

**Delaware Department of Education
Exceptional Children Resources**

State Complaint Decision

DE SC #26-23

Date Issued: May 15, 2026

On March 18, 2026, REDACTED (Parent) filed a complaint on behalf of REDACTED (Student) with the Delaware Department of Education (Department). The complaint alleges the Christina 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 DE Admin. Code §§ 923.51.0–923.53.0.

The investigation included a review of Student’s Individual Education Plan (IEP), Prior Written Notices (PWN), Progress Reports, Evaluations, Evaluation Summary Report (ESR), and Transportation incident report. Additionally, Investigator corresponded with and/or interviewed District personnel including Director of Student Services (Director), Special Education Supervisor (SE Supervisor), Special Education Coordinator (Coordinator), Supervisor of Transportation (Transportation Supervisor), Principal (Principal), Teachers (Teacher 1,2,3) and Paraprofessional (Paraprofessional).

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 18, 2026. Therefore, the Department’s findings address violations from March 18, 2025, to March 18, 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 the District violated Part B of the IDEA and implementing regulations, by the following:

1. Failing to follow Department reporting procedures;
2. Failing to consider disciplinary action against personnel for misconduct, as described in 14 Del. C. 1218 (6); and
3. Failing to provide (FAPE) to Student that meets state standards for students with disabilities.

Factual Findings

1. Student is REDACTED years old and attends REDACTED (School). Student is eligible for special education and related services under the educational classification of Autism.
2. In September 2025, Student moved from New York and enrolled in District. In New York, Student received special education and related services under the educational classification of Speech/Language Impairment.
3. On September 25, 2025, IEP Team met and reviewed Student's Evaluation Summary Report (ESR). IEP Team determined Student eligible for special education and related services under the educational classification of Autism. IEP Team also developed Student's initial IEP at this meeting. The Prior Written Notice (PWN) states IEP Team proposed annual goals for communication, following directions, reading, math, writing, behavior and occupational therapy. Student required a small group setting to provide the level of support for Student to make meaningful progress. Due to significant academic and behavioral needs, IEP Team determined Student needs are best met in the C setting.
4. Also at the meeting, IEP Team obtained Parent consent for a functional behavior assessment (FBA) and proposed to meet within 45 school days (or 90 calendars, whichever comes first) to review FBA and develop Behavior Support Plan (BSP), revise behavioral goals and any other goals Student was not meeting.
5. On November 13, 2025, IEP Team met to review Student's FBA and create a BSP. Student's FBA identified and specifically described Student's interfering behaviors including elopement, tantrum, and physical aggression. Student's BSP included objective, interfering behaviors, replacement behaviors and specific instructions of when, materials needed, and how to deliver Student supports with the ultimate objective of decreasing Student's physically aggressive behaviors and increasing Student's ability to functionally communicate wants and needs. It also describes a crisis management protocol.
6. In addition, Behavior Support Specialist recommended creating BSP to help Student and staff support him best in his C-Setting classroom. However, advised to continue collecting data on Student's target behaviors and determine the true function of Student's elopement and tantrum behaviors.

7. On March 6, 2026, following further observation and assessment, School Psychologist created FBA Addendum. Team identified the function of Student's tantrum behavior was to gain access to preferred activities, such as the gym, recess, or a favorite toy. Additionally, the function of elopement behavior was thought to be for sensory stimulation or relief. Data collection was still recommended throughout the school year, and the current BSP remains in effect.
8. On March 12, 2026, prior to dismissal transition, Teacher 1 sent note to Parent stating Student had 2 brief episodes of crying, but staff were able to make Student feel better and overall Student had a good day. Shortly before dismissal, an unexpected snowfall began. It lasted about 40 minutes with outside temperatures approximately 32-40 degrees.
9. On March 12, 2026, according to District response and confirmed through staff interviews, Student started acting "silly" when cued to pack bag for dismissal. Staff showed Student picture of bus and Student's shoe, the "if-then" visual support for transitions, as described in Student's BSP. Student refused to put on shoes and socks, continued to dysregulate and attempted to elope to an adjacent room. Staff blocked doorway and Student's deregulation escalated. Staff attempted to assist Student to put on socks and shoes. Student kicked them off and aggressed toward staff (including pinching, kicking, spitting, and grabbing clothing). Per BSP, staff stepped back from physical assist and requested additional staff support. Staff requested Student to put on shoes and presented picture of bus and shoes as visual cue multiple times. Student refused and stated "no" to each request. Staff held Student's hands walking down the hall, as other students and staff were in the hallway for dismissal.
10. As Student approached exit, holding staff members hands, another staff person went outside and brought in a handful of leaves for Student to touch, cuing "cold", paired with visual and verbal "shoes." Student continued to laugh and say "no." At that point, the two staff members holding Student's hands, moved to a two- person escort to escort Student to the bus. Staff gave shoes, socks, and jacket to Bus Aide. District response stated bus Driver and Aide were upset that Student did not have shoes, socks, or coat on when Student arrived at the bus. Aide assisted Student in bus seat and allowed Driver to put shoes, socks, and jacket on Student.
11. Upon arrival at Student's home, Bus Aide shared with Parent that Student did not have shoes, socks, or jacket on when Student exited School and walked to the bus. Bus Driver and Aide filled out a transportation incident report and turned it into the Transportation Supervisor.
12. After Teacher 1 put Student on bus, Teacher 1 sent another message to Parent explaining the scenario that occurred. Student began to dysregulate and refused to put on shoes and socks at dismissal, until Student was on the bus, when Driver put shoes and socks on. However, Teacher 1 did not mention the jacket was not on either, as the shoes and socks were primary focus throughout the behavior episode.
13. After speaking with Bus Aide upon Student arrival home, Parent called School and spoke with Principal regarding the incident. District response stated Principal suggested a resolution going forward. Parent was not satisfied with Principal's response. Parent called

District Superintendent, and Assistant Superintendent, as well as Newark Police Department (NPD).

14. Parent called Department Liaison to the District. Liaison informed Director of Parent's call.
15. On March 13, 2026, Parent sent email to Principal. Parent requested a meeting of all adults involved in incident on March 12, 2026. Principal called Parent and explained all adults could not be available at the same time, due to coverage of other students. Parent also sent email to Director.
16. On March 13, 2026, NPD (Officer) went to School and spoke with Principal. Officer requested transportation video be sent to NPD evidence link. Principal stated need to check with District and Officer stated Officer would send link to evidence platform. District Response stated NPD went to School to speak with Principal, requested to view footage of incident and "no further action or follow up was taken by NPD." Investigator reached out to Officer to verify there was no report. Investigator called NPD again 2 weeks later and was told the case was told by the records department, the case was still under investigation. Investigator called Principal for clarification and Principal stated another contact was made to obtain NPD link to upload (assuming it had not been sent to School previously, or it went to Spam). Principal made attempts to send video but problems with transmission have left the case still "under investigation" status.
17. On March 16, 2026, SE Supervisor returned Parent's call to Director. Parent requested names of staff that walked Student out of School to bus, on the day of the incident. Parent was not comfortable with Student being with those staff members for remainder of school year. SE Supervisor explained a change in classroom and adult support may not be possible. Parent stated Parent may need to "choice" Student to another building. Parent requested an IEP meeting and waived 10-day notice. SE Supervisor told Parent a discussion and creation of a plan going forward, should the behavior happen again, would be important. Parent informed SE Supervisor, that Driver and Bus Aide planned to submit a report to Transportation Supervisor because Bus Aide felt it was negligence.
18. On March 16, 2026, IEP Team met. The PWN stated a discussion occurred addressing Parent's concerns. District informed Parent that District did not provide report to Department because District did not identify misconduct, in terms of District policy or Human Resources guidelines, that would require a report. District proposed solution to incidents when Student is dysregulated and refusing to put on shoes and socks. District would call Parent to pick up Student. Parent rejected this proposal. Parent discussed new placement options for Student including a new placement at School with new staff. District proposed Student remain in School and moved to a new classroom with new staff but remain in "C" setting; placement in another District school that was a "D" setting, but District rejected this school because Student was successful in current placement and other school was a more restrictive setting; and Parent proposed homebound instruction, which District rejected because Student's current placement can provide FAPE and homebound services are a more restrictive setting. Finally, Parent requested work from the classroom Teacher during this time. School collected the work and Parent picked it up.
19. On March 27, 2026, the IEP Team met. PWN stated IEP Team discussed Student placement. IEP Team drafted Communication plan and agreed upon it. IEP Team discussed

plans for moving Student to new classroom (Rm REDACTED). IEP Team rejected this because of long term substitute in Rm REDACTED. IEP Team determined Student was able to access least restrictive environment (LRE) and receive FAPE within current classroom (Rm REDACTED) with current Teacher. Parent agreed to placement in original classroom with clear expectations.

20. The Safety Plan drafted is in direct response to the incident that occurred on March 12, 2026, and the impetus for this state complaint. It states, "This plan is needed because Student has a history of taking off shoes and socks when entering a classroom almost every school day. This presents a safety risk dependent on the weather when it is time to dismiss. Historically, Student puts shoes and socks back on prior to transitioning out of the classroom, given verbal and visual adult prompts. To promote the safety and well-being of Student and others, Student will be prompted (least-to-most, verbal -to-physical) to put on socks, shoes, and coat (if necessary) at the end of the school day. The prompting will begin at approximately 2:45 pm. If Student continues to not cooperate with staff directions or prompting, please see the following paragraph.

"STAFF AND ADMINISTRATION will maintain proactive and ongoing communication with the caregiver regarding any behavior that is unusual in presentation, represents a change from Student's typical functioning, or raises safety concerns. Communication will occur in a timely manner to support collaboration and shared problem-solving. If Student still does not have socks, shoes, or coat on by 2:50 pm, staff will inform Parent by ClassDojo or a phone call. Staff will call Parent by 2:50 pm if shows signs of dysregulation and continues to refuse to put on shoes and socks before getting on the bus."

Communication with Parent: If there are 10 or more incidences of Student engaging in physical aggressions Staff will notify parent via Classroom DoJo or a phone call at the end of school day.

21. On March 30, 2026, Parent sent email stating District's Response to State Complaint did not describe meeting of March 27, 2026, accurately, regarding offer of another classroom within the School and wanted complaint investigation to go forward.
22. On March 30, 2026, Student returned to School in classroom with staff that was there on March 12, 2026, with Safety Plan and Communication protocol in place.
23. On March 31, 2026, District sent response to complaint to Department and Investigator. Regarding the March 16, 2026, the District response stated there was no reportable incident to Department in terms of District policy or HR and discussed with Parent that "barefoot outside" and "even in weather" is subjective, as other parents may not be opposed to that behavior. PWN did not capture that part of discussion.
24. Parent felt no one was taking responsibility for the incident and this was not captured in the PWN from the meeting that occurred on March 27, 2026.

Legal Conclusions

Allegation #1. Failing to follow Department reporting procedures.

According to 16 Del. C. §903, Delaware law mandates any person, agency organization or entity to make an immediate oral report to the Department of Services for Children, Youth and Their Families. Division of Family Services (DFS) kids.delaware.gov/families-services/ when they know of, or suspect, child abuse or neglect. There was not a report made to DFS. Bus Driver and Bus Aide submitted an incident report to Transportation Supervisor.

Issues related to educator conduct are addressed by Delaware Department of Education (Department) Professional Standards Board <http://education.delaware.gov/educators/psb>.

IDEA does not address transportation.

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

Allegation #2. Failing to consider action regarding personnel “misconduct”, as described in 14 Del. C. 1218 (6).

IDEA nor state special education regulations address personnel conduct.

State Standards of Conduct Delaware Code 14 and Title 29 state broad regulations concerning professional conduct and responsibilities of educators as state employees, however note, districts are responsible for implementation.

Parent’s concerns and proposed resolutions were related to issues of personnel conduct on March 12, 2026. Parent requested those staff not provide services or have access to Student going forward.

Issues of personnel conduct are beyond the purview of the IDEA complaint process. Student placement and personnel assignments are the responsibility of District Human Resources, Student Services and Building Administration.

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

Allegation #3. Failing to provide a free and appropriate public education (FAPE) that meet state standards for students with disabilities for Student.

The IDEA and implementing state and federal regulations require school districts to provide a free appropriate public education (FAPE) to students with disabilities.

20 U.S.C. §1401(9); 34 C.F.R. §300.101(a); 14 DE Admin Code § 923.1.2. FAPE is defined by Delaware statute as:

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. 14 Del. C. § 3101(5).

Review of Student's evaluations, ESR, IEP (inclusive of BSP), PWN's and Progress Reports, indicate staff followed proper procedures and documentation in implementation of the IEP, since Student's enrollment in District in September 2025.

Student's behavior exhibited at dismissal on March 12, 2026, never occurred prior to that day. Going to the bus is a high motivator for the Student. Since the refusal to put on shoes, socks and jacket at dismissal was a new behavior not observed previously, it was not specifically addressed in the IEP.

However, Staff did follow IEP, specifically for transitions and dysregulation, using timer to initiate transition, visual "if - then" cuing to indicate next activity. When Student became dysregulated, staff provided appropriate sensory input to calm Student, and when Student demonstrated aggression toward staff, staff followed BSP, including call for additional staff support. All staff members directly supporting the Student during the incident are trained in Personal Emergency Intervention (PEI), as stipulated in Student's BSP.

IEP Team met and revised Behavior Plan including a Safety Plan, specific to the circumstances described in this complaint should a similar incident occur going forward. The IEP Team also revised Communication protocols between School and Parent.

Therefore, I find no violation of IDEA or state special education regulations with respect to providing FAPE.

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 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 Exceptional Children Resources Work Group of the Department shall be taken.

Respectfully submitted,

REDACTED

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