

**Delaware Department of Education
Exceptional Children Resources**

State Complaint Decision

DE SC 26-24

Date Issued: June 9, 2026

On April 14, 2026, REDACTED (Advocate), on behalf of REDACTED (Parent 1), filed a complaint with the Delaware Department of Education (Department). The complaint alleges the Indian River 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, District’s response to the State Complaint, emails, photographs and interviews with Parent 1, Advocate, District Director of Special Education, REDACTED Principal and Department Liaison.

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 April 14, 2026. Therefore, the Department’s findings address violations from April 14, 2025 to April 14, 2026.

Complaint Allegations

Advocate and Parent 1 allege the District violated Part B of the IDEA and implementing regulations, by the following:

1. Failing to provide FAPE as Student missed school due to transportation issues.
2. Failing to report incidents where Student received physical harm.
3. Failing to provide transportation as a related service on Student’s IEP.
4. Failing to adhere to Family Educational Rights and Privacy Act (FERPA) regulations.

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.

Factual Findings

1. Student is REDACTED years old and attends REDACTED (School) within District. Student is eligible to receive special education and related services as a child with primary educational classification of Autism and a secondary of Other Health Impairments (OHI) due to a medical diagnosis of an Unbalanced Chromosome Translocation, Myoclonic Seizures, Attention Deficit Disorder (ADHD) and Tourette's Syndrome.
2. On December 4, 2025, Parent 1 emailed Principal regarding safety issues on Student's bus. Parent 1 communicated that Bus Driver turned her back to Student multiple times while Student was exiting the bus that afternoon. In addition, Parent 1 explained someone needs to be walking in front of Student when using steep steps and someone needs to be behind Student holding the gait belt. This is due to Student's mobility issues and seizure possibilities. Parent 1 explained that she constantly speaks to the Bus Driver about this situation; however, "it falls on deaf ears."
3. Principal responded to Parent 1's email explaining she would review bus tape for the December 4th incident and would speak to Bus Driver and Aide about the gait belt. Principal communicated that she was in the process of setting up an IEP meeting to include Parent 1, Bus Contractor and District Transportation Supervisor to discuss situation and develop a plan moving forward. In return, Parent 1 responded to Principal explaining her frustration with the entire situation, especially the poor interactions with the Bus Driver and Student.
4. On December 9, 2025, Parent 1 sent Principal an email containing a letter from REDACTED Physical Therapist (PT), DPT, Nemour's Children's Health, outlining Student's mobility routine:
 - Due to a history of poor balance, gait abnormalities and drop seizures, he is considered a high fall risk and requires support for all mobility, including both walking and stair negotiation.
 - Safety recommendations for all mobility tasks include the use of a safety helmet and gait belt at all times. Caregivers and support staff should be trained in safe handling techniques to reduce fall risk and ensure immediate support if a seizure or loss of balance occurs.
 - Contact guard assistance (CGA) is defined as: A level of physical assistance in which the caregiver maintains one hand in contact with the patient or the patient's gait belt at all times, staying close enough to provide immediate physical support if the patient begins to lose balance. The patient performs the task, but the caregiver is positioned to prevent a fall and provide steadying assistance as needed.
 - Walking Safety Requirements: During ambulation, the caregiver must maintain continuous contact guard using a gait belt. The caregiver should walk close enough to provide immediate steadying assistance, monitoring for gait deviations, sudden loss of balance, changes in cadence, or seizure activity. Ambulation should occur only in safe environments free of obstacles, with adequate lighting and enough space for the caregiver to maintain proper guarding position. The patient should not ambulate

independently at any time due to risk of sudden collapse associated with drop seizures.

- Stair guarding should be performed as follows:
 - One trained caregiver must be physically present on the stairway with the patient for every ascent and descent.
 - The caregiver must position themselves one step below the patient, maintaining a stable, wide base of support.
 - The gait belt should be secured snugly at the waist, with caregiver maintaining an underhand grip on the belt to allow quick upward or backward support if needed.
 - The caregiver should stay close enough to provide immediate steadying, blocking assistance in case of seizure activity, missteps, or falls.
 - The caregiver should observe for fatigue, altered gait, or loss of postural control and modify support as needed.
 - The patient should never use stairs independently and should only climb when the caregiver is positioned appropriately below them.
 - These precautions are required to maximize safety and reduce the risk of falls or injury during mobility tasks.
5. On December 9, 2025, Principal sent Parent 1 a response to email stating the information was shared with the School PT and transportation. Principal would have the PT do training with the Bus Driver and Bus Aide. In addition, Principal communicated with Parent 1, "I was able to review the bus tape along with District Transportation for the complaint you had regarding the Bus Driver as well as the safety aspects you have referred to. I do believe the note below definitely details exactly what needs to be done to ensure Student's safety when navigating the steps on the bus. I did observe the Bus Driver or Bus Aide is behind and above Student as he is navigating, but do not have a hand on his belt or are directly with him. Our plan was to have PT model this for them when Student is here by taking him out a bit early in the afternoon or in the morning to show how they can support safely. With that being said, I also have to ensure that this is also covered under their roles and responsibilities, which is why I shared it with our transportation department. It is my hope we receive answers tomorrow morning. We will need to train them and I cannot do so before tomorrow."
6. On December 11, 2025, at 7:27 am, Parent 1 emailed Principal stating there were issues with transportation again in the morning. Parent 1 explained that she is trying to problem-solve the issue by not handing Student's bag to Bus Driver/Bus Aide until Student is safely up the stairs of the bus. This will allow the adults to support Student while walking up the stairs and getting safely to his seat.
7. On December 11, 2025, at the close of the school day, Principal sent Parent 1 an email explaining that School PT trained Bus Driver and Bus Aide on the mobility supports and safety issues. PT also provided Bus Driver and Bus Aide with a copy of the PT protocol for mobility.
8. That same afternoon, Parent 1 sent Principal an email, explaining that the discharge of Student was a "disaster." The Bus Driver and Aide had both a harness and a gait belt on

Student at the same time, which is not necessary. In addition, when someone put Student's helmet on, they pushed his glasses down and scratched his nose. As Student was exiting the bus, the glasses were on sideways, Student was trying to explain the situation, Bus Driver was pulling on the gait belt, Student again was trying to explain but, instead, sat down. As the gait belt and harness were being pulled by adults at the same time, Student began to hit adults in his immediate area and Bus Driver's glasses came off. Parent 1 explained to Principal that boundaries were crossed by both Bus Driver and Student. Parent 1 communicated that she is worried for both Student and Bus Driver. If adults had listened to Student's fears and stopped for a minute to reassess the situation, things would not have escalated. In addition to marks on Student's nose, Parent 1 also explained that Student has red marks on his back due to gait belt being pulled. Parent 1 provided Principal with photographs of Student's face and chest taken after the incident.

9. Principal returned Parent 1's email by stating she had already had a communication from the Transportation Supervisor. Principal would pick up the tape from the bus yard to review it. In addition, Principal asked if Parent 1 could transport Student to school the next morning so a plan could be developed at that time and the situation resolved. Principal explained that she understands this is an inconvenience for Parent 1 but had no available staff to pick Student up.
10. Parent 1 emailed Principal at 6:31 pm and explained that she cannot transport Student to school the next morning so Student would not be there at all. Parent 1 explained that Student's behavior was not out of aggression but was reactive in nature. Parent 1 explained when an autistic child says, "no touch," adults need to respect the communication because touching can be overwhelming or painful due to sensory processing differences. Parent 1 explained what happened that day with Student, where his face was hurt, his voice was not heard, and two adults were standing over him trying to pull him up, which was overwhelming and overstimulating. In the Parent 1's opinion, the Bus Driver and Bus Aide were not skilled enough nor trained enough to take care of a special needs, epileptic and/or autistic child.
11. On December 11, 2025, Principal reviewed the bus tape and summarized what she viewed. Principal noted that staff had no negative interaction or talk with Student, no view of helmet coming off, did not see pulling, but hand was on the belt/area of belt. Student did not lean forward, indicating that pulling might have occurred, but aide and Student's position did not allow for clear view.
12. On December 12, 2025, Principal emailed Parent 1 in the morning to relay information about the tape she reviewed. She invited Parent 1 to review the tape as well. Principal relayed that Student did say that he could do this himself and Bus Driver said she must help him down the steps. In the meantime, if the PT feels the harness is sufficient to hold onto so they do not have to put gait belt on him, they will need the order written as such. Principal explained that School PT will have to review the protocol again with Bus Driver and Bus Aide because they must follow it as written since it is a medical order. If anything needed to be changed, the protocol or order would need to be changed. Perhaps the PT could include what is expected for support if the person were to sit down. Principal assumed that we could let go with contact and be close; however, protocol is not written as such. Principal also explained that she only intended for

Parent 1 to bring Student to school the next morning to resolve the issues at hand immediately.

13. On December 12, 2025, Parent 1 emailed Principal, again, explaining that Student was acting belligerently as a reaction to the actions of the Bus Driver towards him. Parent 1 was worried that Student was going to be labeled as aggressive when only acting in self-defense. In addition, Parent 1 explained that the “clashing behavior” of the Bus Driver and Bus Aide towards her child has been going on for months as Parent 1 watches Student get on and off the bus.
14. That same afternoon, Principal emailed Parent 1 an invitation to talk, acknowledging how hard it is to have Student home, and explaining that they developed a bus behavior plan that will support Student getting on and off the bus and riding safely. School worked with Transportation to develop a special run for Student to and from School. The Team members would be trained to support Student based on the current PT letter on file. If the PT who wrote the letter feels the bus harness will suffice versus using the gait belt, School will need an updated letter as soon as possible. Without the letter, they must use both the gait belt and harness. The new bus staff have not worked with Student, so all will be a fresh start. This will allow for an opportunity to collect data on Student’s behavior of getting on and off the bus, as well as for staff to implement reinforcements for being safe and complying. It will allow staff to develop specific language that works, as well as monitor the effectiveness of reinforcements.
15. Principal explained that Student’s schedule would be altered a bit to permit this new schedule. Student would be picked up around 9:00-9:15 am. His day would include breakfast, morning activities, academics, specials, lunch, vocational activities, and any other community activities necessary. While this plan is developed and implemented, dismissal time would be earlier than current. He would leave School around 1:00 pm. Principal explained that once positive progress is made with this plan using specific language and reinforcers for making positive choices, everyone would be able to transition back to a regular bus run one direction at a time. Principal explained that this was a new plan, developed specifically for Student’s success and she would like to begin on Monday, December 15th. Principal explained that she did not want Student missing anymore school.
16. Parent 1 emailed back asking for the weekend to think about something to fix the situation. While it would be great to have his own transportation, Parent 1’s concern was centered around missing a bit of time from his school day. Parent 1 also placed a call to the PT at Nemour’s.
17. Principal emailed Parent 1 asking if they could convene an IEP meeting to discuss as a Team. At this time, Principal stated that everyone was in agreement that transportation was unsafe. Student has a one-on-one who can support the completion and instruction under the teacher’s direction for any activity that he would be missing. Parent 1’s asked to meet on Monday or Tuesday before 1 p.m. due to Student having PT on both days. Principal stated that all could meet on Monday, December 15, 2025 at 11:00 am.
18. On December 12, 2025, Parent 1 talked with PT manager at Nemour’s regarding the gait belt. Parent 1 explained that it should not be pulled, it is only used for guidance and

safety purposes. Parent 1 sent Principal a letter from Nemour's PT regarding clarification and expansion of recommendations provided in previous correspondence. It served as a guideline to assist the school team in understanding and implementing mobility safety for Student. The guidance cannot account for every situation or environmental factor and professional judgement should be used in real-time settings.

19. On December 15, 2025, IEP Team met and developed a new transportation plan for Student. District issued a Prior Written Notice (PWN) explaining actions and decisions District proposed:
 - It was the action of the District to propose specialized van private transportation.
 - It was the action of the District to set up a special bus route for transportation for Student based on safety concerns with bus staff and loading and unloading with gait belt as indicated in the PT note.
 - It was the action of the District to train bus staff on the use of the gait belt when loading and unloading Student on and off the bus.
 - It was the action of the District to reinstate regular bus schedule once transport stroller was cleared to be utilized.
 - It was the action of the District to propose a modified schedule due to specialized bus route from 8:10-2:45 to approximately 9:15 to 1:15.
20. In the afternoon of December 15th 2025, Parent 1 emailed Principal explaining that they did not address the pictures of marks on Student's nose and marks on Student's chest that happened as a result of bus incident of December 11th. Parent 1 expressed the need to have transportation see this and address this with bus staff.
21. On December 15, 2025, Principal emailed Parent 1 explaining that they were able to obtain information from NuMotion that Student's chair is compliant for the bus. Transportation Supervisor was working to ensure there was enough space for him to ride in the chair. Since the chair is at Parent 2's house, School would run the shuttle the next day to have a plan for Wednesday. In addition, School PT would show team how to put the helmet on Student properly with glasses. Principal expressed appreciation for a productive meeting and the partnership with all to develop a plan that focuses on the safety and well-being of everyone.
22. On December 16, 2025, Parent 1 emailed Principal with concerns of new bus schedule. Student would not be picked up until 9:30, would eat breakfast and lunch at school within a three hour span, engage in activities and leave the building at 1:00 for a return trip. Parent 1 relayed Student was confused and anxious with new schedule. Parent 1 communicated that she would feed Student breakfast at home. Parent 1 sent another email expressing her apprehension of Student's new abbreviated schedule that could take place over weeks. Parent 1 also expressed concern of Student's skills regression during this time. Parent 1 would like Student to receive his therapies at school, including swimming time.
23. Principal emailed Parent 1 explaining that she communicated this information at 5:20 pm the evening prior in an email. Transportation was working on making sure there was

enough space for Student to ride the bus in the chair that had been approved. Principal assured Parent 1 that they can adjust Student's schedule to make sure all IEP goals and related activities, such as swimming, are addressed accordingly. Principal also expressed that since Student has one-on-one support, all instruction would take place in school.

24. On December 17, 2025, Principal emailed Parent 1 that a message was sent to transportation department again and that they were working to adjust a route for a student who can shift to another bus to allow Student to ride in his chair. District can do the shuttle until all is in place or Parent 1 can transport him, if that is Parent 1's preference. Principal expressed understanding Parent 1's concern and desire to get this in place as soon as possible. Parent 1 replied that she was not able to get the chair from Parent 2's house until Friday. Parent 1 would take Student to school and would pick him up from school later that day.
25. On December 19, 2025, Principal emailed Parent 1 expressing an apology for the delay in getting the transportation plan in place. The regular schedule would resume on January 5, 2026 with Bus #10. Per communication with NuMotion, Student's chair is set for transport. Principal asked Parent 1 to check Student's chair to make sure it has the necessary parts, such as the top chest strap, as well as foot straps. Principal acknowledged that the chair was still at the father's house and Parent 1 can always send a picture of the chair so School can review. Principal included members of the IEP Team on the email so all were aware of the plan.
26. On January 20, 2026, Parent 1 emailed Principal stating that she picked up the chair from Parent 2's house, the chair was extraordinarily rusted and looked as though there were missing parts. It no longer collapses, so Parent 1 did not think it was safe for transport. Parent 1 expressed that another plan needed to be put in place for transportation to school since she did not agree with Student coming to school for a half day. Parent 1 asked that the IEP meeting be pushed back a week or so until another plan could be made. Parent 1, also, wanted to be assured that someone from Transportation would attend the meeting. Parent 1 expressed concern for Student that day in school since Student was having seizures. Parent 1 stated that maybe Student does need to have a one-on-one on the bus or van.
27. Principal emailed Parent 1 stating that Team will try to push back the IEP meeting. Principal acknowledged that Parent 1 had stopped into School and had School PT examine the chair. Upon inspection, PT found it safe for transporting, as did the person from NuMotion. Principal also acknowledged the Student's recent seizure activity, hoping Children's Hospital of Philadelphia (CHOP) could help.
28. On January 22, 2026, IEP Team met to develop a transportation plan for Student. The PWN of January 22, 2026 stated the following: It was the action of the District to propose the use of the approved transport stroller to return to regular schedule as NuMotion and transportation indicated it was safe to use. It was the action of the District to continue specialized bus route until the headrest was ordered per Parent 1 concern of not having a headrest on current stroller as best practice but not required. The District proposed seeking another transport stroller or wheelchair to meet Parent 1 headrest concern until one could be ordered or a new stroller could be ordered. Parent 1 declined ordering a new stroller at this time. Parent 1 refused to have regularly

scheduled IEP meeting until her transportation concerns were addressed. After implementing the special run for transportation, Parent 1 decided to decline the service and drive Student to and from school.

29. On February 4, 2026, local education agency (LEA) Representative sent Parent 1 a Notice of Meeting (NOM) for Student's annual IEP meeting on February 19, 2026. LEA Representative included a draft of the Student's IEP in preparation for the meeting.
30. On February 17, 2026, Advocate sent District an email requesting records in preparation for the February 19th IEP meeting. The request included all records in Student's educational file including IEP, behavior intervention plan (BIP), investigative report for bus incident (In accordance with IDEA/ Delaware Title 14 1100 Transportation, 1150 school transportation 3.0,3.1.17) nurse reports etc. The request also included the bus drivers training certification (State/Federal Law requirement Specialized skills for safety transporting students with unique needs with detailed topics including specific communication) to ensure Student's safety and access to FAPE.
31. On February 18, 2026, Special Education Coordinator sent an email to Parent 1, Advocate, Principal and Director postponing the IEP meeting due to District's requirement of a member of the Department of Special Services (DOSS) team must be present at any meeting attended by an advocate. Given the timing of the notice, District was unable to ensure appropriate district representation at the meeting currently scheduled. Additionally, District did not have sufficient time to compile and prepare the requested records to allow for meaningful review by Parent 1's advocate prior to the meeting. Accordingly, the meeting would need to be rescheduled. District conveyed they were actively reviewing availability and would provide several proposed dates shortly.
32. On February 26, 2026, Coordinator sent Advocate the requested documents. Advocate returned an email requesting a bus incident report from December and the training that the Bus Driver had completed for transporting students with unique needs.
33. On February 26, 2026, Parent 1 emailed Principal and Advocate regarding the Board Certified Behavior Analyst (BCBA) evaluation in preparation for a review of Student's behavior plan. Parent 1 asked that Student be evaluated/observed on multiple sessions on multiple days and at different times so there is a better understanding of Student's behaviors. The evaluator would need to have an understanding of neurological/epileptic conditions and how it affects Student's behaviors. However, Parent 1 was not in agreement with this evaluation interfering with the IEP and the Team's ability to finalize a safe transportation plan.
34. On February 26, 2026, Advocate emailed Principal asking for the Permission to Evaluate (PTE) to enable the observation/evaluation to be scheduled. In addition, due to Parent 1's health condition, Parent 1 was unable to transport Student back and forth to school. In accordance with IDEA, Advocate explained that Team should have made arrangements for transportation.
35. On February 27, 2026, Principal emailed Advocate stating that the two documents for the training of the Bus Driver were included. The training course is the one that is required by law and provided by Department. Principal explained further stating that

the Bus Driver did not submit a written referral at the time of the occurrence. However, upon receipt of information from Parent 1, Principal investigated the matter. Following completion of the investigation, Principal communicated all findings to Parent 1 and invited Parent 1 to review tapes also. In addition, Principal confirmed the IEP meeting for March 2, 2026 at 8:00 am.

36. On March 2, 2026, Advocate emailed Principal stating that the training certificate was from 2015, asking if Bus Driver has yearly training. In addition, although Principal investigated the incident in December, Advocate asked if the incident was reported to DDOE or Department of Justice (DOJ). Advocate stated Delaware Title 14 1100 Transportation, 3.0 Responsibilities of District and Charter Schools on trainings and reports of investigations of school bus accidents. Principal responded that she would check with Transportation on trainings and DDOE reports. Investigator reviewed a document stating that Bus Driver completed 4 hours of training on November 19, 2025 conducted by District and is valid for the 2026-2027 school year.
37. On March 5, 2026, IEP Team met with Parent 1 and Advocate to address concerns regarding Student's transportation, staff on the bus and their treatment of Student. In that meeting, IEP Team, including Parent 1 and Advocate, developed a new IEP to include, providing appropriate equipment to allow Student to ride safely on the bus, as well as, provide a specific aide to ride on the bus who is familiar with Student. A bus plan was developed and shared with bus staff on that same day.
38. IEP Team reviewed a physical therapy evaluation summary and utilized the information to develop the current goals and supports. The data included the following: Student presents with deficits in higher level balance and coordination skills and functional strength per objective testing. He falls significantly below the average 11 year old in the thirty second walk test and the timed floor to stand test. Collaboration with classroom staff will include recommendations to address mobility challenges due to gross motor deficits as they present in the school setting, as well as to improve participation in physical activity, such as gym class. In addition, Student wears bilateral Ankle-Foot Orthosis (AFOs) during the school day and physical therapy will monitor for orthotic needs. Student receives physical therapy supports on a consultative basis for 10 minutes, once a month throughout the school year.
39. In addition, the IEP included information regarding Student's behavior. Data considerations included: Student's behaviors significantly affect his ability to participate in academic and social activities, creating barriers to learning and limiting meaningful interactions. Student's off task, disruptive, and sometimes combative behaviors require high levels of staff support to maintain a safe and effective learning environment. A Behavior Intervention Plan (BIP) was developed to support Student in managing behaviors, fostering positive social interactions, and engaging in academic activities. Student exhibits a range of challenging behaviors, many of which appear to stem from a desire to avoid perceived demands, control his environment and the individuals within it, as well as a strong need for constant attention.
40. The IEP included the following: One-on-One Support to ensure Student's safety due to Student's medical and behavioral needs, throughout the school day: Student is supported by a dedicated one-on-one paraprofessional. Additionally, the

paraprofessional is responsible for monitoring Student's seizure activity, which is documented in a daily communication log and reported to the school nurse according to his seizure action plan. Additionally, the paraprofessional maintains close proximity (within 3 feet) to minimize the risk of falls and other safety concerns. Functional communication Student requires direct speech and language therapy to address his functional communication needs. Staff must remain within 3 feet of Student at all times for his safety due to seizures and his intellectual disability. Student requires a gait belt and wears a helmet.

41. In addition, IEP Team identified Student required special transportation needs: Student rides School bus with an aide. Student will be transported in his stroller to and from school. Student must be placed into the charge of Parent 1 or responsible adult.
42. The Prior Written Notice (PWN) of March 5, 2026 included the reason the IEP Team developed a new IEP was due to a review of current data. The PWN also included that District proposed Student requires specialized transportation by requiring an aide on the bus to ensure safety during transport. Student is transported on the bus in wheelchair for safety.
43. On March 5, 2025, Advocate sent State Transportation Director an email inquiring if District has reported incidents on the bus regarding Student. State Transportation Director responded the following, "Indian River School District has notified us of bus accidents as required. DDOE interprets incidents in 3.1.17 as being on the same level as bus accidents and would include school bus fires, police-involved investigations of bus staff, and a student left on a bus. Any incidents that meet our interpretation, we were notified of."
44. That same day, Advocate replied, "The police were not notified, the student did have injury, Parent 1 did notify the school immediately with pictures to prove. The school acknowledged the incident due to removing him off the bus due to safety concerns. What does this interpret for a student under IDEA for the DOE? State Transportation Director referred Advocate to Exceptional Children's Resources Workgroup at Department.
45. On March 6, REDACTED, MD, of Nemours Children's Health, sent an email to District Bus Transportation Team and School Team stating. "Student is a patient at our practice. Please be advised that Student is required to wear his AFOs at school and during transportation from the time he wakes up until bedtime excluding shower time and unless otherwise advised by a physician. Given his complex medical history and impaired mobility, it is crucial to keep his AFOs on at all times while he is riding the bus and at school to prevent injuries and to assist with is mobility."
46. On March 6, 2026, Parent 1 emailed Principal stating that the bus came at 7:10 instead of 7:35 and Student was not ready. When Student got to the bus, Parent 1 witnessed Bus Driver beginning to take AFOs off the Student saying Student cannot wear these on the bus. Since Student just had a fracture near his heal, it is important for the AFOs to be on to cushion it. Bus Driver communicated to Parent 1 that there is a message on her cell phone stating that she could do this since Student could throw them. Parent 1 informed Principal that this is something that needs to be cleared medically, since these

are medical devices. Later that morning, Parent 1 sent Principal, Advocate and IRSD personnel a memo from Nemour's Physician stating that Student is required to wear AFOs at school and during transportation from the time Student wakes up until bedtime.

47. On March 6, 2026, Advocate sent Director an email stating, "I'm sure you are aware of what occurred this morning with the bus driver. Obviously, the trial run didn't work. Please send information on the next steps that's going to ensure Student's safety. Also, send the complaint form that needs to be filled out for your "records. Thanks!" Director replied with the District link.
48. On March 9, 2026, Principal sent Parent 1 an email regarding note from Doctor on March 6th, stating, "This document was received on March 6th. I printed and a copy was provided to the nurse, bus staff, and reviewed with the classroom and 1:1 as well as physical therapist."
49. On March 9, 2026, Principal sent Parent 1 an email communicating several measures were implemented to address this matter:
 - Expectations for supporting Student during bus transportation were documented, reviewed with both the bus driver and the bus aide, and signed by each of them. These expectations were reviewed by the Principal and REDACTED (Supervisor of Transportation), with REDACTED (Assistant Principal) present as she also supports transportation for the School program. The expectations were also provided to the transportation contractor by Supervisor of Transportation and the contractor is expected to review and sign them as well.
 - The physician's note regarding the removal of Student's AFOs was distributed to the school nurses, bus driver, bus aide, classroom staff, and the transportation contractor. The bus driver indicated that the Parent 1 had previously provided her with a copy of the note; however, it was reviewed again with her at that time, and Parent 1 showed us the copy on phone.
 - Following consultation with REDACTED (State Transportation Director) at the Delaware Department of Education, an additional bus aide was approved for Bus #10. Student's classroom aide, who is a certified bus aide and currently employed by District as a substitute aide, has been assigned full-time to Bus #10. Given her familiarity and experience working with Student, District believes this placement will effectively support the transportation team. If the additional aide is absent, District Transportation will provide a trained substitute to ensure coverage.
 - REDACTED (Physical Therapist) and REDACTED from NuMotion Adaptive Chairs and Equipment, were able to temporarily install the headrest from the loaner chair onto Student's current stroller until the new headrest that has been ordered arrives. They also confirmed that the foot straps properly secure Student when he is wearing AFOs and sneakers. Student's 1:1 aide and another classroom paraprofessional observed the process to ensure he is properly and securely positioned in the stroller.
 - As discussed, the principal will ask Physical Therapist to contact Parent 1 to discuss the possibility of ordering a new stroller for Student or determining whether another type of chair may better meet Student's needs and those of the family.

- Supervisor of Transportation is following established personnel protocols in addressing this matter with the bus driver.
 - The School and District has taken the above steps to address the situation and to ensure that appropriate procedures are followed moving forward so that Student can be transported to and from school safely each day.
50. On March 11, 2026, Parent 1 emailed Principal asking if Bus Driver and Bus Aide received the training discussed during the IEP meeting. In addition, Parent 1 explained in an additional email of that day, that the straps on the foot rest of the stroller have nothing to do with Student's AFOs. Parent 1 explained that the Bus Driver relayed information regarding a message on the Bus Driver's cell phone giving her instructions to remove Student's medical devices, AFOs, due to the chance that Student could throw them. Parent 1 requested Principal make this person aware that this decision is "incredibly negligent." Parent 1 requested the name and title of this person. Parent 1 expressed pleasure of having a one-on-one Aide on the bus with Student and the need for a safety plan moving forward.
 51. On March 12, 2026, Principal emailed Parent 1 and Advocate to explain that a meeting was held with the Bus Driver and Bus Aide to review transportation expectations related to Student's safety and support during bus transportation. Both people signed document acknowledging their understanding of expectations. Failure to comply with these expectations may result in disciplinary action and further action taken by the District, if deemed necessary. In addition, the PT provided guidance to the additional Bus Aide 2 regarding proper positioning and securing Student in stroller. If needed, Transportation Supervisor will arrange for a trained substitute. Training for all transportation staff includes back-to-school bus training, safety procedures, seizure awareness and student support strategies. Training also includes Devereux staff effectiveness strategies for de-escalation when a student becomes upset. These procedures align with the expectations that were reviewed with Bus Driver and Bus Aide.
 52. On March 27, 2026, Parent 1 sent Principal an email asking for an explanation. Parent 1 stated Parent 2 picked up Student today from school. Upon dismissal, Student was fully restrained in a wheelchair. Parent 1 requested a reason why Student was strapped in a wheelchair waiting for Parent 2 to pick him up in a car. Parent 1 would like a more comprehensive plan so things like this do not happen.
 53. On April 14, 2026, Parent 1 filed a state complaint with the Delaware Department of Education.

Legal Conclusions

Allegation #1: Failing to provide FAPE by Student missing school due to transportation issues.

According to OSEP, under Part B of the IDEA and its implementing regulations, the term “related services” includes “transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education.”

34 CFR §300.34(a). Transportation is defined as travel to and from school and between schools; travel in and around school buildings; and specialized equipment such as special or adapted buses, lifts and ramps, if required to provide special transportation for a child with a disability. 34 CFR §300.34(c)(16). The child’s individualized education program (IEP) Team is responsible for determining if transportation is required to assist a child with a disability to benefit from special education and related services, and how the transportation services should be implemented. The IEP must document the need, describe the transportation services to be provided, including transportation to enable a child with disabilities to participate in nonacademic and extracurricular activities in the manner necessary to afford the child an equal opportunity for participation in those services and activities to the maximum extent appropriate to the needs of that child. 34 CFR §§300.107 and 300.117. The district must provide appropriate, accessible, and cost-free transportation to ensure the student receives FAPE.

Students with special needs often require specialized transportation to ensure their safety, accessibility, and ability to fully participate in school. Some may have physical disabilities that require wheelchair lifts or secure seating, while others may need a quieter, more structured environment due to sensory or behavioral challenges. Specialized transportation also provides trained staff who understand how to support these students during transit, reducing risks and ensuring consistency in care. Without these accommodations, getting to and from school could become a significant barrier to their education.

On December 4, 2025, Parent 1 emailed Principal regarding safety issues on Student’s bus. Parent 1 communicated that Bus Driver turned her back to Student multiple times while Student was exiting the bus that afternoon. In addition, Parent 1 explained someone needs to be walking in front of Student when using steep steps and someone needs to be behind Student holding the gait belt. This is due to Student’s mobility issues and seizure possibilities. Parent 1 explained that she “constantly” speaks to the Bus Driver about this situation; however, “it falls on deaf ears.” Principal immediately communicated that she was in the process of setting up an IEP meeting to include Parent 1, Bus Contractor and District Transportation Supervisor to discuss situation and develop a plan moving forward.

District provided training to Bus Driver and Bus Aide, provided a plan of moving Student to a new bus and driver while the Student’s IEP Team developed a bus behavior plan that would support Student getting on and off the bus and riding safely. School worked with District Transportation to develop a special run for Student to and from School. The Team members would be trained to support Student based on the current PT letter on

file. Principal stated the new bus staff have not worked with Student, so all will be a fresh start. This would allow for an opportunity to collect data on Student's behavior of getting on and off the bus, as well as for staff to implement reinforcements for being safe and complying. It would allow staff to develop specific language that works, as well as monitor the effectiveness of reinforcements. Student would gradually transition back to the original bus route. Since the new plan involved transportation staff adding another bus run, the time scheduled for Student to attend school during this plan would be abbreviated somewhat. Principal assured Parent 1 that all IEP goals, instruction, vocational activities and extracurricular activities would still occur because Student has specific one-on-one support during the instructional day. Since Parent 1 was not in total agreement with this plan, objecting to the shortened school time while data collection, behavior support and training took place, Parent 1 transported Student to School for a period of time.

District, School and Parent 1 worked closely together to develop a plan that would work safely and successfully for Student, even developing a plan to provide instruction physically, behaviorally and socially while being transported on the bus. District trained Bus Driver and Bus Aide in transporting Student in stroller safely, seizure monitoring, communicating with Student, physical contact, behavior monitoring and safety monitoring. District assigned specific one-on-one support on the bus, provided specific mobility training per the protocol of Nemour's PT and physician and purchased a headrest for Student's personal stroller so Student could be transported safely.

Due to the immediate response of the School and District to develop an individual transportation plan with Parent 1, reassign a bus route, provide training for bus staff, purchase materials, assign a new Bus Aide 2 to support Student individually, and providing bus transportation, **I find no denial of FAPE or violation of IDEA or state special education regulations.**

Allegation #2: Failing to report incidents where Student received physical harm.

In Delaware, school employees are mandatory reporters. If a teacher, administrator, counselor, coach, or other school staff member witnesses abuse or has a good-faith suspicion that a child is being abused or neglected, they are legally required to report it. The reporting obligation is based on "reasonable suspicion" or witnessing abuse — school employees are not expected to investigate or prove the abuse themselves before reporting. The report must be made to the Delaware Department of Services for Children, Youth and Their Families (DSCYF), specifically the Division of Family Services (DFS).

In addition, the Principal and Transportation Supervisor conducted a thorough investigation and communicated the results to Parent 1. Principal invited Parent 1 to review the bus tape also.

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

Allegation #3: Failing to provide transportation as a related service of Student's IEP.

Students with special needs may require specialized transportation as a related service in their IEP when their disability affects their ability to safely and independently travel to and from school. This service ensures they can access their education in the least restrictive environment by providing necessary supports such as wheelchair-accessible vehicles, modified routes, or trained staff to assist with medical, behavioral, or sensory needs. Including transportation in the IEP helps guarantee consistency, safety, and equal access to educational opportunities, aligning with the student's individualized goals and legal rights under special education law.

According to OSEP guidance, Section 602(26) of the IDEA and 34 CFR §300.34(a) state that related services include transportation and other supportive services designed to assist a child with a disability to benefit from special education. Accordingly, the Department's longstanding interpretation is that the list of related services in the IDEA and the Part B regulations is not meant to be exhaustive and may include other developmental, corrective, or supportive services, if they are required to assist a child with a disability to benefit from special education in order for the child to receive a free appropriate public education (FAPE). As is true regarding consideration of any related services for a child with a disability under Part B of the IDEA, the members of the child's IEP Team (which include the Parent 1s, school officials, and whenever appropriate, the child with a disability) must make individual determinations in light of each child's unique abilities and needs about whether the service, is required to assist the child to benefit from special education.

District, School and Parent 1 met as an IEP Team and worked closely together to develop a plan that would work safely and successfully for Student, even developing a plan to provide instruction physically, behaviorally and socially while being transported on the bus. District trained Bus Driver and Bus Aide in transporting Student in stroller safely, seizure monitoring, communicating with Student, physical contact, behavior monitoring and safety monitoring. District assigned specific one-on-one support on the bus, provided specific mobility training per the protocol of Nemour's PT and physician and purchased a headrest for Student's personal stroller so Student could be transported safely.

Due to the immediate response of the School and District to develop an individual transportation plan with Parent 1, reassign a bus route, provide training for bus staff, purchase materials, assign a new Bus Aide 2 to support Student individually, and providing bus transportation, **I find no violation of IDEA or state special education regulations regarding failure to provide transportation as a related service.**

Allegation #4: Failing to adhere to FERPA regulations.

IDEA specifically addresses the right of parents to review student records in 34 CFR § 300.613 - Access rights: (a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to § 300.507 or §§ 300.530 through 300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made. (b) The right to inspect and review education records under this section includes— (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and (3) The right to have a representative of the parent inspect and review the records. (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce. Authority: 20 U.S.C. 1412(a)(8); 1417(c))

Education Law article of December 15, 2025, simply explains that FERPA and IDEA are federal laws that govern the educational rights and privacy of students. FERPA protects the privacy of all student education records maintained by schools receiving federal funds. IDEA incorporates and expands these protections, ensuring parent's of children with disabilities have specific rights regarding the collection, maintenance, access, and disclosure of their child's special education records. These laws work together to safeguard the confidentiality of personally identifiable information within a student's file.

On February 17, 2026, Advocate sent District an email requesting records in preparation for the February 19th IEP meeting. The request included all records in Student's educational file including IEP, BIP, investigative report for bus incident (In accordance with IDEA/ Delaware Title 14 1100 Transportation, 1150 school transportation 3.0, 3.1.17) nurse reports etc. The request also included the bus drivers training certification (State/Federal Law requirement Specialized skills for safety transporting students with unique needs with detailed topics including specific communication) to ensure Student's safety and access to FAPE.

On February 18, 2026, Special Education Coordinator sent an email to Parent 1, Advocate, Principal and Director postponing the IEP meeting due to District's requirement of a member of the DOSS team must be present at any meeting attended by an advocate. Given the timing of the notice, District is unable to ensure appropriate district representation at the meeting currently scheduled. Additionally, District does not have sufficient time to compile and prepare the requested records to allow for meaningful review by your advocate prior to the meeting. Accordingly, the meeting will need to be rescheduled. We are actively reviewing availability and will provide several proposed dates shortly.

On February 26, 2026, Coordinator sent Advocate the requested documents. Advocate returned an email requesting a bus incident report from December and the training that the Bus Driver has completed for transporting students with unique needs. On February 27, 2026, Principal emailed Advocate stating that the two documents for the training of the Bus Driver were included. The training course is the one that is required by law and provided by Department. Principal explained further stating that the Bus Driver did not submit a written referral at the time of the occurrence. However, upon receipt of information from Parent 1, Principal investigated the matter. Following completion of the investigation, Principal communicated all findings to Parent 1 and invited Parent 1 to review tapes also.

Since District provided Advocate all records and information requested, **I find no violation of IDEA or state special education regulations regarding failure to provide educational records when requested.**

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 Department shall be taken.

Respectfully submitted,

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