

**Delaware Department of Education
Exceptional Children Resources**

**State Complaint Decision
DE SC # 26-06
Date Issued: December 12, 2025**

On October 14, 2025, REDACTED and REDACTED (Parents) filed a complaint on behalf of their son, REDACTED (Student) with the Delaware Department of Education (Department). The complaint alleges the Caesar Rodney School District (District) violated state and federal regulations concerning the provision of a free, appropriate public education (FAPE) to 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 relevant educational records and email correspondence, as well as interviews with Parents, District Director of Special Education Services (Director), Special Education Supervisor of Inclusive Education (Supervisor 1), Special Education Supervisor of Related Services (Supervisor 2), Principal of REDACTED (Principal 1), Principal of REDACTED (Principal 2), Students' Teachers (Teacher 1, Teacher 2), Paraprofessionals (Paraprofessionals 1 and 2), Occupational Therapist Assistant (COTA), Physical Therapist (PT), Speech/Language Pathologist (SLP), Behavior Analyst (BA), and Training Presenter (Presenter).

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 14, 2025. Therefore, the Department's findings address violations from October 14, 2024, to October 14, 2025.

¹ To protect personally identifiable information about the 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

Parents allege District violated Part B of the IDEA and implementing regulations, by the following:

1. Failure to provide access to instruction in least restrictive environments (LRE) with nondisabled peers as described in Student's Individual Education Program (IEP).
2. Failure to follow behavior plan in providing scheduled breaks and rewards for achievement of targeted behavior and goals.
3. Failure to provide appropriate educational setting for Student.
4. Failure to respond to staff concerns regarding Student's treatment in school.
5. Failure to respond to Parent complaint regarding the above allegations.

Factual Findings

1. Student is REDACTED years old, living in REDACTED due to Parent military re-assignment. Student has REDACTED. Since September 2025, Student receives 5-hours per week of homebound instruction through the local education agency (LEA) in REDACTED, due to a stated "lack of room" in a school building. A new school is being built.
2. Parent requested Student repeat REDACTED grade in REDACTED due to Student's lack of progress in 2024-2025 school year while in District in Delaware.
3. According to Student's Evaluation Summary Report (ESR), dated December 16, 2021, the IEP Team determined the Student eligible for special education and related services under the educational classification of Developmental Delay (DD).
4. From January 3, 2022, through August 2025, Student attended REDACTED, REDACTED, REDACTED (School 1), and REDACTED (School 2) in District. Parents stated Student received appropriate services and demonstrated steady progress in District schools prior to the 2024-2025 school year.
5. As of August 2024, Student's Progress Report stated, "Not making satisfactory progress toward annual goal" on the following IEP goals:

Math:

- When presented with numbers 1-10 out of order, [Student] will be able to build sets for 5/10 numbers on 3/4 trials as measured by number assessments and teacher observations.

Letter Recognition:

- When shown and read the letters of the alphabet in random order, [Student] will be able to produce 21/26 letter sounds across 3/4 trials as measured by letter checklists and teacher observations.
- Revision 5/29/24: When shown and read the letters of the alphabet in random order, [Student] will be able to produce 21/26 letter sounds across 3/4 trials as measured by letter checklists and teacher observations.

Behavior:

- In the school setting, when asked to comply with a non-preferred request (transition to centers, return to seat, complete work tasks, etc.), [Student] will comply with directives when given no more than 2 prompts (with attempts to fade physical prompting) across at least 3 trials as measured by teacher observations and teacher created checklists.

6. In September 2024, Student transitioned to School 1, as a REDACTED grader, in a C setting (participation in regular class less than 40% of the day in an integrated school setting). Teacher 1 reported to Investigator, it is not uncommon for students transitioning from REDACTED to REDACTED grade (and a new building, in this case) for students to demonstrate challenging behavior related to new environment, multiple transitions outside of home classroom, and academic demands in classes. Director also stated content standards are the same for all REDACTED graders, both in the regular education setting and "C" setting classrooms.
7. On October 3, 2024, Teacher 1 placed Student in School-Based Intervention Room (SBI) for 2 hours with services due to challenging behavior. According to Teacher 1, Paraprofessional 1 was usually in room with Student providing instruction.
8. Principal reported the SBI room is a room staffed by a paraprofessional when students need to be out of their classroom due to behavior or distraction.
9. On October 8, 2024, a Student discipline referral stated Student refused to come inside from recess and aggressed toward staff. Teacher1 placed Student in time-out with a follow-up discussion about keeping hands to self. Principal called Parent at the end of the school day. Parent reported similar compliance issues occurring at home. Parent and Administrator discussed loss of instructional time and explored other supports.
10. On October 23, 2024, a Student discipline referral stated Student refused to work and eloped several times throughout the day including. Student lost recess for the remainder of the day, due to safety concerns. Administrator contacted Parent.
11. On November 12, 2024, IEP Team convened to conduct Student's triennial evaluation. The ESR included Occupational Therapy (OT), Physical Therapy (PT) and Speech Therapy (ST) evaluations. IEP Team determined Student eligible for continuation of special education and related services under the educational classification of Moderate Intellectual Disability.
12. IEP Team developed the following academic and behavioral goals:
Math:
 - Student will count to 20 with 100% accuracy.
 - Given a list of numbers 1-20 randomly, Student will verbally identify all numbers with 100% accuracy.
 - When given 20 manipulatives and asked to count them, Student will use 1:1 correspondence to determine the correct number of objects with 100% accuracy.

English/Language Arts (ELA):

- When given a list of letters in random order, Student will verbally identify 52/52 letters.
- Given the first 25 sight words, Student will identify 20/25 sight words.
- Student will be able to verbally add one word to a sentence stem, remaining on topic, and copy the sentence.

Behavior:

- Student will be able to remain on task and communicate appropriately with 55% accuracy by a) paying attention to during whole group lessons, b) paying attention during small group lessons, c) using words or PECS to ask for help when needed, d) beginning or restarting task within 1-3 minutes when prompted by teacher, and e) completing classroom assignments as measured by a time on task/communication checklist.
- Student will be able to demonstrate appropriate behavior in all school settings with 40% accuracy by a) following classroom rules and directions, b) interacting appropriately with students and staff, c) remaining in his assigned area, and e) maintaining self-control as measured by Teacher checklist.

13. On November 12, 2024, District issued Prior Written Notice (PWN) proposing "... Student requires additional adult support over 50% of the academic portion of the day to be successful as well as the support of a classroom paraprofessional."
14. On December 3, 2024, a Student discipline referral stated Student refused to work in the classroom. Student hit Paraprofessional 1 on a couple of occasions as Paraprofessional 1 attempted to redirect Student to assignments. Student later went to the library for Essential Arts and crawled on library floor for approximately 20 minutes during story time. After Student checked out a book, Student eloped from the library. When Paraprofessional 1 attempted to redirect back to library, Student eloped to the front of the building, crawled on the floor, and ran from Paraprofessional 1 to the classroom. Teacher 1 directed Paraprofessional 1 to take Student to Administration office. Paraprofessional 1 carried Student to front office as Student refused to walk.
15. On December 4, 2024, due to dysregulation, safety, and elopement issues, Student was in SBI room for 50 minutes (no services mentioned).
16. On December 5, 2024, a Student discipline referral stated Student eloped from the gym. Student ran around downstairs and then ran upstairs. Paraprofessional 1 lost sight of Student momentarily and called Teacher 1. Teacher 1 and administrators responded immediately and found Student in stairwell within 5 minutes. Teacher 1 noted in referral, Student's push-in to Essential Arts and Academic classes needed to be evaluated since Student was consistently eloping from push-in services.
17. During the interview with Investigator, Certified Occupational Therapist Assistant (COTA) stated Student did not attend EA any day from December 12, 2024, until after February 19, 2025. When asked how COTA would know that information, COTA reported COTA was in the Student's classroom "a lot of the time." However, Supervisor 2 reported COTA had responsibilities in 3 school buildings. COTA was in Student's classroom 2 days per week according to schedule and classroom staff.

18. Investigator attempted to verify attendance in EA through conversations with Principal, Director of Special Services, and classroom staff. All interviewees indicated it was school policy to attempt to support Student's attendance in all classes on Student's schedule daily. If a student refused to leave the classroom or eloped in transition to the class, the Student would return to home classroom and complete lessons similar to what was presented in inclusive classroom. Review of report card during the alleged time of absences in EA showed "satisfactory progress." There were no comments of excessive absences, etc.
19. On January 16, 2025, a Student discipline referral stated Student refused to work and crawled under furniture. Student stomped foot of Paraprofessional 1 and spit on table as student was placed at table for a break. Consequently, Student had lunch detention. Paraprofessional 1 verbally informed Parent of incidents at dismissal.
20. On January 17, 2025, a Student discipline referral stated Student eloped twice and used profanity in the morning. At noon, classroom staff informed Student that Student would lose recess if writing assignment was not completed. Student started removing clothing and spitting. Classroom staff contacted administration for support. Paraprofessional 1 verbally informed Parent at dismissal and Parent received copy of referral.
21. On January 23, 2025, a Student discipline referral stated Student flipped tables, threw Student's and another student's devices in classroom, and ran out of building onto playground. Teacher 1 spoke with Parent in person at dismissal.
22. On January 28, 2025, Case manager sent email to Principal requesting meeting to address Student safety and behavior and if Parent should be invited to meeting. Principal agreed to meeting and suggested a Tier 2 Plan to support Student behavior and safety.
23. On January 29, 2025, a Student discipline referral stated Student left assigned area. Student ran out of home classroom, into another classroom and then upstairs and downstairs from 12:35-1:20 pm. Behavior Analyst (BA) and Teacher 1 escorted Student to SBI room. Student remained there for 1 hour 40 minutes with services). Staff notified Parent at dismissal.
24. On January 30, 2025, Staff placed Student in SBI room for 2 hours and 30 minutes due to continued dysregulation, after earlier elopement and spitting.
25. On January 30, 2025, Progress Report for IEP goals stated:

Math:

- When given numbers 1-5 in random order, Student will verbally identify all 5 numbers with 100% accuracy. Student identified 2/5 numbers. Not making satisfactory progress.
- Given illustrations of numbers 1-5 in random order Student will identify the number with 100% accuracy. Making satisfactory progress.

English/Language Arts:

- Given list of letters in random order, Student will verbally identify 25/52 letter correctly. Student identified 8/52 letters. Not making satisfactory progress.
- Given the first 25 sight words, Student will identify 5/25 correctly. Student identified 2/25 words. Not making satisfactory progress.

- Student will trace name with 100% accuracy. Student traced name with 50% accuracy. Not making satisfactory progress.

Behavior:

- Student will remain on task 40% of the time. Student remained on task 39% of the time. Making satisfactory progress.
- Student will demonstrate appropriate behavior in all school settings 25% of the time. Student demonstrated appropriate behavior 39% of the time. Making satisfactory progress.

26. On January 31, 2025, Teacher 1, Paraprofessional 1, Case manager, and Principal developed Tier 2 Intervention Plan. The Plan identified work refusal, elopement and disruptive behavior as targeted behaviors. Preventive strategies included exercise, movement and “first-then” visual supports for work refusal; chunking or breaking tasks and lessons into smaller manageable sections to prevent escape or avoidance of difficult tasks; and teaching new skills of appropriate participation, requesting breaks, social skills training for disruptive behavior.

27. On February 4, 2025, due to dysregulation, safety, elopement, and spitting issues, staff placed Student in SBI room for 35 minutes (no services noted).

28. On February 4, 2025, COTA requested a meeting with Principal 1 regarding concerns about staff treatment of Student. COTA reported staff did not reward Student enough and instead punished Student. Principal agreed to meet.

29. On February 4, 2025, Teacher 1 responded to an email from Principal 1 requesting information about status of all students’ attendance in regular education classroom for Science. Teacher 1 stated in return email, Student currently did not push in to Science due to behavior.

30. On February 5, 2025, Student discipline referral stated Student did not successfully transition within classroom from carpet to small group work. Student crawled on floor and spit repeatedly. Student eloped from the classroom. Paraprofessional 1 followed. An adult stopped Student in front lobby. School 1 called Parent. Parent came and signed Student out for the day.

31. On February 5, 2025, COTA requested meeting with Principal again, via text message, at 7:40 pm.

32. On February 6, COTA text messaged Principal at 8:01am, “Do you have time to talk at end of today... I just want to speak to you first instead of going to the parents. That’s my next step.”

33. On February 6, 2025, Staff placed Student in SBI room for 1 hour, due to elopement, dysregulation, and safety issues. No services were noted.

34. On February 6, 2024, Principal met with COTA and held a follow-up meeting with members of Student’s Team regarding school-wide expectations of professionalism and interactions that focus on student success. Principal did not share further details with Investigator, as this was a personnel issue and confidential per District policy.

35. On February 7, 2025, COTA reported to Principal that the day went well, and Team worked collaboratively.
36. On February 10, 2025, Principal provided a professional development training session for Student's IEP Team regarding Potential Communication and Behavioral Challenges with Children with REDACTED. REDACTED School (School 2) provided a staff person (Presenter) who is also parent of child with REDACTED and active in the REDACTED community, to provide the training. Principal reminded staff, in email, to maintain confidentiality in discussing any students during the training.
37. On February 11, 2025, Principal requested meeting with District Behavioral Specialist (BCBA).
38. On February 14, 2025, Principal held a mandatory IEP Team meeting to discuss support alignment and support Team dynamics. COTA left during the meeting and went to Principal's office. Upon adjournment of staff meeting, Principal met with COTA. Content of these meetings are out of the purview of Investigator.
39. On February 15, 2025, Principal met with COTA per District protocols regarding a personnel matter.
40. On February 19, 2025, Principal held a Parent conference and included some IEP Team members to discuss strategies for Student behavioral supports. It was not an IEP meeting, therefore not all Team members were invited. Teacher 1 and Paraprofessional 1 completed a Student Support Form describing Student's current behavioral status in preparation for this meeting.
41. On February 24, 2025, IEP Team initiated behavior data collection to develop a Behavior Intervention Plan. Data probes, including Antecedent-Behavior-Consequence (A-B-C) checklists and weekly summaries, were taken across 12 days, ending March 19, 2025. According to BCBA, staff collected this data in preparation for development of a Functional Behavior Assessment (FBA) and Behavior Intervention Plan.
42. District did not submit progress monitoring of Tier 2 Intervention for Investigator to review. This may have been due to delay filing of complaint and Teacher 1 transferring to a new position in the district in September 2025. District documented and submitted discipline referrals and Student's time in SBI room occurring from January 31, 2025 development of Tier 2 Intervention Plan.
43. On February 25, 2025, Student discipline referral stated Student eloped from library as class lined up to transition back to home classroom. Student ran past front office and toward exit doors. Paraprofessional 1 followed Student and fell. Student stopped momentarily, then headed in other direction. Paraprofessional 2 and Speech & Language Therapist (SLP) intervened and returned Student to home classroom. Parent notification of incident occurred at dismissal.
44. On March 4, 2025, due to dysregulation, safety and elopement issues, staff placed Student in SBI room for 50 minutes. No services were noted.

45. On March 6, 2025, Student discipline referral stated Student eloped from home classroom. Teacher 1 called Principal for support. Principal brought Student back to classroom. Student proceeded to walk on table tops while classmates were reading. Student then attempted to take things off classmates' desk. Paraprofessional 1 called for support (via walkie -talkies shared between Teacher 1 Paraprofessional 1 and Administration. Administrator removed Student from classroom. Staff placed Student in SBI room for 45 minutes. Staff notified Parent at dismissal.
46. On March 7, 2025, Assistant Principal of School 2 (AP 1) observed Student in classroom. Student eloped during observation. AP1 emailed Principal recommending the use of an IPad as a reinforcer for Student short-term, since currently classroom staff shared Student did not have a high enough reinforcer. AP1 recommended another reinforcer assessment be conducted. Principal responded to email, discouraging use of technology for reinforcement.
47. On March 11, 2025, Student discipline referral stated Student demonstrated disruptive behavior in Library. Student was provided fidget as Student entered library. Student immediately crawled under table and ran around library for 20 minutes. Student climbed on top of bookshelf and after 4 prompts came down. Student then eloped out of the room and ran around the building. BCBA caught up with Student and escorted Student to SBI room where Student remained for 45 minutes with services. Staff escorted Student back to home classroom.
48. On March 20, 2025, according to Presenter, Parent(s) attended community event where other parents of children with REDACTED offered Parent support regarding Student behavior. According to Presenter (shared in interview with Investigator November 2025), Parent stated at the event that Student had been "sent home" from school on several occasions. Investigator followed up with Principal who clarified attendance policy. Principal stated that if a student is "sent home," it is considered a suspension. However, if a Parent is contacted regarding behavior in school, Parent has the choice to pick the child up but not required to do so. If the Parent chooses to pick up the Student, it is considered an "early dismissal." Review of Student's attendance record contained no suspensions, several excused absences (parent requested), and several early dismissals, both excused and unexcused, for the 2024-2025 school year.
49. According to complaint, on March 21, 2025, Parent reported a different staff person called Parent regarding treatment of Student in school. Parents identified the person as Presenter.
50. Investigator asked Parent for contact information for that person (since all team members and Administrators had been interviewed individually and no one verified allegations as described in Complaint, or impact on services). Parent provided Presenter contact information. Upon interview, Presenter denied speaking with Parent in March. However, Presenter confirmed sharing "tools" and information helpful with Presenter's own child and Team with Parent, in February. Presenter stated Presenter did not observe or interact with Student in the school environment. Presenter is a staff member in the District at School 2.

51. On March 27, 2025, Parent requested IEP meeting be convened to address Student placement. Parent informed School 1 Student would not return to School 1 and requested a meeting to update Student's IEP and make a change of placement to School 2 which has a D setting. Parent stated at meeting Student had regressed, with lack of progress and increased behavior challenges as evidence. Parent requested a change of placement prior to family's anticipated move (due to re-assignment for military). Parent stated Student had made progress prior year because Student was "taught to ability." In current setting, Parent felt Student was taught "like a regular student." Teacher 1 shared staff is required teaching grade level standards, while addressing IEP goals. Teacher 1 agreed Student had not made progress as anticipated and would benefit from goal-based instruction instead of curriculum.
52. School 2 Assistant Principal (AP1) explained School 2 addresses standards but also works on individual student needs. Additionally, there are multiple BCBA's on staff to address elopement, opportunities for inclusion with EA, breakfast and lunch, higher level of support, smaller class sizes and life skills goals and summer school. Staff /student classroom ratio at School 2 is 1:2, so Student's paraprofessional would not be needed. BCBA offered to share all team data collected for Student. The hope was as academic demands decreased, Student behavior would improve. AP1 stated School 2 case manager would contact Parent next day to set intake meeting for Student to move to School 2.
53. Teacher 1 reported current Benchmark progress monitoring for Student's annual goals. Student made satisfactory progress in counting 1-10, verbally identifying 35/52 letters and demonstrating appropriate behavior in all school settings with 30% accuracy. However, did not make satisfactory progress verbally identifying numbers 1-10 given a list of numbers in random order; identifying numbers 1-10, given illustration of number; identifying 10/25 sight words or copying Student's name; or remaining on task with 45% accuracy.
54. On May 20, 2025, Student's IEP Team at School 2 developed annual IEP goals including:
English/Language Arts:
 - When presented alphabet letter card (upper and lower case) Student will identify 45/52 letters as recorded on teacher created data sheet.
 - When presented with signs commonly seen in the community, Student will correctly identify 18/24 as recorded on teacher created data sheet.Math:
 - Given numbers 1-20 in random order, Student would identify 5/20 numbers.Behavior:
 - Throughout school lessons and activities Student will independently remain in area for 4 minutes 30 seconds with limited adult prompting as recorded on teacher created data sheet.
55. On June 3, 2025, Parent sent a letter to Principal with allegations of staff misconduct reported by a staff member to Parents in February and described in this complaint. Principal sent letter to District Office. Parent noted Student was thriving in School 2. Principal followed up per District personnel protocol with staff named in complaint.

56. On June 4, 2025, Supervisor 1 followed up with Parent to set a date to meet. Supervisor 1 also followed District personnel protocols and verified all staff had been trained in mandatory reporting of abuse and neglect, complaints filed did not rise to the level of abuse or neglect required for mandatory reporting.
57. On June 4, 2025, Supervisor 1 sent email to Parent with a proposed meeting date to obtain further information concerning the allegations in the letter dated June 3, 2025. Parents indicated they may want legal counsel to attend the meeting, so proposed meeting date was rescheduled at Parents' request. Several emails followed to schedule the meeting.
58. On June 24, 2025, Supervisor 1 met with Parents to request additional information about the allegations in the June 3, 2025, letter. Parents would not provide names of staff members who provided information regarding allegations. Following the meeting, Supervisor 1 investigated and verified all staff working with Student had received training in mandatory reporting of abuse and neglect. District contacted Delaware Division of Protective Services (DPS) to confirm a case of abuse and/or neglect had not been filed.
59. Principal met with Teacher 1 and Paraprofessional 1 per District personnel procedures, regarding complaint allegations implicating each by name. Discussion of meeting content is not in the purview of Investigator.
60. On June 11, 2025, Student Progress on Benchmark 1 IEP academic and behavior annual goals stated, Student made satisfactory progress in math and behavior goals, and community sight words goal. Student did not make satisfactory progress in letter recognition goal.
61. On July 17, 2025, Supervisor 1 emailed Parents that the allegations shared in the letter, and during the meeting, did not constitute "abuse" as described in mandatory reporting policies. Additionally, without identification of other informants by Parent, other allegations could not be substantiated. Supervisor 1 was not at liberty to share any specific personnel matters per District policies regarding personnel rights and confidentiality.
62. On August 5, 2025, Student's Progress Report stated Student made satisfactory progress on all Benchmark 2 goals, except:
 - Given numbers 1-20 in random order, Student would identify 5/20 numbers. Student identified 3/20 numbers.
63. In September 2025, three staff members involved in this case transferred to other open positions or were assigned to other classrooms/ buildings in the District.
64. In September 2025, (School 3) established two "C" settings District classrooms have been at which is adjacent to School 3. This provides an additional LRE setting within the District while facilitating ease of access for additional expertise support and services from School 2 as determined by students' unique needs.
65. On October 14, 2025, Parent filed state complaint on behalf of Student.

Legal Conclusions

Allegation #1 Failure to provide access to instruction in LRE environments with nondisabled peers.

14 Del. Admin. Code §§ 925.13.0 Educational Placements in the Least Restrictive Environment

13.1 Educational Placement Options. Following the development of a child's IEP, the IEP team shall determine the child's educational placement in the least restrictive environment based on the child's individual needs and the services identified in the IEP. Educational placement options shall include, but not be limited to, the following:

13.1.3 Inside Regular Class < 40 percent of the Day: Children with disabilities receiving special education and related services outside the regular classroom for more than 60 percent of the day. This may include children placed in self-contained special classrooms with part time instruction in a regular class; or self-contained special classrooms with full time education instruction on a regular school campus.

Student placement was in a "C" setting until March 22, 2025. "C" setting is inside the regular setting <40% of the day. Student's schedule and staff reporting confirmed Student had access to instruction and environments with non-disabled peers for lunch, recess, essential arts, social studies, and science classes daily. School policy, as described by Principal, is that every student is expected to attempt attendance in these classes/environments each day. Due to communication and increasing behavioral challenges, Student refused to leave home classroom or eloped in transition or upon arrival in the essential arts and academic classes at an increasing rate of frequency from October 2024 through March 2025, according to classroom staff. Student's Report cards (that included EA classes) stated satisfactory progress and made no mention of extended absences.

However, in Student discipline referral of December 5, 2024, Teacher 1 noted, "... Student's push-in to Essential Arts and Academic classes need to be evaluated since Student is consistently eloping from push-in services." A meeting to address this concern is not evidenced in the documentation until on January 28, 2025, when Case Manager requested a meeting to provide additional behavioral support.

A Tier 2 Intervention Plan, devised by Principal, Case manager, Teacher 1 and Paraprofessional 1 was initiated on February 1, 2025. In a February 5, 2025, email, Teacher 1 stated to Principal that Student was not "pushing in" to Science due to behavior. There was no indication how long the Student had not attended Science class.

Given Student's need for 1:1 paraprofessional support, discipline referrals and time in SBI Room starting in early October, daily data collection would seem warranted. Electronic communication with Parent (in addition to updates at dismissal) would have been helpful, both as data and courtesy, since one Parent was stationed overseas. If this evidence did exist, it was not shared with Investigator. However, there was a significant

lapse in time in Parent filing the complaint. Teacher 1 also transferred to a new position in September 2025.

Parent cited Student not going to “specials” violated # 6 in Student’s IEP, which states student will interact with nondisabled peer for extracurricular and school activities. The Principal stated Student did have access to EA classes daily.

However, Student’s refusal to transition or breakdown in behavior on way to EA, frequently compromised his attendance. Due to Student’s placement in a “C” setting (<40% of time with nondisabled peers) the time requirement was technically met by sharing daily lunch and recess with nondisabled peers. Ideally, Student’s schedule allowed for considerably more instructional time in the regular setting. Behavioral interventions continued to be adjusted to help Student be successful in those environments.

Therefore, I find no violations of IDEA or state special education regulations

Allegation #2 Failure to follow Behavior Plan in providing scheduled breaks and rewards for achievement of targeted behavior and goals.

34 Per CFR §§ 300.324:

- (a)Development of IEP
 - (i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and strategies, to address that behavior;

14 Del. Admin. Code §§ 508 Multi-Tiered System of Support:

2.0 Definition.

“Multi-Tiered System of Support (MTSS) means a framework that is designed to meet the needs of the whole child through an integrated multi-level prevention system that optimizes team-based leadership and data-driven decision making to meet the academic and non-academic needs of all students. High quality core curriculum instruction and non-academic practices are provided as universal supports to all children. Evidenced intervention and supports are matched to student needs and informed by ongoing progress monitoring and additional formative assessments.

5.0 Problem Solving Team.

LEAs shall have a school-based problem-solving team... consisting of 3 to 5 core members and shall include at least 1 of the student’s classroom teachers...

Interviews of all classroom staff, including Teacher 1, Paraprofessional 1 and Paraprofessional 2, confirmed Student was required to remain on task for a specific amount of time or complete a specific activity (in part or in full, per IEP) to “earn” breaks. Each student in the class could have different expectations and goals for time on task, completion of activity per individual IEPs. Therefore, “breaks” occurred at different

times for different students. Student was given accommodations of a “if – then” visual cue system as well as a visual timer. All classroom staff, individually confirmed, Student consistently received “breaks” upon successful completion of required goal or time on task. Student would not be given break if Student did not attempt or did not meet minimum requirement of activity. Staff always provided multiple opportunities to encourage Student success, as described in Simple Behavior Plan (Tier 2 MTSS).

Regarding dividers described in interview by Parent and COTA being placed in a manner to completely isolate or encroaching on personal space of Student, referenced in the complaint, multiple staff members stated in interview, they observed dividers near each of two exit doors for safety and to discourage elopement. Some stated dividers in student work areas were appropriately placed to facilitate individualized instruction and prevent distraction of students who were “working” vs. “taking a break”, according to each student’s IEP goals. Other than the initial reporter, not a single staff member indicated observing dividers being placed inappropriately in personal space specific to Student. Staff interviewed included both classroom and related service providers. Teacher 1 also stated when students were doing classroom work, Teacher 1 was always in classroom with Para 1.

Therefore, I find no violations of IDEA or state special education regulations.

Allegation #3 Failure to provide appropriate educational setting for Student.

14 Del. Admin. Code §§ 925.13.1.3 – 13.1.4.

13.0 Educational Placements in the Least Restrictive Environment

13.1 Educational Placement Options. Following the development of a child’s IEP, the IEP team shall determine the child’s educational placement in the least restrictive environment based on the child’s individual needs and the services identified in the IEP. Educational placement options shall include, but not be limited to, the following:

13.1.3 Inside Regular Class < 40 percent of the Day: Children with disabilities receiving special education and related services outside the regular classroom for more than 60 percent of the day. This may include children placed in: self-contained special classrooms with part time instruction in a regular class; or self-contained special classrooms with full time education instruction on a regular school campus.

13.1.4 Separate school: Children with disabilities receiving education programs in public or private separate day school facilities. This includes children with disabilities receiving special education and related services, at public expense, for greater than 50 percent of the school day in public or private separate schools. This may include children placed in: public and private day schools for children with disabilities; public and private day schools for children with disabilities for a portion of the day (greater than 50

percent) and in regular school buildings for the remainder of the day; or public and private residential facilities if the student does not live at the facility.

14 Del. Admin. Code §§ 926 1.0 General Procedural Safeguards and Opportunity to Examine Records and Educational Programs.

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.

Student had been in a "C" setting since Student entered school in preschool 2022 and had demonstrated success. The Student's transition to School 1 during 1st grade included significant changes from previous educational experiences. This includes more challenging academic demands, transitions both with and without classmates to multiple classroom settings daily, and multiple teachers providing instruction. Additionally, one Parent was deployed overseas during the first several months of the 2024-2025 school year.

School 1 Administration and staff initiated multiple strategies, tapped additional resources and modified expectations in an effort to support Student success, as Student's challenging behaviors increased. District provided a 1:1 paraprofessional to support Student's transition to first grade. Administration also provided a system of support to assist classroom staff (i.e. immediate Teacher and Administrator support through walkie talkies, "tag in- tag out" identified staff.) Antecedent- Behavior-Consequence (ABC) Checklist was used to collect behavioral data on 12 days between February 24, 2025, and March 19, 2025. This data collection was baseline information to begin development of a Behavior Intervention Plan.

Therefore, I find no violation of IDEA or state special education regulations.

Allegation #4 Failure to respond to staff concerns regarding Student's treatment in school.

Parent allegations related to third party reports of staff comments about, inappropriate treatment of Student, or reactions to Student absences are addressed through District personnel protocols and are beyond the purview and purpose of this investigation process, unless direct impact on delivery of services can be verified through documentation or interview. The Investigator interviewed all of the Student's Team members and related Administrators individually and confidentially, in addition to reviewing documentation noted above.

COTA shared concerns with Parents and Principal in February. Parent did not bring a formal complaint regarding "treatment" of Student to Principal's attention until June 2025, despite meetings regarding behavior concerns and placement on February 19 and March 27, respectively. From February until June, Investigator did not see any documentation of communication from Parent to Administrator(s), Teacher 1 or Paraprofessional 1 (both named in the complaint) specific to allegations, despite daily contact with Parent each morning and at dismissal. After explaining concerns and

related quotes included in complaint, COTA stated to Investigator, that Teacher 1 was a “very good teacher.”

Principal responded immediately to COTA’s concerns by holding a Team meeting clarifying professional expectations and providing professional development within 3 days of COTA registering complaints. Principal also held a mandatory Team meeting 4 days after meeting with COTA to address “support team dynamics.”

Investigator asked all other Team members in individual interviews if each had observed, participated in, or knew of instances of staff mistreatment of Student in performance of responsibilities related to delivery of Student’s services. One staff person observed Paraprofessional 1 raising voice on an occasion and crying (hiding face so Student did not witness) on another occasion, qualifying that both seemed out of frustration that Student was not finding success, not in malice. Staff members did not report Administration being unresponsive to staff concerns or requests for support.

Presenter stated Presenter never spoke with Parent in March about concerns of mistreatment of Student. Presenter does not work in School 1. Presenter stated Presenter had spoken with Parent in February about tools and strategies Presenter found helpful for Presenter’s child and child’s educational team.

There are no IDEA or state regulations regarding personnel matters. Therefore, I find no violations of IDEA or state special education regulations.

Allegation #5. Failure to respond to Parent complaint regarding the above allegations.

14 Del. Admin. Code §§ 923.51

51.0 State Complaint Procedures

51.1 General: The DOE shall resolve any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of Section 53.0 by implementing the State complaint procedures under Sections 51.0 through 53.0; and widely disseminate to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State complaint procedures.

51.2 Remedies for denial of appropriate services: In resolving a complaint in which the DOE has found a failure to provide appropriate services, the DOE, pursuant to its general supervisory authority under Part B of the Act, shall address the failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and appropriate future provision of services for all children with disabilities.

51.3 Public agency compliance and noncompliance:

51.3.1 A report of the DOE's findings shall be sent to the Chief Administrative Officer of the public agency, the Secretary, and the complaining party.

51.3.2 When the findings of the DOE indicate a public agency's full compliance with Part B of the Act and these regulations, no further action by the DOE shall be taken.

51.3.3 When the findings of the DOE indicate noncompliance with Part B of the Act or these regulations, the public agency shall be presented with the DOE's findings and a time frame for corrective action as specified by the DOE. If the public agency completes the specified corrective action within the time frame determined by the DOE, the DOE may nonetheless continue to monitor the public agency and request additional action to ensure full compliance with these regulations.

According to documents reviewed in this case, Parent contacted School 1 to file a formal complaint on June 3, 2025. This complaint alleged mistreatment of Student, reported to Parent in February, despite being at meetings with Student's IEP Team that included Administrator(s) in February and March 2025, as well as daily contact with School 1 staff from September until March 22, 2025.

Principal had addressed concerns COTA had brought to Principal's attention in February. Principal held two meetings with Student's IEP Team and provided professional development for staff working with Student.

Upon receipt of the letter from Parent dated June 3, 2025, Principal immediately contacted District Office. Supervisor 1 contacted Parent on June 4, 2025, to set up meeting to discuss allegations. Due to Parent request for legal counsel to be present, Supervisor 1 contacted District legal counsel as well. Due to conflicts in availability of all parties, a meeting could not be convened until June 24, 2025. Parent's stated information that had been shared with Parent by "staff" members on two separate occasions regarding mistreatment of Student. Supervisor 1 followed up by verifying all staff members working with Student had had mandatory reporting training. Principal met with Teacher 1 and Para 1 per District personnel procedures, regarding complaint allegations implicating each by name. Discussion of meeting content is not in the purview of Investigator.

District confirmed with Division of Protective Services (DPS), no complaint regarding abuse or neglect of Student was filed.

On July 17, 2025, Supervisor 1 sent email to Parent that the allegations shared in the letter, and during the meeting, did not constitute "abuse" as described in mandatory reporting policies. Additionally, without identification of staff members by Parent, other allegations could not be substantiated.

Therefore, I find no violations of IDEA or state special education regulations.

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. Code §§ 923-51.3.3.* In this case, the Investigator found no violation of Part B of the IDEA or state regulations. Therefore, the Department will take no further action.

Respectfully submitted,

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