

Colorado Department of Education
Decision of the State Complaints Officer
Under the Protection of Individuals from Restraint and Seclusion Act

**State-Level Complaint 2019:901
Arapahoe County School District 6**

DECISION

BACKGROUND

On December 6, 2019, the parent (“Parent”) of a student (“Student”) filed a complaint (“Complaint”) against Arapahoe County School District 6 (“District”) alleging improper restraint of Student in violation of the Protection of Individuals from Restraint and Seclusion Act (“PPRA”)¹ and its implementing regulations, the Rules for the Administration of the Protection of Persons from Restraint Act (the “Rules”)². Parent emailed the State Complaints Officer (“SCO”) on December 18, 2019 to allege additional violations. The SCO determined that the allegations in the Complaint and Parent’s email fell within the SCO’s jurisdiction under the PPRA and the Rules. See Rule 2620-R-2.07. Therefore, the SCO has authority to resolve the Complaint.

RELEVANT TIME PERIOD

The Colorado Department of Education (“CDE”) has jurisdiction to investigate alleged violations of PPRA that occurred within one year of the date the original complaint was filed. *Id.* at 2620-R-2.07(2)(f). Accordingly, in determining whether a violation of PPRA occurred, this investigation considers only events occurring on or after December 6, 2018. Any consideration of events prior to this date shall be for context only and not for determining whether a violation occurred. Findings of noncompliance, if any, shall be limited to one year prior to the date of the complaint.

SUMMARY OF ACCEPTED ALLEGATIONS

1. Whether the District improperly restrained Student on November 20, 2019, specifically by:

¹ The Protection of Individuals from Restraint and Seclusion Act, C.R.S. § 26-20-101, et seq., was previously titled the Protection of Persons from Restraint Act and referred to as the “PPRA.” This acronym lives on despite amendment of the Act’s title.

² The Rules are codified at 1 C.C.R. 301-45.

- a. Physically restraining Student in a non-emergency situation, in violation of 2620-R-2.01(1)(a);
 - b. Physically restraining Student without first using less restrictive alternatives or determining that less restrictive alternatives would be inappropriate or ineffective, in violation of 2620-R-2.01(1)(b);
 - c. Physically restraining Student as a punitive form of discipline or as a threat to control or gain compliance of Student's behavior, in violation of 2620-R-2.01(2); and
 - d. Physically restraining Student without prioritizing the prevention of harm to Student, in violation of 2620-R-2.01(3)(b)(4).
2. Whether the District improperly restrained Student on December 17, 2019, specifically by:
- a. Physically restraining Student in a non-emergency situation, in violation of 2620-R-2.01(1)(a);
 - b. Physically restraining Student without first using less restrictive alternatives or determining that less restrictive alternatives would be inappropriate or ineffective, in violation of 2620-R-2.01(1)(b);
 - c. Physically restraining Student as a punitive form of discipline or as a threat to control or gain compliance of a Student's behavior, in violation of 2620-R-2.01(2);
 - d. Physically restraining Student for more time than necessary or using more force than necessary, in violation of 2620-R-2.01(3)(a); and
 - e. Physically restraining Student without prioritizing the prevention of harm to Student, in violation of 2620-R-2.01(3)(b).
3. Whether the District failed to comply with the documentation and notification requirements for the restraints on November 20, December 13³, and December 17, 2019, in violation of 2620-R-2.04.

³ Parent alleged the School failed to comply with the notification requirements on November 20, 2019, December 13, 2019, and December 17, 2019. Neither Parent's Complaint nor Exhibit 1 indicated that Parent questioned the School's basis for use of the restraint on December 13, 2019. However, only use of a restraint triggers the PPRA's notification requirements. Therefore, the SCO will separately consider whether Holds C and D constitute restraints under the PPRA and then determine whether the School provided proper notice.

FINDINGS OF FACT

After thorough analysis of the entire record,⁴ the SCO makes the following FINDINGS OF FACT (“FF”):

Background

1. Student is a twelve-year old male who is eligible for special education and related services under the disability category of Severe Emotional Disability. *Interviews with Director of Special Education and Student Support Services (“Special Education Director”) and Parent.*
2. Student attends a District school [school description] (“School”). *Interviews with Special Education Director and Program Director.* Student is in seventh grade. *Interview with Program Director.* [School description] *Id.*
3. The District [school operation] remains responsible for ensuring the School complies with applicable law. *Response*, p. 1.
4. The School day begins at 7:55 a.m. and ends at 2:25 p.m. *Interview with Program Director.* Student arrives home on the bus around 2:45 p.m. *Interview with Parent.*
5. Student is described as an intelligent, charismatic child with an ability to be a leader in the classroom. *Interviews with Parent, Program Director, and Special Education Teacher.* Student, however, has trouble staying on task after unexpected events. *Interview with Parent.* In the classroom, he is overly focused on the concept of fairness and becomes aggravated in response to negative peer interactions. *Interviews with Program Director and Special Education Teacher.*

The School’s Behavior Management System

6. The School follows the Handle with Care Behavior Management System (“Handle with Care”) for crisis intervention and physical management. *Interview with Program Director; Exhibit A*, p. 1.
7. Program Director described Handle with Care as providing staff a “toolkit for behavior management.” *Interview with Program Director.* The goal of Handle with Care is for students to de-escalate and process through their emotions without physical intervention; physical intervention is the last resort. *Id.*
8. When physical intervention becomes necessary, Handle with Care teaches staff to use the Primary Restraint Technique (“PRT hold”). *Exhibit J*, pp. 2-3. To implement a PRT hold, a staff member approaches a student from behind and places his chest against the

⁴ The appendix, attached and incorporated by reference, details the entire record.

student's back. *Id.*; *Interviews with Program Director and Special Education Teacher*. The staff member then hooks his arms around the student's upper arms and places the student's elbows under the staff member's armpits. *Exhibit J*, pp. 2-3; *Interviews with Program Director and Special Education Teacher*. With his palms flat against the student's back, the staff member tucks the student's elbows against the student's sides. *Exhibit J*, pp. 2-3; *Interviews with Program Director and Special Education Teacher*. This position causes the student to arch his back and shift his weight backwards towards the staff member. *Interviews with Program Director and Special Education Teacher*.

9. Staff transport a student in a PRT hold by walking backwards slowly with the student. *Interview with Program Director*.
10. Handle with Care also teaches staff how to transition a standard PRT hold into a seated version of the PRT hold ("seated PRT hold"). *Exhibit J*, pp. 4-5; *Interviews with Program Director and Special Education Teacher*. This transition requires the restraining staff member to take a step back and drop his knee, while slowly bringing the student to a seated position. *Exhibit J*, pp. 4-5; *Interviews with Program Director and Special Education Teacher*. The student's arms remain in the same fixed position as in a PRT hold. *Exhibit J*, pp. 4-5; *Interviews with Program Director and Special Education Teacher*.
11. When necessary, staff may also perform a two-person PRT hold ("two-person PRT hold"). *Exhibit J*, p. 6; *Interview with Program Director*. In this hold, two staff members stand with their chests against the student's back and shoulders. *Exhibit J*, p. 6; *Interview with Program Director*. Each staff member wraps his outer arm around the student's upper arm and places his hand on the student's back. *Exhibit J*, p. 6; *Interview with Program Director*. The staff members' inner arms are used to hold the student's wrists. In this hold, each staff member is responsible for securing one of the student's arms. *Exhibit J*, p. 6; *Interview with Program Director*. Though this hold is not ordinarily used for transport, staff could transport a student in a two-person PRT hold by walking backwards slowly when necessary. *Interview with Program Director*.
12. Before students are released from a restraint, the School requires students to demonstrate calm behavior and a commitment to safety. *Interview with Program Director*. School staff often refer to this as "quiet, calm, safe behavior." *Id.*
13. Program Director is a certified trainer with Handle with Care. *Id.*; *Exhibit B*, p. 4. That certification allows him to perform all Handle with Care training for the School's staff. *Interview with Program Director*. All staff involved in the incidents at issue in this Complaint hold active Handle with Care certifications. *Exhibit B*, pp. 2, 4, 7, 8.

The School's Policies and Procedures regarding Disciplinary Incidents

14. When a student experiences a behavioral crisis, School staff use different de-escalation strategies to help the student. *Interview with Program Director*. For example, staff

- might (a) use verbal prompts to re-direct the student's behavior, (b) encourage the student to use one of the student's preferred coping strategies, or (c) suggest that the student take a voluntary timeout. *Id.*
15. If the behavioral crisis continues, the student would be given a timeout in the motor lab. *Id.* The motor lab offers students a break from the classroom environment and an opportunity to get their energy out, whether through bouncing balls, jumping on a trampoline, or using boxing gloves. *Interview with Special Education Teacher.*
 16. The School uses physical restraint or seclusion only when a student's behavior poses an imminent safety risk to the student or others and only after other de-escalation strategies have failed. *Interview with Program Director.*
 17. During interviews, no staff members were able to recall any instances in which a restraint was used as a punitive form of discipline or as a threat to gain control of Student's behavior. *Interviews with Program Director and Special Education Teacher.* Staff do not intentionally provoke students or make bets that students will go into crisis. *Id.*
 18. The School does not routinely audio- or video-record students in crisis. *Interview with Program Director.* However, on one instance during the 2018-2019 school year, Program Director made an audio recording of the threats Student was making towards staff and peers so the threats could be transcribed into a report. *Id.*
 19. After students are dismissed from school for the day, School staff participate in a daily "close-out" meeting to discuss any disciplinary incidents that occurred that day. *Id.;* *Interview with Special Education Teacher.* This discussion includes any use of holds or restraints. *Interview with Special Education Teacher.* Staff determine who should contact the parents and who should complete the School's incident report form. *Interview with Program Director.*
 20. The School aims to notify parents of restraints by the end of the "business day." *Id.* Program Director indicated that problems tend to arise when parents find out from students before staff calls. *Id.* Typically, the classroom teacher or Social Worker would be responsible for contacting the student's parents. *Id.* If a parent does not answer, staff leave a message with basic information regarding the incident. *Id.*
 21. Program Director expects staff to complete the incident report within 48 hours of the incident. *Interview with Special Education Teacher.* Program Director and Social Worker review the incident report before Program Director signs it. *Interview with Program Director.* A signed copy is placed in the student's file. *Id.*
 22. Per the School's standard procedure, either Program Director or Administrative Assistant mail a copy of the incident report to the student's parents within five calendar

days. *Id.* The School does not keep any log or other record evidencing that the incident reports were sent. *Id.*

23. Program Director and members of Special Education Director's team meet weekly to discuss the individual needs of students and review behaviors of concern. *Interview with Special Education Director.*
24. The District conducts an annual review of incidents involving restraint and seclusion at the School. *Id.* The annual review results in a summary report. *See Exhibit A, pp. 1-2.*

November 20, 2019 Incident

25. On November 20, 2019, Student earned a time out for instigating conflict with a classmate. *Interview with Special Education Teacher.* After returning from this timeout, Student began to provoke the same classmate and, as a result, earned an automatic timeout. *Id.; Exhibit D, p. 37.* Special Education Teacher encouraged Student to walk voluntarily to the timeout rooms in the motor lab. *Interview with Special Education Teacher.* Student left the classroom, screaming that he was "going home." *Exhibit D. p. 37.*
26. Earlier that day, Student had vocalized suicidal ideations to Special Education Teacher. *Interview with Special Education Teacher.* Special Education Teacher was concerned Student would elope from School and harm himself, so Special Education Teacher walked in front of Student to the motor lab. *Id.* With his hands at his sides, Special Education Teacher stood in front of Student and suggested Student go "start his time." *Id.*
27. At that time, Program Director was in the motor lab with another student. *Interview with Program Director.* He heard "very self-threatening, very loud, and escalated" yelling in the hallway. *Id.* Program Director stepped into the hallway to see what was going on and observed Special Education Teacher working to verbally de-escalate Student. *Id.* Student insisted he was going home and then lowered his shoulder to push Special Education Teacher. *Id.; Interview with Special Education Teacher.*
28. Special Education Teacher made eye contact with Program Director and gave Program Director the non-verbal cue to initiate a PRT hold. *Interview with Special Education Teacher.* Program Director then moved in and placed Student in a PRT hold ("Hold A"). *Id.; Interview with Program Director.*
29. With Student in the PRT hold, Program Director escorted Student to a timeout room in the motor lab. *Interview with Special Education Teacher.* Hold A lasted less than a minute. *Id.*

30. Once in the timeout room, Student continued to escalate, shifting his body weight and yelling “Let go of me, I want to go home.” *Exhibit D*, p. 37. Program Director transitioned to a seated PRT hold (“Hold B”) using the solo takedown method and then released Student. *Interview with Program Director; Exhibit J*, pp. 23-24. Hold A and Hold B combined lasted only two minutes. *Interview with Program Director; Exhibit D*, p. 36.
31. Program Director and Special Education Teacher felt the holds were necessary to prevent Student from eloping. *Interviews with Program Director and Special Education Teacher*. Given Student’s suicidal statements earlier in the day, both staff members were concerned Student would harm himself if permitted to elope. *Id.*
32. After releasing Student, staff backed away from the timeout room, and Student remained in the room. *Exhibit J*, pp. 23-24. Student demonstrated quiet, calm, safe behavior and was dismissed for the day at 2:20 p.m. *Exhibit D*, p. 37.
33. The incident report indicates Special Education Teacher contacted Parent at 3:02 p.m. *Id.* Parent, however, did not receive any calls from the School informing her of the November 20 incident. *Interview with Parent*. Parent provided a log of incoming and outgoing calls to her cell phone on November 20, noting that the log does not include any calls from the School. *Exhibit 3; Interview with Parent*.
34. Instead, Parent learned of the November 20 incident when Student arrived home from School around 2:45 p.m. *Interview with Parent*. Student told Parent the incident began after Student asked—and received permission—to put something in his locker in the hallway. *Id.* Once in the hallway, Student said he looked out the window because he thought he saw Parent’s car in the parking lot. *Id.* All of a sudden, Student alleged, Program Director came up from behind and placed him in a hold. *Id.* Program Director allegedly dragged Student to a timeout room, hitting his head on a wall in the hallway. *Id.*
35. Program Director thought Special Education Teacher was contacting Parent; however, Special Education Teacher went home sick shortly after the incident and thought Program Director was contacting Parent. *Interviews with Program Director and Special Education Teacher*. Thus, the School has conceded that no one contacted Parent to inform her of the November 20 incident.
36. At the end of the school day, Program Director completed the incident report. *Interview with Program Director; see also Exhibit D*, pp. 36-37. Program Director does not recall Student hitting his head during Hold A, and the incident report makes no mention of such an occurrence. *Exhibit D*, pp. 36-37. Both Program Director and Special Education Teacher indicated that injuries are normally documented in incident reports. *Interviews with Program Director and Special Education Teacher*.

37. Other than the incident report, the School did not prepare any other report regarding the November 20 incident. *Interview with Program Director.*
38. Parent did not receive a copy of the November 20 incident report in the mail. *Interview with Parent.*
39. During her interview, Parent recalled receiving incident reports via mail during the 2018-2019 school year but indicated that she has not received a single incident report via mail during the 2019-2020 school year. *Id.* Parent's address has not changed, and the SCO confirmed that the School has Parent's correct address. *Id.; Interview with Program Director.*

December 13, 2019 Incident

40. On December 13, 2019, Student went to get a drink of water during a classroom break. *Interview with Special Education Teacher.* Instead of returning to his seat, Student walked past his desk to visit with a peer. *Id.* Student was on red—School's lowest level of the behavioral rankings—so he was not permitted to be out of his area in the classroom. *Id.* Special Education Teacher reminded Student to return to his seat. *Id.*
41. Student raised his voice, arguing that Special Education Teacher was treating him unfairly. *Id.; Exhibit D, p. 39.* Special Education Teacher issued a warning to Student regarding his use of language and reminded Student that the weekend was approaching. *Exhibit D, p. 39.* Student then accused Special Education Teacher of targeting him. *Id.* Special Education Teacher assured Student that the rules applied equally to all students on red level. *Id.*
42. Student began to scream about his classmates and their behaviors, causing the entire classroom to escalate. *Id.* As a result, Student received a timeout for language. *Id.* Special Education Teacher encouraged Student to walk to a timeout room. *Id.* Student began walking towards the motor lab but ultimately walked past the motor lab entrance, announcing that he was going home. *Id.* Special Education Teacher provided proximity and tried to encourage Student to enter the motor lab. *Id.; Interview with Special Education Teacher.*
43. Student questioned why Special Education Teacher would not permit him to walk home; Special Education Teacher told Student it would not be safe for Student to walk home alone. *Exhibit D, p. 39.* Student then used his body to try to push past Special Education Teacher to get to the exit. *Id.; Interview with Special Education Teacher.*
44. At 10:06 a.m., Special Education Teacher and Assistant Teacher placed Student in two-person PRT hold to escort Student to the timeout room ("Hold C"). *Exhibit D, p. 39.* Hold C lasted less than one minute. *Id.; Interview with Special Education Teacher.*

45. Once in the timeout room, Student remained in a two-person standing PRT hold from 10:06 a.m. to 10:48 a.m., a total of 42 minutes (“Hold D”). *Exhibit D*, p. 39.
46. Staff physically observed Student resorting to a calm state on several occasions during Hold D. *Interview with Special Education Teacher*. Each time, Staff praised Student for his calm demeanor and asked him if he wanted to begin his quiet, calm, safe behavior—the School’s requirement for release from a restraint. *Id.* Each time staff posed the question, Student cycled and escalated again. *Id.* Student threatened to physically hurt staff if they released the restraint. *Id.*; *Exhibit D*, p. 39.
47. Social Worker observed Hold D to ensure Student was not “unduly uncomfortable” and attempted to verbally de-escalate Student without success. *Interview with Special Education Teacher*.
48. During Hold D, Special Education Teacher and Assistant Teacher remained against the back wall of the timeout room. *Id.* Special Education Teacher did not think they could release Student from Hold D and exit the timeout room without Student physically harming either Special Education Teacher or Assistant Teacher. *Id.* Historically, Student has grabbed staff and tried to hurt them during holds and when holds are released. *Interview with Program Director*.
49. Ultimately, at 10:48 a.m., Student demonstrated calm behavior and was able to be released from Hold D. *Exhibit D*, p. 39.
50. Special Education Teacher left Parent a voicemail on December 13, 2019 informing her of Holds C and D. *Id.*; *Interviews with Parent and Special Education Teacher*. The incident report indicates that Special Education Teacher called Parent at 3:20 p.m.; however, Parent says she was not contacted until 3:35 p.m. *Exhibit D*, p. 39; *Exhibit 1*, p. 1. Parent did not call Special Education Teacher back or otherwise speak with him about the December 13 incident. *Interview with Parent*.
51. Special Education Teacher completed the incident report for December 13, 2019. *Interview with Special Education Teacher*. Other than the incident report, the School did not prepare any other report regarding the December 13 incident. *Id.*; *Interview with Program Director*.
52. Program Director indicated that the incident report would have been mailed to Parent within five calendar days per the School’s procedure, yet Parent never received a copy of the December 13 incident report in the mail. *Interviews with Program Director and Parent*.

December 17, 2019 Incident

53. On December 17, 2019, Student received a timeout for verbal aggression towards another student. *Interview with Special Education Teacher; Exhibit D*, p. 41. Student walked himself to the motor lab to complete his timeout. *Interview with Special Education Teacher; Exhibit D*, p. 41. But, instead of going to the timeout room, Student climbed on the countertops. *Interview with Special Education Teacher; Exhibit D*, p. 41. Student began removing and breaking the ceiling tiles and pulled down two metal rods supporting the ceiling tiles. *Interview with Special Education Teacher*. One of the metal rods had a sharp point, and Student brandished it like a weapon, threatening to stab staff and peers. *Exhibit D*, p. 41.
54. At the same time, a younger student came to the motor lab to complete a timeout (“Younger Student”). *Id.*; *Interview with Special Education Teacher*. Student’s jacket fell off the counter onto the floor, and Student told Younger Student not to touch his jacket. *Interview with Special Education Teacher; Exhibit D*, p. 41. Younger Student touched Student’s jacket, causing Student to jump off the countertop and lunge towards Younger Student. *Interview with Special Education Teacher; Exhibit D*, p. 41. Student’s pace communicated that it was a dangerous situation, so staff intervened. *Interview with Special Education Teacher*.
55. At 12:25 p.m., Special Education Teacher and Assistant Teacher placed Student in a two-person PRT hold and then transitioned into a PRT hold to escort Student to a timeout room (“Hold E”). *Exhibit D*, p. 41. Hold E lasted less than one minute. *Id.*, pp. 40-41.
56. Once in the timeout room, Student remained in a PRT hold from 12:25 p.m. to 12:42 p.m. (“Hold F”). *Id.*
57. During Hold F, Student threatened Special Education Teacher and Assistant Teacher, saying “If you try to leave [the Time Out room], I’ll grab you” and “I am going to fuck you guys up when you let me go.” *Id.* Student remained in Hold F until 12:42 p.m., when he was able to demonstrate quiet, calm, safe behavior. *Id.*
58. Student continued to threaten staff and Younger Student after his release from Hold F, so, at 12:44 p.m., staff secluded Student in one of the timeout rooms. *Id.* Student remained in seclusion until 12:55 p.m.⁵ *Id.*
59. Student returned to the classroom around 1:40 p.m. *Id.* Meanwhile, Executive Director called Parent to ask her to pick Student up. *Interview with Parent; Exhibit 1*, p.1.

⁵ Parent did not allege that Student was secluded on December 17, 2019, and the accepted allegations for that date pertain solely to the physical restraint of Student. Therefore, the seclusion on December 17 falls outside the scope of this investigation.

Executive Director did not provide Parent any further information over the phone.
Interview with Parent.

60. When Parent arrived at the School, Executive Director told her Student was having an up and down day and staff could not get him regulated. *Interview with Parent.* According to Parent, Executive Director never mentioned that Student had been restrained. *Exhibit 1; Interview with Parent.* Executive Director disagrees, indicating that she informed Parent of both Holds E and F, as well as the seclusion, at pick up. *Supp. Response, p. 2.*
61. School suspended Student for the remainder of the school day and the following day. *Interviews with Parent and Program Director.*
62. Special Education Teacher and Program Director collaborated on the incident report for Holds E and F. *Interview with Special Education Teacher; Exhibit D, pp. 40-41.*
63. Other than the incident report, the School did not prepare any other reports regarding Holds E and F on December 17. *Interviews with Special Education Teacher and Program Director.*
64. Program Director indicated that the incident report would have been mailed to Parent within five calendar days per the School's procedure, yet Parent never received a copy of the December 17 incident report in the mail. *Interviews with Program Director and Parent.*

CONCLUSIONS OF LAW

Based on the Findings of Fact above, the SCO enters the following CONCLUSIONS OF LAW:

I. November 20, 2019 Incident

Conclusion to Allegation No. 1: Neither of the holds used on Student on November 20, 2019 violated the PPRA. The first hold qualified as a physical restraint, but the School had an appropriate basis to use the restraint. The second hold fell within one of the exceptions and, therefore, was not governed by the PPRA.

In her Complaint, Parent alleges School lacked a proper basis for restraining Student on November 20, 2019. As a preliminary matter, the SCO must determine whether the holds School used on November 20 constituted restraints within the scope of the PPRA.

A. Whether the Holds are Physical Restraints

As used in the PPRA, “restraint” refers to “any method or device used to involuntarily limit freedom of movement” and includes chemical restraint, mechanical restraint, physical restraint, and seclusion. PPRA Rule 2620-R-2.00(8).

“Physical restraint” means “the use of bodily, physical force to involuntarily limit an individual’s freedom of movement.” PPRA Rule 2620-R-2.00(8)(c). However, physical restraint specifically *excludes*:

- Holding of a student in a position other than a prone position for less than five minutes by a staff person for the protection of the student or others;
- Brief holding of a student by one adult for the purpose of calming or comforting the student, not to include holding a student in a prone position;
- Minimal physical contact for the purpose of safely escorting a student from one area to another; and
- Minimal physical contact for the purpose of assisting the student in completing a task or response.

Id. 200(8)(c)(i)-(iv).

The PPRA does not explain what constitutes minimal physical contact in the context of an escort. In past decisions, CDE has relied on guidance from the U.S. Department of Education Office of Civil Rights (“OCR”) distinguishing between a physical restraint and an escort:

Physical restraint refers to a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs or head freely. The term physical restraint does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location.

Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities, 69 IDELR 80 (OCR 2016); *see also Decision 2019:520; Decision 2019:528.*

Hold A, the first hold School used on November 20, 2019, constituted a physical restraint and not an escort. Program Director initially made physical contact with Student to transport Student to a safe location. (FF #s 28, 29.) At the time, Student’s behavior threatened his own safety and that of Special Education Teacher. Student was using his shoulder to physically hit Special Education Teacher, while threatening self-harm and trying to elope. (FF #s 25-27.) School staff appropriately recognized that Student needed to be moved to a safe location, so Program Director approached Student from behind and placed Student in a PRT hold. (FF #28.) With his chest against Student’s back, Program Director hooked his arms around Student’s upper arms, placing Student’s elbows under Program Director’s armpits. (FF #8.) With his

palms flat against Student's back, Program Director tucked Student's elbows against Student's sides. (*Id.*) In this hold, Student's Program Director then walked Student backwards to the timeout room. (FF #s 8, 29.)

Hold A limited Student's ability to move his arms and torso and went beyond "a temporary touching or holding of the hand, wrist, arm, shoulder, or back." *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities*, 69 IDELR 80 (OCR 2016). For this reason alone, the SCO finds Hold A used more than minimal physical contact during an escort and, instead, constituted a physical restraint.

This finding is consistent with prior decisions in State Complaints 2019:520 and 2019:528. Both of these decisions relied on OCR's *Dear Colleague* letter to determine whether physical contact with a student constituted an escort or a physical restraint. *See Decision 2019:520; Decision 2019:528*. In 2019:520, the SCO determined that a school's use of the "two-person reverse transport technique" did *not* constitute a physical restraint. *Decision 2019:520*, p. 12. There, the two staff members stood on either side of the student and placed their arms under the student's arms, walking the student backwards to safety. *Id.* at 5, 12. In 2019:528, the SCO similarly determined that an "escort hold" used by the school did not constitute a physical restraint. *Decision 2019:528*, pp. 6, 9, 10. In the hold, staff members stood on either side of the student and supported the student under the arms. *Id.* The student was free to walk, and, if the student fell, the hold was released until the student stood back up. *Id.*

In both of these positions, the schools used a temporary touching of the students' shoulders and arms in order to safely transport the students. The physical contact did not inhibit the students' mobility. Hold A, in contrast, undoubtedly immobilized or reduced the ability of Student to move his arms and torso. This difference is outcome determinative; it places Hold A squarely within the physical restraint category. Given the circumstances—Student's violence and threats of self-harm and elopement—the SCO recognizes that minimal physical contact might not have been sufficient to move Student to safety but that does not change the classification of the School's use of force.

Finally, given that the purpose of the physical contact was to safely escort Student, the SCO finds the exception in Rule 2620-R-2.00(8)(c)(i) inapplicable. Under that exception, "physical restraint" excludes the "holding of a student in a position other than a prone position for less than five minutes by a staff person for the protection of the student." Rule 2620-R-2.00(8)(c)(i). Student was not being held but, instead, was being transported during Hold A.

Hold B, the second hold used on Student on November 20, fell within an exception and, thus, did not constitute a physical restraint. Once Student was in the timeout room, Program Director transitioned to a seated PRT hold using the solo takedown method and then released Student. (FF # 30.) The two holds together lasted less than two minutes. (*Id.*) The second hold qualified for the exception to physical restraint for "[h]olding of a student in a position other

than a prone position for less than five minutes by a staff person for the protection of the student or others” and, therefore, is not a physical restraint. Rule 2620-R-2.00(8)(c)(i). In Hold B, Student was seated and not in a prone position. (FF # 30.) Program Director believed the hold was necessary due to Student’s physical aggression, attempted elopement, and threats of self-harm. (FF # 31.) Because the second hold did not constitute a restraint, it is not covered by the PPRA and no further consideration of that hold is necessary.

B. Whether the School Had a Basis for the Restraint

Having determined that Hold A constituted a physical restraint, the SCO must next evaluate whether the School had a basis to restrain Student. In her Complaint, Parent alleges School lacked a proper basis to restrain Student because none of his behavior warranted the restraint.

Under the PPRA, a school must have an appropriate basis for the use of restraint. The PPRA requires that restraints:

- Only be used in an emergency and with extreme caution after the failure of less restrictive alternatives (or a determination that such alternatives would be inappropriate or ineffective);
- Never be used as a punitive form or discipline or as a threat to gain control of a student’s behavior; and
- Be used only for the period of time necessary and using no more force than necessary, while prioritizing the prevention of harm to the student.

Rule 2620-R-2.01. As explained below, the School satisfied each of these requirements.

Restraints may only be used in an emergency. *Id.* 2620-R-2.01(1). The PPRA defines “emergency” as “serious, probable imminent threat of bodily injury to self or others with the present ability to effect such bodily injury. Emergency includes situations in which the student creates such a threat by abusing or destroying property.” *Id.* 2620-R-2.00(4). On November 20—immediately before he was placed in Hold A—Student used his shoulder to physically strike Special Education Teacher. (FF # 27.) Student expressed suicidal ideations earlier in the day and, at the time, was threatening to elope. (FF #s 25, 26.) Special Education Teacher and Program Director were concerned that Student would harm himself if permitted to elope. (FF # 31.) Under the circumstances, there was a probable imminent threat of bodily injury to both Student and Special Education Teacher. Student’s behavior created an emergency under the PPRA.

Even in an emergency, the PPRA permits use of restraints only after the failure of less restrictive alternatives (or a determination that those alternatives would be inappropriate or ineffective). Rule 2620-R-2.01(1). Less restrictive alternatives include “Positive Behavior Supports, constructive and non-physical de-escalation, and re-structuring the environment.” *Id.* Here,

Special Education Teacher attempted—without success—to verbally de-escalate Student. (FF #s 25-27.) Given Student’s aggression in the moment, any other alternatives likely would have been ineffective. Therefore, the School complied with the PPRA by attempting less restrictive alternatives before placing Student in Hold A.

The PPRA precludes the use of restraint as a punitive form of discipline or as a threat to gain control over a student’s behavior. Rule 2620-R-2.01(2). Here, though Parent specifically alleged that Program Director threatened to restrain Student, none of the evidence in the records supports this allegation. Parent was unable to identify specific threats made by Program Director (beyond generalizations), and none of the School staff interviewed remembered hearing Program Director use restraints as a threat or betting that Student would go into crisis. (FF # 17.) Program Director made an audio recording of threats made by Student to staff and peers during the 2018-2019 school year so those threats could be transcribed. (FF #18.) Nothing in the record suggests any recordings were made of Student during the 2019-2020 school year. (*Id.*) Therefore, the SCO finds that the School did not violate this requirement of the PPRA.

Finally, the PPRA requires that the restraint last no longer and use no more force than necessary. Rule 2620-R-2.01(3). The school must prioritize the prevention of harm to the student. *Id.* Here, Parent alleged Program Director dragged Student to the timeout room, hitting his head on the way. (FF #34). However, the incident report from November 20 makes no mention of Student hitting his head. (FF #36.) Both Program Director and Special Education Teacher indicated that any injuries that occur during a restraint are noted on the incident report form. (*Id.*) Moreover, the posture of Hold A suggests that Student was not dragged. In the PRT hold, Student would have been on his feet and walking backwards (although, potentially against his will). (FF # 9.) Hold A lasted less than one minute. (FF # 29.) Given these facts, the SCO does not find any violation of this final requirement regarding the basis for the restraint.

The SCO will evaluate School’s compliance with the PPRA’s notification requirements separately in Part IV.

II. December 13, 2019 Incident

Conclusion regarding December 13, 2019 Incident: The second hold used on Student on December 13, 2019 violated the PPRA. Both holds qualified as physical restraints under the PPRA, and, at least initially, the School had a basis for use of the restraints. However, the length of the second hold violated the PPRA.

A. Whether the Holds are Physical Restraints

The legal framework outlined in Part I.A regarding the scope of physical restraints applies here. Special Education Teacher and Assistant Teacher initially made physical contact with Student to

transport Student to a safe location. (FF # 44.) At the time, Student’s behavior threatened his own safety and that of Special Education Teacher. (FF #s 42, 43.) Student was using his shoulder to try to push past Special Education Teacher and threatening to elope. (FF #s 42, 43.)

Staff recognized that Student needed to be moved to a safe location, so Special Education Teacher and Assistant Teacher placed Student in Hold C, a two-person PRT hold. (FF # 44.) In this hold, the two staff members stood with their chests against Student’s back and shoulders. (FF # 11.) Each staff member was responsible for holding one of Student’s arms. (*Id.*) Staff then walked Student backwards into the timeout room. (*Id.*)

Hold C limited Student’s ability to move his arms and went beyond “a temporary touching or holding of the hand, wrist, arm, shoulder, or back.” *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities*, 69 IDELR 80 (OCR 2016). For this reason alone, the SCO finds that Hold C fell outside the scope of minimal physical contact during an escort and, instead, constituted a physical restraint. Given the circumstances—Student’s violence and threats of elopement—the SCO recognizes that minimal physical contact might not have been sufficient to move Student to safety but that does not change the classification of the School’s use of force. As explained in Part I.A, this finding is consistent with prior decisions. See *Decision 2019:520*; *Decision 2019:528*.

Hold D, the second hold on December 13, also constituted a physical restraint. Once in the timeout room, Student remained in a two-person standing PRT hold for 42 minutes. (FF # 45.) When staff observed Student calming, staff asked him if he wanted to begin his quiet, calm, safe behavior in order to be released. (FF #46.) This prompted Student to cycle and escalate again. (*Id.*) During this time, Student threatened to physically hurt staff if they released the restraint. (*Id.*) Hold D clearly qualifies as “the use of bodily, physical force to involuntarily limit an individual’s freedom of movement.” PPRA Rule 2620-R-2.00(8). No exception applied, making Hold D a physical restraint within the scope of the PPRA.

B. Whether the School had a Basis for the Restraint

Having determined that Holds C and D constituted physical restraints, the SCO must next evaluate whether the School had a basis for using the restraints. The PPRA requires a school to have an appropriate basis for using a restraint. PPRA Rule 2620-R-2.01. Part I.B details the requirements established by the PPRA and the meaning of each of those requirements. For brevity, an explanation of those requirements is not repeated here. For the reasons identified below, the School has established an appropriate basis for Holds C and D. However, the extended length of Hold D violated the PPRA.

Restraints may only be used in an emergency. *Id.* When Student received a timeout on December 13, Student expressed his intent to elope and tried to push past Special Education Teacher, prompting Hold C. (FF #s 42-44.) Once Student was in Hold D in the timeout room,

Student threatened to physically harm Special Education Teacher and Assistant Teacher if they released him from the restraint. (FF # 46.) In the past, Student has grabbed staff members both during restraints and during the release from restraints. (FF #48.) These circumstances evidence a “serious, probable imminent threat of bodily injury to self or others.” Rule 2620-R-2.00(4). Student’s behavior rose to the level of an emergency under the PPRA.

Even in an emergency, restraints may only be used after the failure of less restrictive alternatives (or a determination that those alternatives would be inappropriate or ineffective). *Id.* 2620-R-2.01(1). Here, Special Education Teacher initially addressed Student’s use of language with a verbal prompt for Student to return to his seat. (FF # 40.) Special Education Teacher reminded Student that the weekend was near and asserted that he was applying the rules equally. (FF # 41.) Once Student was in Hold D, multiple staff members attempted to verbally de-escalate Student without success. (FF #s 46, 47.) Therefore, the SCO finds that the School complied with the PPRA by attempting less restrictive alternatives before placing Student in Holds C and D.

The PPRA precludes the use of restraint as a punitive form of discipline or as a threat to gain control over a student’s behavior. Rule 2620-R-2.01(2). No evidence in the record suggests that either Special Education Teacher or Assistant Teacher used Holds C and D as a punitive form of discipline or as a threat to gain control of Student’s behavior. Interviews with School staff verified the information contained in the incident report. Therefore, the SCO finds that the School did not use either Hold C or D as a punitive form of discipline or as a threat to gain control of Student’s behavior.

Finally, the PPRA requires that a school prioritize the prevention of harm to a student, while using a restraint for no longer and with no more force than necessary. Rule 2620-R-2.01(3). Hold C continued for less than one minute. (FF # 44.) The SCO finds that Hold C lasted no longer than necessary and used no more force than necessary under the circumstances.

Hold D, however, lasted for 42 minutes. (FF # 45.) The SCO finds that this hold lasted longer than necessary, in violation of the PPRA. In addition to the requirement that a restraint be used for no longer than necessary, the PPRA requires a student to be released from a physical restraint within 15 minutes, “except when precluded for safety reasons.” Rule 2620-R-2.02(2)(c)(iii). During Hold D, Special Education Teacher and Assistant Teacher remained against the back wall of the timeout room. (FF # 48.) Special Education Teacher did not think either he or Assistant Teacher could have released Student from Hold D and moved outward (past Student) to exit the timeout room without Student harming them. (*Id.*)

On numerous occasions during Hold D, staff felt Student relax. (FF # 46.) Instead of releasing the restraint, Special Education Teacher and Assistant Teacher asked Student whether he wanted to begin his quiet, calm, safe behavior. (*Id.*) This question provoked Student to

escalate all over again. (*Id.*). This cycle repeated itself several times during Hold D, without any change in outcome either from staff (repeated questioning) or Student (repeated escalation).

The SCO finds and concludes that Special Education Teacher and Assistant Teacher should have released Student from the restraint once Student demonstrated calm behavior, even if Student did not explicitly consent to beginning his quiet, calm, safe behavior. The PPRA permits use of a restraint only in an emergency. Rule 2620-R-2.00(4). An emergency certainly existed at the time Hold D began. But, once Student demonstrated calm behavior, the imminent threat of injury that gave rise to the emergency ended.

The SCO understands that Special Education Teacher and Assistant Teacher were concerned that Student would physically harm them if released. However, staff could have minimized this risk by moving Student in the timeout room so that staff had their backs to the exit. Then, Special Education Teacher and Assistant Teacher could have released Student from Hold D and immediately backed out of the timeout room. If necessary, they could have closed the door to the timeout room and initiated a seclusion. At a minimum, staff should have given Student a break from the restraint. Since Student was in a two-person PRT hold, staff could have released one of Student's arms at a time to give him a reprieve while still maintaining control over Student.

Either of these alternatives would have prioritized the prevention of harm to Student and ensured that Hold D did not last longer than necessary. Because the School continued to restrain Student after he demonstrated calm behavior, the SCO finds a violation of Rule 2620-R-2.01(3).

III. December 17, 2019 Incident

Conclusion to Allegation No. 2: The holds used on Student on December 17, 2019 did not violate the PPRA. Though the holds qualified as physical restraints, the School had an appropriate basis to use the restraints.

Parent alleges the School restrained Student on December 17, 2019 in retaliation for the Complaint. Again, as a preliminary matter, the SCO must determine whether the holds—referred to as Holds E and F—constituted a restraint within the scope of the PPRA.

A. Whether the Hold was a Physical Restraint

The legal framework outlined in Part I.A regarding the scope of a physical restraint during an escort applies equally to Holds E and F.

Hold E constituted a physical restraint and not an escort. Special Education Teacher and Assistant Teacher placed Student in Hold E to transport Student to a timeout room. (FF # 55.)

Staff initially placed Student in a two-person PRT hold before transitioning into a PRT hold. (*Id.*) In the two-person PRT hold, Special Education Teacher and Assistant Teacher secured Student's upper arms while holding his wrists down by his sides. (FF # 11.) Once in the PRT hold, Student's elbows were under Assistant Teacher's armpits and Student's elbows were pinned to his sides. (FF # 8.)

Both positions used in Hold E limited Student's ability to move his arms and torso and went beyond "a temporary touching or holding of the hand, wrist, arm, shoulder, or back." *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities*, 69 IDELR 80 (OCR 2016). The restriction of Student's mobility transforms Hold E from an escort into a physical restraint—regardless of the duration of the escort. *Id.* The SCO recognizes that, at the time, Student's behavior threatened the safety of staff and Younger Student. (FF # 54.) Staff recognized that Student's behavior warranted a quick intervention. However, this does not change Hold E's classification as a physical restraint under the PPRA. As explained in Part I.A, this finding is consistent with prior decisions. *See Decision 2019:520; Decision 2019:528.*

Hold F also constituted a physical restraint under the PPRA. Once Student arrived in the timeout room, he remained in a PRT hold for 17 minutes. (FF # 56.) This undoubtedly qualifies as "the use of bodily, physical force to involuntarily limit an individual's freedom of movement." PPRA Rule 2620-R-2.00(8). No exception applied, making Hold F a physical restraint within the scope of the PPRA.

B. Whether the School had a Basis for the Restraint

Having determined that Holds E and F constituted physical restraints, the SCO must next evaluate whether the School had a basis for the restraints. Parent alleges the School restrained Student in retaliation for her filing of the Complaint and not for Student's behavior.

The PPRA requires a school to have an appropriate basis for using a restraint. Rule 2620-R-2.01. Part I.B details the requirements established by the PPRA and the meaning of each of those requirements. For brevity, an explanation of those requirements is not repeated here. For the reasons identified below, the School has established an appropriate basis for Holds E and F.

Restraints may only be used in an emergency. *Id.* On December 17, Student stood on the counters in the motor lab and broke ceiling tiles. (FF # 53.) He brandished a metal rod like a weapon, while threatening to stab staff and other students. (*Id.*) Immediately before Student was placed in Hold E, Student jumped off the counter and lunged at Younger Student. (FF # 54.) Special Education Teacher and Assistant Teacher were concerned that Student would physically harm Younger Student, staff, or other students. (*Id.*) These circumstances evidence a "serious, probable imminent threat of bodily injury to self or others." Rule 2620-R-2.00(4). Student explicitly threatened the safety of others and destroyed the School's property. (FF # 53.) Student's behavior rose to the level of an emergency under the PPRA.

Even in an emergency, restraints may only be used after the failure of less restrictive alternatives (or a determination that those alternatives would be inappropriate or ineffective). Rule 2620-R-2.01(1). Here, staff attempted to use verbal de-escalation with Student without success. (FF #53.) Given Student's level of aggression and the imminent attack on Younger Student, any other alternatives likely would have been ineffective in that moment. Therefore, the School complied with the PPRA by attempting less restrictive alternatives before placing Student in Holds E and F.

The PPRA precludes the use of restraint as a punitive form of discipline or as a threat to gain control over a student's behavior. Rule 2620-R-2.01(2). Parent alleged that the School staff placed Student in Holds E and F to retaliate against Parent's filing of the Complaint. No evidence in the record supports this allegation. Instead, interviews with School staff verified the information contained in the incident report. Therefore, the SCO finds that the School did not use either Hold E or F as a punitive form of discipline or as a threat to gain control of Student's behavior.

Finally, the PPRA requires that a school prioritize the prevention of harm to a student, while using a restraint for no longer and with no more force than necessary. Rule 2620-R-2.01(3). Here, Hold E lasted for less than one minute, and Hold F lasted for 17 minutes. (FF #s 55, 56.) Nothing in the record suggests that either Special Education Teacher or Assistant Teacher used more force than necessary, especially given that Student was lunging at Younger Student. The PPRA requires a student to be released from a physical restraint within 15 minutes, "except when precluded for safety reasons." Rule 2620-R-2.02(2)(c)(iii). Student's behavior precluded staff from releasing Student from Hold F within 15 minutes. Therefore, the SCO finds no violation of this final requirement regarding the basis for the restraint.

The SCO will evaluate School's compliance with the PPRA's notification requirements separately in Part IV.

IV. Notification Requirements

Conclusion to Allegation No. 3: School violated the PPRA's notification requirements by: (1) failing to notify Parent no later than the end of the school day of the incidents and (2) failing to provide Parent with a written report within five calendar days.

Parent alleges the School failed to inform her of the use of a restraint by the end of the school day on November 20, 2019, December 13, 2019, and December 17, 2019. Additionally, Parent contends the School never provided her with written reports for the three dates in question.

Use of a restraint triggers the PPRA's documentation and notification requirements. Rule 2620-R-2.04. These requirements specify, in part:

- That the school “verbally notify the parents as soon as possible but no later than the end of the school day that the restraint was used.” *Id.*, 2620-R-2.04(3).
- That the school provide parent a written report based on the findings of staff within five calendar days of the use of restraint. The report may be sent via email, fax, or mail. *Id.*, 2620-R-2.04(4).

Though the PPRA imposes other requirements, these are the only two requirements at issue in this Complaint.

A. Compliance with Notification Requirements

The School’s restraint of Student on November 20, December 13, and December 17, 2019 triggered the PPRA’s notification requirements. In large part, the School failed to satisfy both requirements at issue in this Complaint.

Under the first requirement, the School must verbally notify the parent of any use of restraint “as soon as possible but no later than the end of the school day that the restraint was used.” Rule 2620-R-2.04(3). The Rules do not define “end of the school day.” However, for the following reasons, the SCO finds that “end of the school day” requires schools to notify parents before classes end for the day. “End of the school day” is comparable to the phrase “end of the business day.” That phrase commonly refers to the time a business closes for the day, typically 5:00 p.m. It does not refer to the end of a calendar day on which business occurs (which would be 11:59 p.m.).

This interpretation provides meaning to all of the words in the phrase. Reading “end of the school day” to require notice by 11:59 p.m. renders the word “school” meaningless. Such an interpretation would also devalue the inclusion of the “as soon as possible language.” Moreover, this interpretation better serves both schools and parents by ensuring parents receive notice from the school before the student arrives home. Per Program Director, the School currently aims to notify parents by the end of the “business day.” (FF # 20.) Even Program Director acknowledged that issues tend to arise when parents learn of restraints from students first. (*Id.*)

Using this interpretation, the SCO finds that the School failed to notify Parent by the end of the School day on November 20 and December 13. The School day ends at 2:25 p.m. (FF # 4.) The School conceded in interviews that no one called Parent on November 20. (FF # 35.) And, on December 13, 2019, Special Education Teacher called Parent at 3:20 p.m., after Student had already arrived home. (FF # 50.) On December 17, Executive Director asked Parent to pick Student up early. (FF # 59.) Once Parent arrived, she discussed Student’s day with Executive Director. (FF # 60.) Executive Director argues she informed Parent of the restraints during that conversation, yet Parent has no recollection. (*Id.*) Given that Student was suspended on the remainder of that day and on December 18, the SCO finds that Executive Director likely

informed Parent of at least the basic information regarding the restraints used that day, in compliance with Rule 2620-R-2.04(3). However, the School failed to comply with this rule on November 20 and December 13.

Under the second requirement, the School must provide parent a written report based on the findings of staff within five calendar days of the use of restraint. Rule 2620-R-2.04(4). Though Parent received written reports via mail last year, Parent indicated she has not received a single written report (via mail or otherwise) during the 2019-2020 school year. (FF # 39.) Program Director admitted that the School retains no log documenting when reports are sent. (FF # 22.) The School, thus, had no evidence to show that the reports were actually mailed to Parent. Accordingly, the SCO finds that the School failed to provide Parent written reports in accordance with the PPRA on November 20, December 13, and December 17, 2019.

REMEDIES

As outlined in this Decision, the District has violated the following PPRA requirements:

1. Using restraints for longer than necessary, in violation of Rule 2620-R-2.02(3).
2. Failing to comply with the documentation and notification requirements, in violation of Rules 2620-R-2.04(3) and 2620-R-2.04(4).

Pursuant to Rule 2620-R-2.07(9), the SCO has authority to make recommendations to the District of remedial actions that should be taken to bring the District into compliance with the PPRA and the Rules. Consistent with this authority, CDE makes the following recommendations:

- a) District should provide School staff with training on the PPRA's requirement that restraints be used only for the period of time necessary and provide strategies staff can use to ensure restraints do not continue longer than necessary;
- b) District should provide School staff with training on the PPRA's documentation and notice requirements;
- c) School should implement procedures to monitor compliance with the PPRA's documentation and notification requirements. Suggestions for such procedures include:
 - a. Ensuring written reports are submitted within one business day (versus 48-hours as suggested in one interview) and better detail the efforts made to de-escalate the situation and attempted alternatives;

- b. Notifying parents of incidents involving restraint by the end of the school day (i.e. before students are dismissed for the day); and
- c. Documenting when incident reports are mailed to parents, including who sent the report, to what address, and on what date.

Using the information below, the District may contact Michael Ramirez at CDE for support in implementing these recommendations or for guidance regarding the requirements of the PPRA and the Rules.

Colorado Department of Education
Exceptional Student Services Unit
Attn.: Michael Ramirez
1560 Broadway, Suite 1100
Denver, CO 80202-5149

CONCLUSION

The Decision of the SCO is final and is not subject to appeal. Rule 2620-R-2.07(9)(c). This Decision shall become final as dated by the signature of the undersigned State Complaints Officer.

Dated this 4th day of February, 2020.

Ashley E. Schubert
State Complaints Officer

Appendix

Complaint, pages 1-2

- Exhibit 1: Email correspondence regarding additional allegations

Response, pages 1-6

- Exhibit A: Restraint and Seclusion Summary
- Exhibit B: Restraint certifications for staff
- Exhibit C: District and School policies regarding restraint
- Exhibit D: Incident reports for Student for 2019-2020 school year
- Exhibit E: Student's behavior logs for November 20, 2019
- Exhibit F: Correspondence between Parent and District
- Exhibit G: Blank
- Exhibit H: Blank (information contained in body of Response)

Reply, pages 1-7

- Exhibit 2: Student's Daily Contact Log for November 20, 2019
- Exhibit 3: Record of Parent's incoming calls from November 20, 2019

Supplemental Response, pages 1-8

- Exhibit I: Student's behavior logs for December 13 and 17, 2019
- Exhibit J: Excerpt from Handle with Care Participant Manual

Telephonic Interviews

- Special Education Teacher: January 9, 2020
- Program Director: January 9-10, 2020; January 15, 2020
- Director of Special Education and Student Support Services: January 10, 2020
- Parent: January 13, 2020