

**Delaware Department of Education
Exceptional Children Resources**

**State Complaint Decision
DE SC #26-20
Date Issued: May 8, 2026**

On March 10, 2026, REDACTED (Parent), filed a complaint with the Delaware Department of Education (Department). The complaint alleges the Red Clay Consolidated 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 DE Admin. Code §§ 923.51.0–923.53.0.

The investigation included a review of Student’s educational records, as well as correspondence and interviews with Parent, REDACTED (REDACTED) Principal, REDACTED (Principal), Senior Director of Student Services/REDACTED Supervisor, REDACTED (Director), Special Education Teacher, REDACTED (Teacher), Speech Language Pathologist, REDACTED (SLP 1), Occupational Therapist, REDACTED (OT), Substitute Teacher, REDACTED (Substitute), Board Certified Behavior Analyst, REDACTED (BCBA), Assistant Principal, REDACTED (AP), Paraprofessional, REDACTED (Paraprofessional), and the School Nurse, REDACTED (Nurse). Investigator reviewed photos Parent submitted.

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 DE Admin. Code § 923.53.2.4. In this case, the Department received the complaint on March 11, 2026. Therefore, the Department’s findings address violations from March 11, 2025, to March 11, 2026.

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

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

1. Failure to ensure adequate supervision, staffing, and overall safety protections for a student receiving special education services.
2. Failure to implement appropriate behavior management procedure resulting in the improper or unnecessary use of physical restraint on a student with a disability.
3. Failure to properly document, report, and follow required procedures related to the restraint incident.

Factual Findings

Background Information

1. Student is REDACTED years old and is eligible for special education and related services under the educational classification of Autism. Student attends District's REDACTED (School).
2. In October 2024, Student received a medical diagnosis of Autism according to Parent report. Student is nonverbal but consistently displays "calm, gentle, and non-aggressive" behavior at home and during prior evaluations according to Parent.
3. At the beginning of the 2025-2026 school year, Paraprofessional relayed to Parent an episode of aggression with Student digging fingernails into Student's own skin. The verbal report was never formally documented. Parent found this claim inconsistent with Student's behavior and was concerned.
4. In October 2025, Student had facial swelling. Parent reported to Investigator that facial swelling appeared consistent with impact, like a fall or hit, rather than skin irritation. Parent questioned Paraprofessional at pickup, and School provided no explanation regarding how the face swelling occurred. Parent raised concerns with School and requested a change in classroom support staff. According to Parent, School indicated Paraprofessional had no prior complaints and Student is not left alone with Paraprofessional.
5. On October 28, 2025, Parent messaged Teacher on the Remind App that Parent appreciated Teacher and Staff. Parent wrote that Paraprofessional "...likely works hard and connects well with other students, but I've noticed that the dynamic between Paraprofessional and Student just doesn't seem to be the best fit. It's possible Student may be a bit overwhelming for Paraprofessional. There have just been a few instances that have left me uneasy, and for my peace of mind as a mother — and for both their comfort — I think it's best that they be separated. I want to be clear that I'm not accusing anyone of wrongdoing or harm. I simply believe a change would be best for Student's continued comfort, safety, and positive experience at school. Could you please let me know what steps I should take to move forward with this request?"

6. On October 28, 2025, Teacher indicated on Remind App that the phone call with Parent had dropped and Parent responded the phone died.
7. On October 29, 2025, Teacher wrote to Parent on Remind App, "As I mentioned yesterday, we miss Student. I hope Student is doing well. As per your note, if you feel strongly about moving Student to a new teacher, you would just need to call and talk to AP. I will surely be sad to see Student leave my class as she has been making good progress in attention and play skills when Student is here. Let me know if you would like to have a phone or in person conversation, I am always open to talk about any concerns you have."
8. Parent later discovered, in interacting with Principal , that Principal was unaware of the two incidents described in Fact #3 and Fact #4 involving Student. Thus this raised Parent concerns about School's internal handling of incidents and lack of oversight.
9. In October 2025, Parent decreased frequency that Student attended School, from daily to 2-3 times a week. However, the student remained in the same classroom.
10. Student is currently assigned to an afternoon session (half-day) five days per week. Student was assigned to a morning session, but Principal reports Parent requested an afternoon session due to Student's sleep schedule. According to Principal, "The IEP Team made this accommodation hoping to see an improvement in attendance, however attendance remained very inconsistent." This is Student's second year in the program. At the time of the Complaint submission, the class consisted of two students along with Teacher and Paraprofessional.

Current Information

1. Student's current IEP dated May 14, 2025, through May 6, 2026, indicates Student receives special education services in a separate, special education class that includes pull out related services and team classrooms (C1). Student benefits from a specialized autism support program focusing on strategies and supports for young children with autism based on applied behavioral analysis. Student requires specific interventions to focus on communication, social, self-help, and play skills with multiple opportunities to practice new skills across the school day. Student requires a low adult to student ratio, and the IEP Team determined needs would best be met in a separate, special education classroom.
2. Student's current IEP includes:
 - Goals in the following areas: Social Skills, Attention to Task, Play Skills, Fine Motor, Receptive language, Expressive Communication, and Pragmatic language.
 - For services, Student receives specially designed instruction for executive functioning and social/emotional skills. Student also receives occupational therapy (OT) speech, and psychological services.

3. On February 4, 2026, Paraprofessional physically restrained Student according to Parent report. School did not notify Parent at the time that it occurred. Parent requested documentation and received written statements from School. Parent reported the statements were inconsistent with each other and with the activity log for that day. Student returned home with visible marks which Parent noticed at bath time the evening of February 4, 2026. Parent took pictures and sent them to Student's Teacher on the Remind App and asked if there was anything that could have happened at School that day that could have created those marks.
4. On February 5, 2026, Teacher contacted Parent regarding marks noticed on Student's back previous day. Teacher reported that Student was in class with Paraprofessional and Substitute Teacher as Teacher was absent that day. Parent reported to Investigator after hearing Student was alone with Paraprofessional, Parent "got a bad feeling."
5. On February 5, 2026, Parent contacted Principal. Principal agreed to follow up with all staff who worked with Student previous day. Parent received a call from Teacher, Paraprofessional, AP, and Nurse (they were all together and called on speaker). They called regarding the marks on Student's arm. Paraprofessional told everyone that Student had had a great day. Nurse reported seeing the pictures and asked if Parent could come to School to talk about marks and to see the marks in person.
6. On the same day, Parent brought Student into School that morning to have Nurse assess the marks. Nurse explained that nothing happened the day before [that led to] Student [being] sent to Nurse. There were no incidents of being upset or issues with any other students. Nurse informed Parent that bruises can form anywhere from immediately to several days after injury. Nurse could not assess the timeline in which the marks would have occurred, nor could Nurse remark on how they occurred. Nurse stated Student had lines and asked Parent if it could be the car seat strap or a knapsack because the marks looked like strap marks. Marks looked like they were fading because of the color. It was a thin line, not big or wide marks, on the upper shoulder area. Bruises take up to 72 hours to show. Nurse suggested maybe something happened at home, but Parent was adamant about it happening on February 4th at school.
7. Nurse and AP reported to Parent they went into the classroom and the play area where Student had been to see if there were any toys or straps that could have made the marks. AP stated in interview with Investigator, "We looked at the environment really well and didn't see anything."
8. In an interview, Nurse explained that injuries occurring in the building are typically reported to both Nurse and Parents, and that Student was not brought to Nurse on February 4th because no injury was observed. Nurse emphasized that injury reporting is taken very seriously, and that restraint is rarely used, noting that no REDACTED students have been restrained this year. Nurse further indicated such action would only occur in severe safety situations. Nurse also asserted that students are never 1:1 with staff, "They're always with people with eyes on them."

9. Parent reported the daily activity log that sent with Student (that documents whether Student had gym time, outdoor play, whether Student was wet or dry, ate snacks, has speech, etc.) was discrepant with Paraprofessional's statement. Parent concern is that Student was alone with Paraprofessional for two hours and came home with these marks on arms and possible restraint. Parent reports, "[Student] still loves School" and grabs book bag at the time they are supposed to leave for School. Parent reports, "Everything else was fine, even with the other remarks of aggression from Paraprofessional leading up to this incident."
10. On February 6, 2026, Principal and AP spoke with Teacher regarding Parent's concerns. Teacher was absent the afternoon of February 4, 2026, but Substitute, Paraprofessional, and Speech-Language Pathologists (SLP 1 and 2) worked with Student that afternoon.
11. On February 9, 2026, Principal and AP met with Paraprofessional to discuss afternoon schedule and activities of February 4, 2026. They outlined the afternoon schedule and activities:
 - 1:00 PM – Student arrived at School and was taken to the gym for indoor recess. Student jumped on the trampoline and ran around in the gym. Paraprofessional and Substitute, as well as the other staff in the gym, supervised Student. No one witnessed or reported injuries.
 - 1:45 PM – Student was taken to the bathroom. Once in the classroom, Student engaged in activities with Paraprofessional and Substitute. SLP 1 came to work with Student and make up minutes due to Student's absences.
 - 2:00 PM – SLP 2 joined the class for circle time to observe Student's language/communication. Student was seated. Student would be redirected (verbal/visual) back to seating by SLP 1.
 - 2:15 PM – Paraprofessional, Substitute, and SLP 1 assisted Student in an art project Student missed due to an absence earlier that week.
 - 2:30 PM – Student was provided a snack. Student cried due to a chocolate chip stuck in a tooth but drinking juice got it out and provided relief.
 - 3:00 PM – Parent picked Student up in the main office.
12. From February 5 – 10, 2026, District conducted an internal investigation and determined there were no physical restraints or other physical interventions needed or used with Student. There were no falls/injuries that occurred at school on February 4, 2026. Principal interviewed everyone present on the day of the February 4th incident and asked if there was ever a time or incident that would have called any of the teachers away that would have resulted in Student being alone with only one adult. There was never a time when Student was alone with a teacher or staff member. There were always at least two teachers with Student at all times.
13. Substitute stated at no time was Student alone with Paraprofessional, outlined the same schedule as Paraprofessional, and the only distress witnessed that day was with the chocolate chip at snack time. The staff ratio was 2:1 and up to 4:1 during the afternoon REDACT session.

14. SLP 1 recounted observations of the day in question and stated Student left the seat at circle time but was redirected. Student sat at a table and climbed under the table during the art project; however, SLP 1 witnessed no injury. Student was provided with movement breaks throughout the afternoon.
15. On February 10, 2026, Principal called Parent to follow up on Staff interviews prior to the IEP meeting scheduled for the same day. During the IEP meeting, Principal and BCBA explained that restraints are only used on rare occasions when a student is in danger of harming themselves or others. Student does not demonstrate behaviors that require any sort of physical intervention. Student does not need or have a Behavior Support Plan or Safety Plan. If a restraint or physical intervention is needed for the safety of Student, Parent is always notified and the incident is reported to the State.
16. IEP Team convened on February 10, 2026, to address Parent's concerns. PWN states that IEP Team, including Parent 1 and Parent 2, agreed to a revision under data considerations for Behavior. "Student has a history of demonstrating some unsafe behaviors including climbing furniture to access items, mouthing inedible items, and dropping to the floor with force. These behaviors can impact throughout the school day. Student may require adult facilitation to remain engaged and participate in classroom routines/activities and to remain in the designated areas." There is no behavior goal or behavior support plan. The behavior has been identified as seeking access to items and the current IEP goal addresses this need through communication:

- Expressive communication: Using a total communication approach, Student [will] request a wanted or needed item/action and request help an average of 75% of recorded opportunities when given a verbal/visual/gestural prompt as needed, as measured by SLP data and observations.

Principal explains "Following a discussion about whether or not Student ever engaged in behaviors that would require Personal Emergency Interventions (restraint), in which Student does not, the statement was added to define behaviors seen at school and when/how additional adult support may be necessary to keep Student engaged during the school day. Student receives consultative behavior support services (in School's IEP platform it is called "Psychological Services"). These services are provided by BCBA that works with the classroom team to develop behavioral supports, accommodations and modifications (as documented in the IEP) to address any behavioral needs."

17. Additionally on February 10, 2026, the IEP Team reviewed School's procedure for restraints.
 - Two, Personal Emergency Intervention (PEI) certified staff would need to be present to perform a restraint.
 - No use of mechanical restraints.
 - Both Parent 1 and BCBA specified that Student does not currently have a behavior support plan.
 - SLP 1 shared a timeline of speech therapy events on the afternoon of February 4, 2026.

- Parent 2 asked about communication with paraprofessionals in the classroom and substitutes in the event of a teacher/case manager being absent.
 - Parent 1 expressed currently not comfortable sending Student to School site at this time.
 - Principal offered placement at another School site.
 - Parent 1 is looking at other options and will contact Principal later in the week.
18. School offered Parent a change in classroom for Student at the current REDACTED site or a change in REDACTED site. Parent 1 needed to discuss with Parent 2. Director offered solutions of moving Paraprofessional to a different class, moving Student to a different class, or moving Student to a different site, which is when Parent let Director know that Teacher had offered these suggestions as well, but Parent was worried that the new class or staff, wherever Student was brought, would “feel some type of way” for filing a complaint.
19. Director stated in interview there were no reports filed of Student having issues with aggression. Principal reported there have been no other incidents with Student with anything physical or going to the nurse.
20. Student has no history of aggressive or dangerous behaviors, no Behavior Intervention Plan (BIP), and no prior use of restraint. IEP documents and staff interviews consistently describe Student’s needs as related to communication, attention, sensory regulation, and occasional climbing, which are managed through supervision and supports rather than physical intervention.
21. Board Certified Behavior Analyst (BCBA) stated Student did not have a positive behavior support plan because it was not needed. None of Student’s behaviors were significant enough. They also were not tracking any behavioral data on Student. They knew the function of Student’s behaviors, so they did not feel they needed to monitor it. Student frequently climbed on furniture to reach items or gain sensory input, so BCBA collaborated with SLP1 to teach replacement behaviors such as asking for help, leading an adult to point, or receiving sensory input proactively.
22. Student’s IEP does not contain any behavior goals. IEP includes behavior support specific to Student needs. Student benefits from a visual schedule, using first-then language, timers/audio and visual cues to let Student know of transitions, replacement behaviors with speech therapy and sensory input.
23. Student receives 30 minutes a month of BCBA consultative services where BCBA goes in to work with Student to see what the reinforcers and behaviors are and working with Staff and Parents if they have any questions about how to support Student at home. BCBA has not received any questions from Parents, but BCBA would consult with Student’s Team whenever needed and offers observations. BCBA is part of the IEP Team and had been working on getting data for the upcoming IEP meeting around this time, so BCBA was in the classroom more often than usual.

24. BCBA is safety trained, as well as Teacher. When any child in the School displays a behavior that requires more oversight, possibly physical intervention, restraint or physical deescalation, they call BCBA and anyone who is safety trained. BCBA stated anyone who is not safety trained would not be doing restraints.
25. Paraprofessional stated Student behavior does not pose a danger of physical harm to self or others with exception of climbing. Student is easy to redirect and does not exhibit aggressive behaviors. On the day of the alleged incident, it was [Paraprofessional], a Substitute, and SLP 1 in the room with Student. Paraprofessional stated Student had “a really good day, their first day back in about a week.” Student was happy and played in the gym due to the weather. [“I may have checked the wrong box about being outside, but we stayed inside due to snow on the ground.”] Student completed three makeup art projects. A chocolate chip became stuck in Student’s tooth. Paraprofessional removed it with a glove and Student was fine. Paraprofessional informed Parent Student left on a positive note, and Parent thanked Paraprofessional for removing the chocolate chip. There was a 3:1 adult-to-student ratio for the duration of class. No restraint or injury occurred.
26. Teacher described Student as autistic and largely nonverbal, using echoed language rather than functional speech. Student is energetic, happy, and pleasant, often humming or singing, but has difficulty sitting still and sustaining attention for teacher-directed tasks. Typical behaviors include climbing on furniture and occasional mild tantrums, such as dropping to the floor or crying briefly. These behaviors are not severe, do not involve aggression, and have never required a behavior support plan; though the IEP includes a psychological consult. Up until January 23rd, Student made progress and showed no regression despite inconsistent attendance. Then there was a block of time Student did not attend School.
27. Teacher explained that Student is in a small classroom setting, sometimes with only one other student, and that staff-to-student ratios consistently meet or exceed safety standards. Teacher strongly disagreed with Parent’s claim that School failed to provide proper supervision, stating that students are “...closely monitored at all times” and are never left alone with a single staff member.
28. SLP 1 worked with Student twice weekly in individual and group formats, focusing on expressive, receptive, and social communication goals. SLP 1 described Student as highly active with a short attention span who engaged well with familiar adults but often required redirection. While staying on task could be challenging, Student generally responded well to verbal prompts or physical guidance, and SLP 1 reported a positive experience working with Student. In individual sessions, SLP 1 targeted receptive language by having Student demonstrate action words through play and gross motor activities, which were highly motivating for Student. Expressive language goals focused on requesting preferred items and actions, using various levels of prompts, models, and cues. Group goals were more difficult to address due to limited opportunities, as the only other child in the classroom is not on SLP’s caseload. When possible, SLP 1 incorporated joint attention goals during shared activities, encouraging Student to make eye contact, orient to the speaker, and pause the activity when seeking attention.

29. SLP 1 provided six sessions per month, though frequent absences limited consistency and made progress harder to sustain. Despite this, Student made progress toward most goals, with improvement noted across marking periods although Student did not fully meet benchmarks, particularly in social communication. SLP 1 reported no aggressive behaviors, noting occasional climbing or brief tantrums that appeared attention-seeking rather than unsafe. On February 4th, the day of the alleged incident, SLP 1 observed Student for an extended, highly engaged session and did not witness any restraint, discipline, or unsafe behavior.
30. OT described Student as friendly and sweet and provided both direct individual services and consultative support to classroom staff and Team members. Direct sessions focused on developing fine motor and visual-motor skills to support kindergarten readiness, including activities such as crafts, puzzles, sorting, matching, painting, and using two hands together. Consultative services addressed sensory regulation needs, particularly Student's need for frequent movement breaks, which allowed leaving and returning to table activities as needed to sustain attention.
31. OT noted sensory-seeking behaviors, including mouthing inedible objects, and implemented safer strategies such as oral-motor activities, blowing bubbles, using a straw, and a vibrating chew. Student's IEP included goals related to engaging in play and tabletop tasks, with services consisting of monthly direct and consultative time delivered through a push-in model. Student made progress during the first two marking periods, though no recent data were available due to extended absences. OT did not identify behavioral needs, emphasizing that challenges were primarily related to attention, regulation, and movement. OT participates in IEP meetings, consults with the Team, and provides accommodations such as movement breaks and adaptive tools, while behavioral goals are addressed through a separate behavior consultation.
32. AP described Student as a young child with autism whose primary needs are in communication and socialization, noting Student is typically compliant and responds well to a highly structured classroom environment. The classroom is staffed with a low student-to-adult ratio and emphasizes short, well-planned lessons to eliminate downtime. Student does not have a behavior or safety plan, as Student has not demonstrated behavioral concerns, and AP does not recall ever receiving a behavior-related call for Student. Supports such as speech therapy, occupational therapy, and access to behavior specialists are available as needed, and administrative staff provides supervision regularly.
33. Regarding the classroom environment, AP explained that enrollment often increases halfway through the year and that staffing adjustments are made as needed, including coverage when a paraprofessional is out. AP supervises and supports staff. On the day of the alleged incident, Teacher was absent and Substitute was present. Recess occurred indoors due to weather conditions, and students were combined with other classes in the gym. AP emphasized that the setting is generally well managed, and Staff have immediate access to support through walkie-talkies if concerns arise. As far as the discrepancy with the schedule on the daily activity log, AP reported that if the schedule lists outdoor recess time, but the weather is bad, they will do recess inside in the gym, which was the case on the day of the incident.

34. AP recalled that on February 4th, Parent reported marks on Student that were believed to have occurred that day and expressed concern that Student may have been restrained. After reviewing photos, consulting with Nurse, speaking with staff, and examining the classroom and gym environment, no evidence was found to support the allegation, and School does not use restraints or equipment as described by Parent. AP stated Student has not returned to school since that day; therefore, is not receiving services. IEP Team may consider compensatory services if Student returns. Parent has been informed of procedural safeguards and offered alternative placement options.
35. Principal stated Parent "was convinced" that Paraprofessional restrained Student to a chair. Principal wondered how Parent could have come to that conclusion since School does not use restraint in their program, nor has Student ever exhibited behavior that would warrant emergency restraint. Parent requested a formal review of the incident: how and when Student sustained the injuries, written clarification if any physical or mechanical restraint was used, whether restraint is permitted, copies of all incident reports, witness statements, and information on the investigation process moving forward. Principal spoke with Parent on the phone several times and interviewed all Staff who were with Student on the day of the alleged incident.
36. Throughout Delaware and in this program, there is a prohibition of mechanical restraints, so there are no mechanical restraints in the building. School uses Devereaux Safe and Positive Approaches. They train crisis readiness teams on safety techniques. If needed for de-escalation or use a safety blocking technique, they also use the Devereaux Safe and Positive Approaches Personal Emergency Interventions (PEI) training. If there were any need for restraint at all in their program, the only people allowed to restrain are Staff with that certification. Staff receive the annual training with the Devereaux trainers. If a restraint occurs, by a certified staff member, then there are procedures where the incident is logged and Student is brought to see Nurse. If anyone were doing a personal emergency intervention, there would be log documentation and would have been brought to Nurse's attention. The crisis team has never been called about Student.
37. Principal stated Paraprofessional is qualified to provide the support that Paraprofessional is providing, has been with the program for a long time, and has never received a complaint. Staff is unsure if Paraprofessional is trained in PEI, but normally they do not have the paraprofessionals engage in any kind of personal emergency intervention. Principal stated, "It's typically BCBA's, support staff, sometimes teachers, but generally [they] try to have someone from outside the classroom provide this so they can protect the relationship between the teacher and student." Paraprofessional does not have a history of performing PEI. District provided a list of trained Staff post-interview and Paraprofessional is not on list.
38. Principal notes that there was nothing new or noteworthy discovered during the initial investigation.
39. Investigator reviewed District Board Policy on Restraint that District provided.

40. District provided training records of School staff that would utilize restraint through the application of the Devereaux Safe & Positive Approaches, should it be warranted, and their annual training as crisis readiness team members. Staff are current in their training.
41. The below details Student's visits to Nurse's office according to Nurse Office Visit History:
- November 5, 2025 (2:24 PM) Nurse assessed skin burn and Student returned to class. Paraprofessional noticed a burn on wrist and sent for assessment.
 - February 5, 2026 (8:53 AM Phone Call with Parent 1) Nurse and AP speak to Parent 1 about pictures of marks Parent 1 sent. Nurse confirms Student was not seen at School for injuries. Nurse cannot determine clearly from the picture, but states images look like bruises or friction marks with no scratches. Nurse states bruising can occur immediately or several days after an injury and cannot make an assessment from a picture. Parent 1 believes marks occurred at School. Does not want Student to be near Staff that was with Student yesterday and will bring in Student for Nurse assessment.
 - February 5, 2026 (10:30 AM Parent 1 Brings Student to Nurse) Nurse assesses Student with Parent 1 and AP present. Parent states to Nurse and AP, "I noticed it [marks] when Student came home from school yesterday"; Parent states being very upset and asking if School knows what happened. Nurse did not have reports of injuries for Student yesterday from Staff in room.
 - No other visits
42. Through interviews, Teacher, SLP 1, BCBA, and OT described Student's IEP goals and supports necessary for Student to make progress in School. AP described a system of supervision of Staff. Both Principal and AP cited Staff qualifications and credentials as appropriate for the responsibilities of delivering special education and related services. The SLP working with Student (SLP 1) is a first-year (Clinical Fellow; SLP – CF), which requires supervision/mentorship until they meet the ASHA requirements to be granted their CCC (Certificate of Clinical Competence), which is usually at the end of their first year. SLP 2 mentors SLP 1 and reviews SLP 1's evaluation reports, IEPs etc. until SLP 1 is granted CCC.
43. On March 11, 2026, Parent filed state complaint, which included photos of Student with marks on skin.
44. IEP Team attempted to meet again on March 12 and March 26, 2026. Parent either cancelled or did not show for those meetings.
45. On March 31, 2026, Parent sent email to Principal stating Parent was withdrawing Student from the current program to pursue individual services, including physical therapy and ABA therapy, until REDACTED attendance becomes mandatory. Parent expressed gratitude for the support provided and noted that School helped prepare Student for a smoother transition to REDACTED.

Legal Conclusions

Allegation 1: Failure to ensure adequate supervision, staffing, and overall safety protections for a student receiving special education services.

The IDEA and implementing state and federal regulations require school districts to provide FAPE to students with disabilities. (See, 20 U.S.C. § 1401(9): 34 C.F.R. § 300.101(a): 14 DE Admin. Code § 923.1.2. FAPE is special education that is specially designed instruction, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions, and related services, as defined by the DDOE rules and regulations approved by the State Board of Education, and as may be required to assist a child with a disability to benefit from an education that:

- a. Is provided at public expense, under public supervision and direction and without charge in the public school system.
- b. Meets the standards of the Delaware Department of Education.
- c. Includes elementary, secondary, or vocational education in the State.
- d. Is individualized to meet the unique needs of the child with a disability.
- e. Provides significant learning to the child with a disability; and
- f. Confers meaningful benefit on the child with a disability that is gauged to the child with a disability potential.

FAPE requires that students with disabilities receive special education and related services. Parent alleged that School failed to properly supervise staff and Student to ensure Student's safety while on school property which Parent asserted created unsafe conditions for Student. After reviewing documentation and conducting staff interviews, evidence does not support this claim. On February 4, 2026, Student attended the afternoon REDACTED session during the absence of the classroom teacher. A substitute teacher, the paraprofessional, and additional service providers, including speech-language pathologists, were present throughout the session. Staff consistently reported that Student was supervised by at least two adults at all times, and frequently by three or four adults. At no point was Student left alone with only one staff member. In the classroom, Student was the only student with multiple adults for the duration of the classroom instruction. This level of Student supervision met and exceeded the requirements outlined in Student's IEP and ensured access to educational services. The evidence, through interviews, demonstrate that Student received services as outlined in the IEP, which was developed based on Student's identified needs and consistently implemented by school staff.

Under 34 CFR § 300.323 and 14 DE Admin. Code § 925.10.3, school districts are required to implement a student's IEP and ensure that all personnel responsible for implementation are informed of their responsibilities. Interviews with all Staff indicate Staff knew their duties and were knowledgeable about the IEP and Student's needs. Staff spoke to Investigator with specificity of how Student's IEP is implemented.

In addition, according to 34 C.F.R. § 300.324(a)(2)(i) and 14 DE Admin. Code §925-11.2.1, IEP Teams must consider the use of positive behavioral interventions and supports when a student's behavior interferes with learning. In this case, Student did not exhibit a pattern of aggressive, dangerous, or significantly disruptive behavior that would necessitate a Behavior Intervention Plan (BIP). Staff interviewed indicated Student's needs related to communication, attention, sensory regulation, and occasional climbing were appropriately addressed through supports included in the IEP. Student did not have behavioral goals or a Behavior Intervention Plan requiring implementation. Therefore, there was no failure to implement behavioral supports under 34 CFR § 300.323 or 14 DE Admin. Code §925-11.2.1.

Under 34 C.F.R. § 300.323 and 14 DE Admin. Code § 925.10.2.2-10.3.2, school districts must ensure that all services, supports, and accommodations identified in the IEP are provided. This includes supervision, safety supports, and any behavioral supports required for the student to access education. The interviews reflect that all required supports were delivered as specified in the IEP, with no evidence that services were missed, reduced, or improperly modified while Student was in attendance. Concerning safety, there is no evidence that Student was injured at any time during the school day according to Staff interview, District investigation, and Nurse reports. According to Principal and based on interviews, Staff were properly trained and met applicable qualification requirements and appropriate systems were in place to address any potential safety concerns. The presence of multiple trained staff members in Devereaux methods ensured continuity of services.

Overall, the evidence supports that Student received appropriate educational services in a well-supervised and supportive environment.

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

Allegation 2: Failure to implement appropriate behavior management procedure resulting in the improper or unnecessary use of physical restraint on a student with a disability.

Under 34 CFR § 300.323, schools must ensure that each teacher and service provider is informed of and implements the IEP, including any behavioral supports or supervision. Delaware similarly requires IEP implementation through 14 DE Admin. Code §925-10.0, which mandates that IEPs be carried out as written, and that staff responsible for implementation are informed of their specific responsibilities. Through 14 DE Admin. Code § 923.1, FAPE ensures that all eligible students with disabilities receive appropriate services in an appropriate learning environment. A failure to provide services as written or to ensure student safety may constitute a denial of FAPE. In this case, Student had appropriate goals and services. The evidence shows that Student did not have behavioral needs that required a functional behavioral assessment or behavioral support plan nor restraint, and the IEP Team did not determine that restraint was necessary. Although staff are trained in approved de-escalation and restraint techniques and follow district policies and systems when emergencies arise, no such emergency was documented on February 4, 2026. Reports from Staff and District's investigation confirm that Student was not physically restrained, did not fall, and was not injured. There was also no

behavioral escalation that would require emergency intervention. The only issue reported was brief crying due to a chocolate chip being stuck in Student's tooth, which was promptly resolved. There is no evidence to confirm the claim that Student was restrained or that restraint procedures were used improperly.

Under 34 C.F.R. § 300.530(d) and 14 DE Admin. Code § 926.30, a Functional Behavioral Assessment (FBA) or Behavior Intervention Plan (BIP) is required when a student's behavior results in a disciplinary change of placement or otherwise demonstrates a need for more formal behavioral intervention. The record does not reflect any behavioral incidents that would trigger these requirements, nor does it indicate that an FBA or BIP was necessary to ensure Student's access to FAPE. Student's IEP did not include behavioral goals or a BIP. There is no incident report, written documentation, or credible witness statement indicating that a behavioral incident occurred on February 4, 2026, or at any other time during the school year. Because no incident occurred, there was no basis to initiate disciplinary procedures under 34 C.F.R. § 300.530 and 14 DE Admin. Code § 926.30, including a Manifestation Determination Review (MDR). Those conditions were not present in this case. IEP Teams must consider positive behavioral supports when behavior interferes with learning; however, the record does not reflect behavioral concerns necessitating such measures. Student received appropriate educational and behavioral supports. There is no evidence that Student was denied FAPE at any time. As a result, no procedural safeguards or parent rights related to discipline were triggered. The evidence demonstrates that Student's IEP was implemented as written, appropriate supports were provided, no disciplinary or restraint incident occurred, and all actions were consistent with federal and Delaware law.

District found no records, reports, or credible evidence indicating that any restraint occurred, nor was there any situation that would have justified the use of restraint under state law. Systems were in place to address safety concerns. After reviewing all records, staff statements, and applicable law, the allegations are not supported.

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

Allegation 3: Failure to properly document, report, and follow required procedures related to the restraint incident.

There is no evidence to support Student was restrained during the school day. After reviewing the facts and applicable law, there is no evidence that School failed to document or report a restraint incident. There are specific rules to restraint and seclusion under Delaware Regulations - Title 14 610.

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

Corrective Actions

Based on the investigation and review of all relevant information, no violations of the Individuals with Disabilities Education Act (IDEA) or corresponding Delaware special education regulations were identified. Therefore, corrective action is not required.

Respectfully submitted,

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