

**Delaware Department of Education  
Exceptional Children Resources**

**State Complaint Decision**

**DE SC #26-15**

**Date Issued: April 14, 2026**

On February 12, 2026, REDACTED (Parent), filed a complaint with the Delaware Department of Education (Department) on behalf of REDACTED (Student). The complaint alleges the Appoquinimink 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).<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 DE Admin. Code §§ 923.51.0–923.53.0.

The investigation included a review of Student’s educational records, as well as interviews and email correspondence with Parents, Director of Special Education and Supervisor of Special Education.

**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 February 12, 2026. Therefore, the Department’s findings address violations from February 12, 2025, to February 12, 2026.

**Complaint Allegations**

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

1. Failing to conduct an appropriate reevaluation prior to changing Student’s placement;
2. Failing to timely complete and release Student’s Occupational Therapy evaluation;

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<sup>1</sup> 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.

3. Failing to provide access to an approved program and to consider supplementary aids and services before removing Student from general education;
4. Mischaracterizing Parent's input;
5. Failing to meaningfully consider Student's Independent Educational Evaluation (IEE)
6. Failing to document accurate and complete information into an Individualized Education Program (IEP) and Prior Written Notice (PWN); and
7. Failing to follow Delaware regulations governing disputed IEP changes.

### **Factual Findings**

1. Student is REDACTED years old and attended REDACTED at Appoquinimink's REDACTED. Student is currently in REDACTED and receives special education and related services as a child with an educational classification of Autism. Student attends Appoquinimink's Reaching Independence Through Structured Education (RISE)/Spanish Immersion (SPIM) REDACTED Programs.
2. Currently, Student's IEP contains goals in the following areas: Occupational Therapy, Speech Language Therapy, Physical Therapy, Reading Comprehension, Task Completion, and Social Interactions.
3. On February 18, 2025, IEP Team met to revise Student's IEP. IEP Team added goals that include joint attention and following multi step directions. IEP Team proposed Student attend District specialized Summer Academy and RISE program due to an increased need for specific autism supports. IEP Team also discussed Student's acceptance into District's (SPIM) through District's school choice program for the 2026-2027 school year. IEP Team proposed, and Parent agreed that Student gradually increase time spent in SPIM.
4. On February 26, 2025, District emailed Parent a Notice of Meeting (NOM) to discuss Parent's concerns surrounding Student's programming.
5. On March 5, 2025, IEP Team met, at Parent's request, to discuss Parent's concerns surrounding Student's inability to independently complete morning drop off and daily bathroom routines. Parent also wanted to know whether concerns expressed were documented in Student's IEP. District offered to review Student's IEP to outline where Parent's concerns were documented and to review the District created "Reasons Why [Student] Needs Additional Adult Support" document, but Parent rejected the offer to review the document. District also offered Parent a tour of the RISE classroom and Parent did not accept or decline.
6. On May 2, 2025, District emailed Parent a NOM to discuss Parent's concerns on May 7, 2025.
7. On May 7, 2025, IEP Team met to discuss Parent's request for additional adult support. Parent also agreed with District proposal to change Student's placement

to District's RISE program due to Student's need for specialized, direct instruction in a small group setting. The Team also agreed that Student would access the SPIM classroom for less than 40% of the day for math, English Language Arts (ELA) and Morning Meeting time to implement communication skills using an Augmentative and Alternative Communication (AAC) device. Student's time in SPIM classroom would increase based upon RISE progress data. The Team also agreed to change Student's placement to District's Summer Academy during July and August of 2026.

8. On May 7, 2025, District issued a Prior Written Notice (PWN) from the meeting on May 7<sup>th</sup> that documented the change in Student's placement to District's Summer Academy during the months of July and August of 2026. The PWN also documented Student attending the RISE classroom with access to SPIM program for the 2026-2027 school year.
9. On May 14, 2025, Parent submitted a request for mediation with District due to safety concerns. Additionally, Parent wanted clarification that the addition of adult support was not being used as a reason to place Student in the RISE program.
10. On May 15, 2025, Parent signed the PWN from the revision meeting held on May 7<sup>th</sup>.
11. On July 30, 2025, Parent and District attended a mediation meeting through the Special Education Partnership for the Amicable Resolution of Conflict (SPARC) Program and signed a mediation agreement.
12. On July 31, 2025, Senior Coordinator for Instructional Programming (Coordinator) emailed Supervisor of Special Education (Supervisor), to report the parties signed a mediation agreement granting Speech Language, Occupational Therapy, and Neuropsychological Independent Educational Evaluations (IEEs).
13. On August 4, 2026, Supervisor responded by saying she would review the mediation agreement and that information concerning the IEE request would be shared with Parent.
14. On August 5, 2026, Supervisor emailed Parent an IEE approval letter, a list of providers and a copy of the Procedural Safeguards.
15. On August 20, 2025, Parent emailed Supervisor to report Parent identified a provider to conduct the Neuropsychological evaluation. Supervisor responded approving the provider.
16. On August 21, 2025, Parent emailed Supervisor to report Parent identified a provider to conduct the OT evaluation. Supervisor responded to the email with approval.
17. On September 24, 2025, Teacher emailed Parent Student's classroom observation sheets that documented Student's ability to access SPIM during the school day. Parent responded inquiring who was completing the sheets, within

what time frame and what the lessons were, how Student's learning is being assessed and what the "X" meant. Teacher responded stating that the SPIM teacher was completing the data sheets during the 10-minute time frame that was agreed upon for Student's inclusion time. Teacher also stated that SPIM Teacher would have to address the questions regarding the lessons and assessment. Lastly, Teacher stated that a paraprofessional accompanied Student to the SPIM classroom and that the "X" on the sheet indicated that Student was not doing the task. Parent responded to the email and stated that she was not aware that Student was only accessing the SPIM classroom for 10 minutes each day. Teacher clarified that Student accessed SPIM 20-minutes each day; 2 times per day for 10-minutes.

18. On October 9, 2025, District transportation company notified, via phone call, Parent of change in transportation from a contracted provider to a District bus to occur on October 20, 2025. Parent contacted Coordinator and ED and voiced concern with not being notified by District prior to the change due to the negative impact a change had on Student's medication and therapy sessions.
19. On October 14, 2025, Parent emailed Educational Diagnostician (ED) to request an emergency IEP meeting to discuss Student's transportation change. Since Student was now attending RISE/SPIM program, this was a different location than the school Student attended previous year. Parent asserted that Student's medication administration and after school therapies would be impacted because the ride would be too long.
20. On October 15, 2025, ED responded by asking if Parent was available to meet on October 22<sup>nd</sup> at 1:30 PM. Parent responded by asking if Student's transportation would be provided by the same transporter until the Team met. ED informed Parent that the change in transportation provider was not an IEP Team decision. ED also noted that District provided 5 school days (10 calendar days) to allow Parent time to adjust previously scheduled activities due to the new transportation schedule. ED also informed Parent that the new bus schedule would begin on October 20<sup>th</sup>. ED stated, "During our discussion and IEP meeting on October 22<sup>nd</sup> if there any required revisions to the IEP relevant to transportation, those decisions will be made as an entire IEP Team and communicated with the transportation department." Parent responded by stating the transportation change was an IEP Team decision and that there was not enough time to contact providers to change medication and/or to rearrange appointments. ED informed Parent that Supervisor was cc'd to answer parent's concerns. ED also asked Parent if October 22<sup>nd</sup> at 1:30 PM was a good day and time to meet. Supervisor clarified that transportation was an IEP Team decision, but the route timing was determined by District's transportation department.
21. On October 19, 2026, outside provider completed OT IEE in response to the July 30, 2025, mediation agreement.
22. On October 22, 2025, the Team met to review Student's transportation needs at Parent's request. As a result of the meeting, Parent decided to pickup Student

from school each day so that medication and therapy schedules were not interrupted.

23. On November 11, 2025, 1<sup>st</sup> marking period progress report indicated Student made progress toward all but 3 (following multi step directions, completing a morning routine and going down three steps with an alternating pattern) IEP goals.
24. On November 11, 2025, an independent evaluator conducted Student's Neuropsychological evaluation in alignment with the July 2025 mediation agreement.
25. On December 10, 2025, IEP Team met, at Parents request, to review Student's placement and amount of time spent in SPIM program. During the meeting, IEP Team did not make any changes to the IEP. Parent requested additional time in SPIM and District declined. District proposed to continue collecting data for 6-8 weeks to determine if Student's time in SPIM would increase. District proposed to review Student's progress in SPIM at the annual meeting scheduled for January 12, 2026. District also agreed to develop an autism specific tool to collect data on Student's inclusion readiness, to trial additional support and flexible seating in the SPIM classroom.
26. On December 11, 2025, Parent emailed Supervisor and asked that parental concerns expressed during the December 10<sup>th</sup> IEP meeting be added to Student's IEP. Parent also added that Supervisor declined to add Parent's concerns to the IEP. Supervisor responded to the email and stated that the Parent concerns expressed during the meeting, and listed below, would be documented in Student's IEP and in the PWN. However, the below concerns were only documented in the PWN.

**PARENT CONCERNS (TO BE INCLUDED IN THE IEP WITHOUT ALTERATION)**

- **My son was assigned to his current school specifically to access Spanish Immersion.** His IEP states that he is to have meaningful access to the Spanish Immersion program for less than 40% of his day. The current limit of **10 minutes twice a day** is not consistent with the intent of his IEP, his placement, or LRE requirements.
- **The district's position that my son is "not successful" in the Spanish Immersion classroom is based solely on subjective observations,** including:
  - turning around in his seat
  - singing out loud
  - climbing on the chair
  - becoming "distracted" after 10 minutes
- These behaviors are consistent with his disability and do not constitute data showing that he cannot participate in the setting with appropriate supports.
- **There is no evidence that appropriate supports, interventions, accommodations, or behavior strategies were attempted before limiting his time** in the immersion program. The district's response appears to be based on removing him from the environment rather than supporting him in it.
- **There is no measurable, objective data demonstrating lack of progress or inability to benefit from Spanish Immersion.** I am concerned that the data being cited is not aligned with IDEA requirements for data-based decision making.
- **An Independent Educational Evaluation (IEE) is currently in progress.** Until that evaluation is completed, decisions to restrict or deny access to the Spanish Immersion environment are premature.

- **My son's behaviors (singing, movement, distractibility) are consistent with autism and should be addressed through supports—not by restricting his access to instruction.** I am concerned that the school is interpreting disability-related behaviors as evidence that he does not belong in the setting, rather than providing the supports required to help him succeed.
- **I am concerned that his time in the Spanish Immersion classroom was predetermined** and that the team's decision-making is not individualized.
- **I am deeply concerned that I was not permitted to add my Parent Concerns to the IEP during the meeting,** which denied me meaningful participation in the IEP process—a right protected under IDEA.
- **I want the team to consider meaningful increases in his time in Spanish Immersion,** supported by appropriate accommodations, sensory strategies, and reinforcement systems, based on the outcome of the ongoing IEE.

**FORMAL REQUESTS**

- **Add the above Parent Concerns verbatim to the IEP.**
- Please confirm in writing once this amendment has been completed.
- **If the district refuses to add my Parent Concerns exactly as written, I am requesting Prior Written Notice (PWN) documenting:** what action the district is refusing, why it is refusing, the data or evaluations used, other options considered, and why those options were rejected.

27. On December 29, 2025, OT evaluator received payment for the IEE from District and gave Parent and District a copy of the report.

28. On January 12, 2026, the Team met for Student's annual IEP meeting. During the meeting, the Team reviewed Student's current goals and discussed Student's access to the SPIM classroom. Parents' concerns surrounded the tool being used to monitor progress in the SPIM classroom. Specifically, Parent asserted the Placement and Readiness Checklist (PARC), did not fully capture Student's ability based upon his autism disability category. The Team determined that Student would have to consistently achieve 50% of 11 areas that documented student inclusion readiness before student accessed additional time in the inclusion setting. The Team revised the observation tool so that more accurate data could be gathered.

29. On January 13, 2025, Parent emailed Supervisor to voice disagreement with the draft IEP from the January 12<sup>th</sup> meeting.

30. On January 15, 2026, Parent emailed Supervisor and ED to introduce Student's Advocate. Advocate responded to the email by asking if IEP Team could start the upcoming annual meeting by reviewing the current IEEs, goals and least restrictive environment (LRE). Supervisor replied to Advocate stating District reviewed the IEE during the January 12<sup>th</sup> meeting. However, Parent informed the Team that a meeting to review the IEE with the outside evaluators had not occurred. Supervisor also added that discussion typically occurs prior to finalizing the IEP and is coordinated directly between the Parent and the outside providers. Supervisor stated that the goal of the meeting was to use the allotted time to complete the IEP and ensure Parent had the full 10 days to review and either agree or disagree with the proposed IEP.

31. On January 15, 2026, the Team met to continue the January 12<sup>th</sup> IEP meeting that ended due to time constraints. The Team agreed to meet on January 22, 2026, due to continued time constraints.
32. On January 22, 2026, the Team met to continue Student's IEP development. During the meeting, District proposed Student continue to attend the RISE classroom, but Parent disagreed with the proposal. Parent requested, and District agreed, to revise the Data Considerations page of Student's IEP to reflect Student's progress with self-care skills. District also agreed to add fading adult support and adult modeling to the social skills area of section 4 of the Data Considerations page.
33. On January 22, 2026, District issued a PWN to Parent. The PWN documented Parent input and, review and consideration of the recent OT and Neuropsychological evaluations used to develop the IEP. However, the SLT and PT IEE were not completed for review at the time of the meeting. Additionally, Parent did not sign the PWN.
34. On January 22, 2026, Supervisor emailed Parent to clarify the LRE discussion concerning RISE and SPIM classrooms. Supervisor noted that LRE discussions took place at the May 2025, IEP meeting not the mediation meeting that was held to discuss the approved IEEs. Supervisor also attached a screenshot of the LRE rationale documented in the IEP.
35. On January 23, 2026, Advocate emailed Supervisor and ED and referenced Delaware Procedural Safeguards to ask if a due process decision prompted the change in Student's LRE move to the RISE classroom. Advocate also added that Parent's "Stay Put" rights should be in effect. Supervisor responded by informing Advocate that a due process complaint had not been filed and that the decision to educate Student in the RISE program would continue. Supervisor also attached procedural safeguards to the email response.
36. On January 28, 2026, Parent emailed Supervisor and ED to object to Student's placement in the RISE program. Supervisor responded to the email by thanking Parent for sharing the objection and added that the objection would be documented in Student's educational records. Parent responded by stating the objection was grounded in the Delaware regulation governing implementation of disputed IEP changes following an IEP meeting.
37. On January 29, 2026, Parent emailed Supervisor and ED to request corrections to the current draft IEP so that it accurately reflects the discussions and agreements reached during the IEP meeting. Specifically, general education participation, goals and present levels, how staff would be using data collection tools to determine if/when Student's general education readiness was progressing toward increased inclusion opportunities.
38. The 2<sup>nd</sup> marking period progress report documented Student making satisfactory progress toward each annual goal, except for "completing a morning routine."

39. On February 4, 2026, ED emailed Parent to say that the PWN from the January meeting had been revised to reflect the schedule for Student's inclusion time and that it would be sent home in Student's book bag. ED also stated that the PWN and IEP accurately reflected what was discussed during the meeting.
40. On February 8, 2026, Parent emailed Supervisor and requested Student participate in the general education opportunities, Morning Meeting, Related Arts/Specials, English Language Arts and Lunch, outlined in the current IEP. Parent added that "agreement to proceed with the general education schedule was intended to prevent further disruption to Student's access to peers and instruction and did not resolve or waive objections regarding the District's failure to support access to Spanish Immersion or the removal of that program from Student's IEP." Lastly, Parent asked Supervisor to confirm implementation of the general education schedule as written.
41. On February 10, 2026, Supervisor responded to Parent's email by stating, "The District will implement the IEP and PWN as currently written after 10 days of sharing the finalized copy. Please see attached procedural safeguards for any additional next steps if you continue to disagree with the documentation."
42. On February 12, 2026, Parent filed a state complaint.

### **Legal Conclusions**

***Allegation #1*** Failing to conduct an appropriate reevaluation prior to changing Student's placement,

*According to 14 DE 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 the following:*

*13.1.2 Each public agency shall ensure a child with a disability is placed in a chronologically age-appropriate placement.*

Parent and IEP Team met on several occasions to review Student's programming. During an IEP meeting, the Team, which includes the Parent, agreed that Student was best supported in a C-setting due to a need for specialized, direct instruction in a small group setting. Parent requested that District provide Student with additional adult support so that he was fully supported across the school day. District agreed to Parent's request and during the May 2025 IEP meeting, the Team reviewed parental concerns, current evaluation results, data points, current levels of academic functioning, related service and staffing needs, and the necessary supplemental aids, supports and services to determine that Student's appropriate LRE was in its RISE program. District issued a PWN in May 2025, that Parent agreed with and signed indicating agreement with the proposed Placement. Parent later disagreed with the

placement decision due to a reduction of time in the SPIM classroom and requested that Student not miss time in the general education setting. District referenced the PWN which stated Student's time would increase as Student acquired skills that would allow for more time in the SPIM classroom. District also gave Parent multiple copies of Procedural Safeguards to be used if disputes continued. In addition, Parent and District went through SPARC mediation and signed an agreement that outlined District's agreement to pay for an IEE for several educational areas. However, the document did not outline the Parent's disagreement with Student's Placement in the RISE program. Parent submitted IEEs that recommended Student receive many of the same autism specific supports that were currently identified in the IEP and implemented across the school day. Moreover, District was not responsible for conducting an evaluation for the sole purpose of changing Student's placement. **Therefore, I find that there was not a violation of IDEA, state special education regulations, or a denial of FAPE regarding procedures for reviewing relevant information prior to determining if a change in placement is required based on the child's current and anticipated needs.**

***Allegation #2*** Failing to timely complete and release Student's Occupational Therapy evaluation.

According to *IDEA* 34 CFR §300.502 The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.

- (1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.
- (2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

Parent requested an IEE on July 30, 2025, and Supervisor gave approval on August 4, 2025. Parent informed Supervisor on August 20, 2025, that a provider was identified. Student was evaluated on October 13, 2025, and Team reviewed and considered the evaluator's recommendations during the January 12-22, 2026, meetings. The OT evaluation was not an initial evaluation which means the 45 days to 90 days time limit does not apply. IDEA does not provide a legal timeframe for the completion of IEEs, and Parent did not provide evidence to support that the delay in payment was willfully caused by District. However, the investigator was concerned that it took 2 months from the completion of the report until the release of the report due to a delay in payment. **Therefore, I find that there was not a violation of IDEA, state special education regulations, or a denial of**

**FAPE regarding the process of conducting and reviewing an evaluation for consideration in the development of a child's IEP.**

**Allegation #3** Failing to provide access to an approved program and to consider supplementary aids and services before removing a student from general education.

According to *14 DE Admin. Code § 923.14.1* and 16.0. General: Except as provided in 14 **DE Admin. Code** 925, subsection 11.12 (regarding children with disabilities in adult prisons), each public agency shall meet the LRE requirements of Sections 15.0 through 20.0 of this regulation.

14.2 Each public agency shall ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Placement decisions shall be based on the unique needs of a child with a disability regardless of the manner or amount of funding available.

16.1 In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and is made in conformity with the LRE provisions of this regulation, including Sections 14.0 through 18.0.

16.2 The child's placement shall be determined at least annually; shall be based on the child's IEP; and shall be as close as possible to the child's home.

16.3 Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled.

16.4 In selecting the LRE, consideration shall be given to any potential harmful effect on the child or on the quality of services that he or she needs.

Student's LRE during REDACTED was an A-setting classroom I. However, the IEP Team utilized current data and Parent input to determine that Student's appropriate LRE was a C-setting. The amount of time spent in the general education setting through the SPIM inclusion classroom decreased due to the support, supplementary aids and services identified in Student's IEP. The Team developed an inclusion tool to document Student's readiness to be educated in an inclusion setting and proposed to review data over 6–8-week periods to determine if/when the amount of time would increase. The Team did not deny Student full access to the general education setting; it proposed to utilize data to drive the decision-

making process so that Student was successful during inclusion opportunities. **Therefore, I find that there was not a violation of IDEA, state special education regulations, or a denial of FAPE regarding the process of providing access to an approved program and to consider supplementary aids and services before removing Student from general education**

**Allegation #4** Mischaracterizing Parent's input,

According to *14 DE Admin. Code § 925.9.0*; Public agency responsibility, general: Each public agency shall take steps to ensure that 1 or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including:

9.1.1 Notifying parents of the meeting, *in writing, no less than 10 school days prior to the IEP Team meeting (unless mutually agreed otherwise)* to ensure that they will have an opportunity to attend, and *no less than 5 school days prior to a meeting to conduct a manifestation determination under 14 DE Admin. Code 926, Section 30.0*; and

9.1.2 Scheduling the meeting at a mutually agreed on time and place.

9.2 Information provided to parents: The notice required under subsection 9.1 shall:

9.2.1 Indicate the purpose, time, and location of the meeting and who will be in attendance.

Parent was given a NOM that outlined the day, time and location of each meeting held during the complaint period. District also provided Parent with detailed PWNs those recorded proposals, agreements, rejections and disagreement that resulted from each meeting. District afforded Parent opportunities at each meeting to voice concerns and give input in relation to Student specific needs, educational programming. District also afforded Parent the opportunity to ask, and have answered, clarifying questions. At the conclusion of December 10, 2025, meeting, Parent emailed District a very detailed list of concerns and questions that were documented in PWN and discussed at a future IEP meeting. District provided Parent with opportunities to be clear and concise either before, during and/or after each meeting. **Therefore, I find that there was not a violation of IDEA, state special education regulations, or a denial of FAPE regarding properly including, documenting and/or recording Parental input during the IEP process.**

**Allegation #5** Failing to meaningfully consider Student's IEE.

According to *14 DE Admin. Code § 926.2.7* Parent initiated evaluations: If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation shall be **considered** by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and may be presented by

any party as evidence at a hearing on a due process complaint under 14 **DE Admin. Code** 926 regarding that child.

During the July 30, 2025, mediation, Parent requested and was approved for Student to receive IEEs at District's expense. The IEP Team met to review and consider multiple data sources during Student's January 2026, IEP meetings. The PWN and IEP documents that information obtained from the OT and Neuropsychological IEEs were reviewed and considered by the Team during the development of Student's current IEP. In addition, the PT and SLT IEEs were not completed at the time of the meeting and as such, were not included in the Teams decision making process. However, the PT and SLP evaluation from Student's 2023, triennial evaluation was utilized. IDEA and/or Delaware Administrative Code do not mandate teams include every recommendation/information garnered from assessments, evaluations, parental input, observations, grades or staff input when developing an IEP. However, Teams must **consider** all available data and information when developing and implementing an IEP. The OT and Neuropsychological IEE are included with the data utilized during the development of Student's January 12, 2026, IEP. Additionally, a significant number of recommendations outlined in each IEE mirror the content of Student's January 12, 2026, IEP. **Therefore, I find that there was not a violation of IDEA, state special education regulations, or a denial of FAPE regarding meaningfully considering a child's IEE during the IEP process.**

**Allegation #6** Failing to document accurate and complete information into an IEP and PWN

According to 14 DE Admin. Code § 926.3.1 Notice: Written notice that meets the requirements of subsection 3.2 shall be given to the parents of a child with a disability no less than 10 school days before the public agency:

3.1.1 Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

3.1.2 Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; and

*3.1.3 In cases involving a change of placement for a disciplinary removal, written notice shall be provided no less than 5 school days before the public agency proposes to change the child's placement.*

3.2 Content of notice: The notice required in subsection 3.1 shall include:

3.2.1 A *written* description of the action proposed or refused by the agency; and

3.2.2 A *written* explanation of why the agency proposes or refuses to take the action; and

3.2.3 A *written* description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; and

- 3.2.4 A *written* statement that the parents of a child with a disability have protection under the procedural safeguards of *state and federal* regulations and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- 3.2.5 Sources for parents to contact to obtain assistance in understanding the provisions of these regulations, *including contact information for parent assistance programs, legal assistance programs, and the Delaware State Bar Association*; and
- 3.2.6 A *written* description of any other options the IEP Team considered and the reasons why those options were rejected; and
- 3.2.7 A *written* description of other factors which are relevant to the agency's proposal or refusal; *and*
- 3.2.8 A *written summary of procedural safeguards must be available to the parents under state and federal law and regulations.*
  - 3.2.8.1 A *full copy of the procedural safeguards under state and federal law and regulations shall be provided to the parents at the IEP meeting.*

District documented the content of each meeting held on behalf of Student and Parent was given notice of proposed and refused changes to the IEP. District afforded Parent opportunities to submit concerns and feedback from each meeting and did so on several occasions. Parent's concerns and feedback were voiced during meetings as appropriate and through email as follow-up to discussions held in and around Student's programming. District revised documents at Parent's request but also rejected Parent's requests to revise information contained in Student's IEP and follow-up PWN as appropriate and in alignment with the IEP processes. **Therefore, I find that there was not a violation of IDEA, state special education regulations, or a denial of FAPE regarding the process of document accurate and complete information into an IEP and PWN.**

***Allegation #7*** Failing to follow Delaware regulations governing disputed IEP changes.

According to 14 DE Admin. Code § 926.4.1; General: A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents only 1 time a school year, except that a copy also shall be given to the parents:

- 4.1.2 Upon receipt of the first State complaint 14 **DE Admin. Code** 923, Sections 51.0 through 53.0 and upon receipt of the first due process complaint in Section 7.0 of this regulation in a school year;
- 4.1.3 *Upon the decision to remove a child with a disability from his or her educational placement because of a violation of a code of student conduct*; and

4.1.4 Upon request by a parent.

4.1.5 *In addition, a copy of the procedural safeguards notice shall be provided to the parents of a child with a disability at each IEP meeting convened for the child.*

4.3 Contents: The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under these regulations relating to:

4.3.1 Independent educational evaluations;

4.3.2 Prior written notice;

4.3.3 Parental consent:

4.3.4 Access to education records;

4.3.5 Opportunity to present and resolve complaints through the due process procedures, including:

4.3.5.1 The time period in which to file a complaint;

4.3.5.2 The opportunity for the agency to resolve the complaint; and

4.3.5.3 The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.

4.3.6 The availability of mediation;

During the May 2025 IEP revision meeting, Parent agreed with Student's LRE and placement in District's RISE program. However, based upon a reduction of time spent in inclusion opportunities across the school day, Parent voiced concern and disagreement with the LRE and placement. District maintained Student received the appropriate educational supports while accessing its RISE program due to the specialized, direct instruction and small group setting provided. Parent requested Student's LRE and placement remain in an A-setting and asserted Student could not be moved due to the LRE and placement being disputed. District responded to several emails from Parent by agreeing to add Parent's written disagreement to Student's file and by recommending Parent utilize procedural safeguards to garner information specific to the dispute process. Whereas IDEA and Delaware special education regulations contain information specific to "Stay Put" procedures that allow a student to remain in his/her current placement until disputes are settled, those procedures are specific to due process filings. **Therefore, I find that there was not a violation of IDEA, state special education regulations, or a denial of FAPE regarding the process following Delaware regulations governing disputed IEP changes.**

### **Corrective Actions**

#### ***District Level***

**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 DE Admin. Code § 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. However, *the investigator was concerned that it took 2 months from the completion of the report until the release of the report due to a delay in payment. District should review its policies to ensure these payment delays, regardless of who caused the delay, do not impede their ability to timely review IEEs and make revisions to an IEP, when necessary.***

Respectfully submitted,

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