Coach) and was provided targeted training in Applied Behavior Analysis, de-escalation, and personal emergency response techniques. Additionally, the District engaged an outside agency, Devereux CARES, to provide coaching and professional development.

*14 Del. Admin. Code §1517 defines an instructional paraeducator (paraprofessional) as follows:*

**“Instructional paraeducator”** means a public school employee who provides one-on-one or small group instruction; assists with classroom management or individual student behavior; provides assistance in a computer laboratory; provides support in a library or media center; assists in training and support with functional skill activities, such as personal care or assistive technology; or provides instructional services to students under the direct supervision of a teacher. Instructional paraeducators include those working with regular education students and students with disabilities or in Title I schoolwide schools and with students receiving Title I services in Title I targeted assistance schools. Instructional paraeducators include Registered Behavior Technicians (RBTs) and Applied Behavior Analysis Technicians (ABATs).

It is well documented nationally, and within Delaware, that there is a pervasive shortage of qualified special education staff, particularly in specialty areas such as Autism and Severe Disabilities. Due to this shortage, many districts have been compelled to hire uncertified professionals and/or instructional paraprofessionals, despite federal regulations requiring fully certified staff. In some cases, districts may opt to employ and support individuals who are already familiar with the students in a given classroom and who demonstrate strong potential, coachability, and a willingness to pursue certification in special education while receiving district support.

The paraprofessional applied to the Grown Your Own program at Wilmington University during the 2023–2024 school year and was placed on a waitlist. During the 2024–2025 school year, the paraprofessional reapplied, was accepted, and began coursework in advance of the 2025–2026 school year.

Despite ongoing recruitment efforts over several years, the District has been unable to secure a certified teacher for the Autism Program at School. District hired a certified teacher during the 2023–2024 school year but the certified teacher did not return the following year. Recruitment efforts have continued without success in finding a qualified candidate.

Throughout this period, the District has provided the paraprofessional with consistent supervision, support, and professional development. A review of IEPs and progress reports for students in the classroom during the 2024–2025 school year, as well as those completed to date in the 2025–2026 school year, indicate that overall, all students have made adequate progress toward their IEP goals. One student demonstrated sufficient progress to transition to a less restrictive environment.

**Therefore, I find there was not a FAPE violation of IDEA, and state special education regulations regarding the implementation of the IEP, nor personnel qualifications.**

**Allegation # 2:** Payment of Paraprofessional at a lower rate rather than paying higher cost of a highly qualified teacher.

IDEA does not govern the compensation of special education staff who provide services and support to students with IEPs.

**Therefore, this allegation is beyond the purview of this Investigator and cannot be addressed through the IDEA complaint process.**

### **CORRECTIVE ACTIONS**

The Delaware Department of Education is required to ensure that corrective actions are taken when violations of the requirements are identified through the complaint investigation process. See, 14 *Del. Admin. C.* § 923-51.3.3. In this case, the investigator found no violation of Part B of the IDEA. Therefore, no further action by the Department shall be taken.

Respectfully submitted,

REDACTED  
State Complaint Investigator