

Decision of the Colorado Department of Education  
Under the Protection of Individuals from Restraint and Seclusion Act (PPRA)

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**State Complaint SC2025-901**  
**Mesa County Valley School District 51**

**DECISION**

**INTRODUCTION**

On May 22, 2025, the parent (“Parent”) of a student (“Student”) filed a state complaint (“Complaint”) against Mesa County Valley School District 51 (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified allegations subject to its jurisdiction under the Protection of Individuals from Restraint and Seclusion Act (“PPRA”)<sup>1</sup> and its implementing regulations, the Rules for the Administration of the Protection of Persons from Restraint Act (“PPRA Rules”).<sup>2</sup> See PPRA Rule 2.07. Therefore, the CDE has jurisdiction to resolve the Complaint.

The CDE’s goal in state complaint investigations is to improve outcomes for students and promote positive parent-school partnerships. A final written decision serves to identify areas for professional growth, provide guidance for implementing PPRA Rule requirements, and draw on all available resources to enhance the quality and effectiveness of services.

**RELEVANT TIME PERIOD**

The CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was properly filed. PPRA Rule 2.07(2)(f). Accordingly, findings of noncompliance shall be limited to events occurring after May 22, 2024. Information prior to May 22, 2024, may be considered to fully investigate all allegations.

**SUMMARY OF COMPLAINT ALLEGATIONS**

The Complaint raises the following allegations subject to the CDE’s jurisdiction under PPRA Rule 2.07:

1. The District did not properly restrain and/or seclude Student during an incident on February 20, 2025, because:

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<sup>1</sup> 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.

<sup>2</sup> The PPRA Rules are codified at 1 C.C.R. 301-45.

- a. It used restraint and/or seclusion in a non-emergency situation and without extreme caution, as prohibited by PPRA Rule 2.01(1)(a);
  - b. It did not first use less restrictive alternatives or determine that less restrictive alternatives would be inappropriate or ineffective under the circumstances, as required by PPRA Rule 2.01(1)(b);
  - c. It did not ensure that the room used for seclusion had at least one window for monitoring when the door is closed, or, if a window was not feasible, that Student was monitored through a video camera, as required by PPRA Rule 2.02(2)(e)(iii);
  - d. Staff did not reintegrate Student or clearly communicate to Student that he was free to leave the area used for seclusion after determining that seclusion was no longer necessary, as required by PPRA Rule 2.02(1)(a)(v).
2. The District did not provide proper notification and documentation of the use of restraint and/or seclusion, as required by PPRA Rule 2.04.

### **FINDINGS OF FACT**

After thorough and careful analysis of the entire Record,<sup>3</sup> the CDE makes the following findings of fact (“FF”):

#### **A. Background**

1. Student is eight years old and attends a District elementary school (“School”). *Complaint*, p. 2. He was in second grade during the 2024-2025 school year. *Id.*
2. Parent described Student as a bright problem-solver who enjoys reading, building with Legos, and exploring rocks. *Interview with Parent*. Student is intelligent and creative but struggles with emotional regulation, task completion, anger, and defiance at School. *Interviews with Parent, District Registered Behavior Technician (“RBT”), Severe Needs Behavior Teacher (“SNB Teacher”), Special Education Case Manager (“Case Manager”), Special Education Paraprofessional (“Paraprofessional”), and School Principal (“Principal”).*
3. This investigation concerns an incident that occurred on February 20, 2025,<sup>4</sup> involving Student and the use of School’s “Opportunity Room.” *Response*, p. 1. Parent alleges that School staff improperly restrained and secluded Student during this incident. *Id.*

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<sup>3</sup> The appendix, attached and incorporated by reference, details the entire Record.

<sup>4</sup> Parent’s Complaint asserts that the incident in question occurred on February 21, 2025, but District’s Response and Parent’s interview confirm that the incident occurred instead on February 20, 2025. *See Complaint*, p. 1; *Response*, p. 1; *Interview with Parent*.

## **B. District Policies, Procedures, and Practices Regarding Restraint and Seclusion**

4. District maintains Policy JKA, “Use of Physical Intervention and Restraint,” which was revised by District’s Special Education Director (“Director”) in October 2024. *Exhibit J*, p. 61; *Interview with Director*. This board policy was redeveloped to ensure alignment with the PPRA and state law requirements for use of restraint and seclusion. *Interview with Director*.
5. The policy states that District employees “may, within the scope of their employment and consistent with state law, use physical intervention and restraint with students in accordance with this policy and accompanying regulation.” *Exhibit J*, p. 61. District employees may use “reasonable and appropriate physical intervention with a student, that does not constitute restraint” to “quell a disturbance threatening damage to property or physical injury to the student or others” or “for the protection of persons against bodily injury or to prevent the destruction of property which could lead to bodily injury to the student or others.” *Id.*<sup>5</sup> However, if any physical hold lasts longer than one minute, staff members must follow the restraint and seclusion provisions of the policy. *Id.*
6. The policy defines restraint as “any method or device used to involuntarily limit a student’s freedom of movement” but does not include “the holding of a student for less than one minute for the protection of the student or others . . . .” *Id.*
7. The policy defines seclusion as “the placement of a student alone in a room from which egress is involuntarily prevented.” *Id.* If a student “is placed in a seclusion room, the student must be continually monitored by District employees. The seclusion room must be a safe space free from injurious items and must not be a space used by school staff for offices, storage, or custodial purposes.” *Id.*
8. Furthermore, under this policy, only employees trained in the use of restraint and seclusion may use such tactics. *Id.* District uses Quality Behavior Solutions (“QBS”) training, which is a nationally recognized training system for physical management and restraint practices. *Interviews with Director and RBT; Consultation with CDE Specialist*. Here, RBT, SNB Teacher, Case Manager, and Paraprofessional were all QBS-certified as of February 20, 2025. *Exhibit G*.
9. District also has a procedural document, “Criteria for Use of Physical Management,” developed by District’s QBS Team that outlines the three criteria that must be met before District staff can use physical management and seclusion: (1) “there must be an imminent risk of serious harm to the agitated person or someone else,” (2) “there must be no other

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<sup>5</sup> District’s restraint and seclusion policy provides that “[i]f property damage may be involved, restraint may only be used when the destruction of property could possibly result in bodily harm to the student or another person.” *Exhibit J*, p. 61. While this investigation does not call this provision into direct question, the CDE notes that HB25-1248 amended the PPRA to add more defined conditions for the use of restraint and seclusion when property damage is involved. See C.R.S. § 22-15.5-103(4)(b). Under the 2025 legislation, if property damage may be involved, “restraint may only be used when the destruction of property would result in a **serious, probable, imminent threat of bodily harm** to self or others and when there is the present ability to effect such bodily harm.” *Id.* (emphasis added).

practical way to prevent that harm without physical management,” and (3) “the risk of not intervening must be greater than the risk of intervening.” *Exhibit J*, p. 65.

10. This procedural document also outlines notification and documentation requirements for the use of restraint and seclusion, including that: written documentation must be submitted within one school day to school administration; the school principal must notify parents as soon as possible and no later than the end of the day on which restraint or seclusion was used; and, reports must be disseminated to parents depending on the length of the restraint or seclusion. *Id.* at pp. 65-67.
11. District uses two “Physical Management Report” templates: one for physical restraint under one minute and the other for physical restraint over five minutes and all instances of seclusion. *Id.* at pp. 92-98; *Interview with Director*. Both templates incorporate a checklist for staff to complete, ensuring that the Physical Management Report was sent to parents the same day and a copy of the report was placed in the student’s confidential file and sent to District’s QBS Team. *Exhibit J*, pp. 93-94; 98. All District staff have access to these templates. *Interview with Director*. These templates are also referenced in District’s “Legal Aspects of Restraint” training materials. *See Exhibit J*, pp. 82-83.
12. District’s QBS Team—comprised of Director, RBT, and two other individuals who are registered behavior technicians, board-certified behavior analysts, and/or QBS trainers—offers regular QBS training to District employees. *Interviews with Director and RBT*. District offers nearly 350 hours of QBS training per year, including on Wednesday nights for teachers and certain Fridays for school administrators. *Id.* All District principals and teachers and paraprofessionals working in Severe Needs Behavior (“SNB”) programs must attend District QBS training. *Id.*
13. District QBS training features a review of District’s policies and procedures on the use of restraint and seclusion, a presentation on the “Legal Aspects of Restraint,” and instruction on behavior management—including on how and when to reinforce behaviors, the escalation staircase and how to effectively employ de-escalation strategies, and specific physical management tactics to use in emergencies. *Interview with RBT; see also Exhibit J*, pp. 68-87.
14. On February 13, 2025—following a February 12, 2025, QBS training for District elementary-school principals—Director conducted a School-specific QBS training at Principal’s request to review District policies and guidance on the use of restraint and seclusion. *Interviews with Director, RBT, and Principal; see also Exhibit Q*. Principal requested this training because District’s SNB program had recently moved to School from another District school. *Interview with Director*. At the training, Director reviewed District’s policies and procedures on the use of physical restraint and seclusion. *Interviews with Director and Principal; see Exhibit J*, pp. 61-87. Principal, Case Manager, SNB Teacher, Paraprofessional, and RBT attended this training. *Exhibit P; Interview with Director*.

### **C. School's "Opportunity Room" (the "Room")**

15. District's SNB Program moved to School in January 2025. *Interviews with Director and SNB Teacher*. The SNB room has two distinct sides: the first is a structured classroom area where the SNB Program conducts group lessons, and the second operates as a "regulation zone and break space" for students. *Interview with SNB Teacher; see Exhibit N*, pp. 1-3. The Room is a separate, enclosed space within the second side of the SNB room. *See Exhibit N*, pp. 4-8. The entrance to the Room is a few steps from the double-door main entrance to the second side of the SNB room from the hallway. *See id.* at pp. 13-15.
16. The door to the Room has a window, it does not lock, it can swing, and it has an interior handle so students can "always open door unless an adult has to hold it for safety reasons." *Interview with Director; see Exhibit N*, pp. 4-8. The Room does not have electrical configurations but has two observation mirrors and is generally "a safe space" for students. *Id.* The Room has padded walls and does not include any furniture or other equipment. *Id.*
17. District primarily intended to use the Room as a calm-down space for students, but it also developed the room to be "PPRA-compliant" so that it could be used in crisis. *Interview with Director*. In general, spaces such as the Room should not be used as dual-purpose calm-down and formal seclusion spaces. *Consultation with CDE Specialist*. If a student has used a room successfully as a calm-down space but is then secluded within that room, the student will associate that space with negative punishment and it will become an ineffective calm-down area. *Id.*
18. School uses the Room as a designated calm-down space for all students, and especially for those with moderate and severe behavioral needs. *Interviews with Director, SNB Teacher, Paraprofessional, and Principal*. SNB Teacher introduces the room to students as "a place to go if [they] need a break and have big feelings and need to be away from other people. It is not a punishment, but just a safe space within our building if [students need] that." *Interview with SNB Teacher*.
19. Principal agrees that the purpose of the Room is to help students when they are learning how to manage highly escalated behaviors and emotions: "it is a super quiet and private room for students to go in and regulate." *Interview with Principal*.
20. Prior to February 20, 2025, Student had used the Room as his "quiet area" to calm down if he was feeling overstimulated. *Interviews with Parent and SNB Teacher*. He would go into the Room "on his own" and exit when he was regulated. *Id.* Student showed Parent the Room prior to its redesign when they attended a music program at School. *Interview with Parent*.
21. Student has positive behavior supports identified in a May 2024 Individualized Education Plan ("IEP") and Behavioral Intervention Plan ("BIP") which reinforce that access to a calm-down space, such as the Room, is a key de-escalation strategy for Student. *See Exhibit A*, pp. 1-18;

*Exhibit B*, pp. 1-3. Student's disability "impacts his ability to regulate his emotions appropriately during heightened states of emotion." *Exhibit A*, p. 12.

22. Student benefits from "access to a calm down corner/area in and out of the classroom" and "needs space to calm down when his emotions are heightened," including "assistance with regulation if not able to [regulate] within the classroom." *Id.*; *Exhibit B*, pp. 1-2. When Student is escalated and exhibiting defiant behaviors, he benefits from redirection to a calm-down area and time to process rather than engagement with staff. *Exhibit A*, p. 14; *Exhibit B*, p. 1; *Interview with Parent*.
23. When Student is exhibiting dysregulated behavior, "if [Student] is willing, redirection has the best outcomes," but "otherwise, other measures seem to be ineffective for defiance or anger." *Exhibit A*, p. 12. Student "needs reminders to regulate his emotion" and "likes getting scheduled breaks in the [the SNB room]." *Id.*

#### **D. February 20, 2025 Incident**

24. Parent's concern is that School staff did not properly restrain and/or seclude Student during an incident on February 20, 2025, involving the Room. *Complaint*, p. 1; *Interview with Parent*.

#### **Escalation in the General Education Classroom**

25. Shortly after 1:00 p.m. on February 20, 2025, Student's classroom teacher ("General Education Teacher") called over the radio for additional staff support because Student was exhibiting escalated behaviors. *Interviews with Case Manager, SNB Teacher, and Principal*. Specifically, Student was "slamming his desk against the other desks," "flipping his desk," and "refusing to leave classroom." *Exhibit D*, p. 1.
26. Case Manager responded to the radio call for support and arrived at Student's classroom soon after 1:00 p.m. *Interview with Case Manager*. Case Manager responded because Student was on her caseload and she had supported him during escalations throughout the school year. *Id.* When she arrived at the classroom, Student was "sitting in his chair and tipping his desk back and forth, so his desk was hitting into the two desks perpendicular to his desk. He kept banging his desk back and forth and remained very angry. By his demeanor and facial expressions, you could tell he was very upset." *Id.*
27. Meanwhile, General Education Teacher and 22 other students were sitting on a carpeted area in front of the whiteboard and screen—at the north end of the classroom furthest from the door, though still close to the desk area where Student was sitting. *Interview with Case Manager; Response*, p. 2; see *Exhibit N*, p. 11. Student remained at his desk positioned between General Education Teacher and other students and the door. *Interviews with Case Manager and Paraprofessional; Response*, p. 2; *Exhibit N*, p. 12.

28. When she arrived at the classroom, Case Manager first tried to de-escalate Student by using verbal prompts: she asked questions to Student—such as “what can I help you with?” *Interview with Case Manager*. Then, because this strategy was not working, she prompted Student to leave the classroom to take a calm-down break. *Id.* She continued to use verbal prompting to encourage Student to take a break outside of the classroom, but “no matter what [she asked] him to do, he would not listen. He just kept trying to bang his desk back and forth.” *Id.* When a student is dysregulated and thus cannot respond to cognitive intervention, like here, behavior management protocol for de-escalation would be to employ a “co-regulation” strategy that emphasizes calming down a student’s nervous system through mirroring behaviors, such as using a soft, supportive, low-volume voice, modeling taking deep breaths, offering a cold drink of water or a change to body temperature, or suggesting a new physical activity like a walk. *Consultation with CDE Specialist*.
29. Case Manager also put her weight on and sat on Student’s desk. *Interview with Case Manager*. Student tried to “tip” Case Manager off the desk, continued to bang the desk back and forth, and refused to leave the classroom. *Id.* Physical confrontation, such as sitting on a desk, is not a recommended behavior management approach in this type of situation because it puts staff in immediate danger and has the potential to further escalate a student given the interference into student’s physical space. *Consultation with CDE Specialist*.
30. Case Manager perceived Student’s behavior to be “physically aggressive” and to pose an immediate threat to Student and others. *Interview with Case Manager*. Specifically, Case Manager indicated that Student’s actions were an immediate threat to himself and others because of how angry he presented, his continued “banging desks back and forth,” and his lack of response to any attempted de-escalation. *Id.*
31. Case Manager attempted to de-escalate Student on her own for about five to six minutes. *Id.* However, due to Student’s continued escalation, Case Manager called over the radio for additional support in the general education classroom. *Id.*
32. Paraprofessional responded to the call for additional support, and she arrived at the classroom shortly after. *Interviews with Paraprofessional and Case Manager*. When she arrived, Student was already “very escalated,” and Case Manager was “sitting on his desk trying to keep him from tipping it. He kept hitting his desk into other desks around him and was tipping chairs and being very disruptive.” *Interview with Paraprofessional*. Student also threw chairs, one of which landed close to another student. *Id.*
33. Like Case Manager, Paraprofessional observed Student’s behavior to be “physically aggressive” and to pose an immediate threat to himself and others. *Id.* Specifically, Paraprofessional observed Student to pose an immediate threat to himself and others because he was throwing chairs, one of which came close to another student, had such a “tense” body, made “fists,” and was trying to flip over desks. *Id.*

34. Paraprofessional attempted to de-escalate Student by using verbal redirection and offering choices. *Interviews with Paraprofessional and Case Manager*. Specifically, she asked Student if he would like to go for a walk, if he wanted to go to the SNB room to build something, or if he wanted a snack. *Id.* She attempted these strategies because “sometimes when a student is escalated and they are already not responding, somebody else can come in with a fresh face and get the student to respond.” *Id.* Student did not respond to Paraprofessional’s de-escalation attempts, and instead responded by “yelling no, growling, and grunting.” *Interviews with Paraprofessional and Case Manager*.
35. Because Student remained escalated—and continued to exhibit physically aggressive behaviors that threatened himself, others, and property—Case Manager and Paraprofessional determined that they would need to transition Student from the classroom “for his safety, our safety, and the safety of other students.” *Interview with Paraprofessional*. While a more effective intervention could have environmental modifications, such as clearing the space around a student from furniture and evacuating the class, it is also permissible in a crisis to remove the escalated student. *Consultation with CDE Specialist*. Indeed, here, it was acceptable to remove Student from the general education room, rather than evacuate other students, because it would have been challenging to evacuate the 22 other students based on their positioning between Student and the door. *Id.*

Transition from General Education Classroom to the Room

36. Around 1:12 p.m., Case Manager and Paraprofessional “looped” their arms with Students’ arms to remove Student from his general education classroom. *Interviews with Paraprofessional and RBT; see also Exhibit E*, p. 3. Case Manager and Paraprofessional were on either side of Student. *Interview with Paraprofessional*. As Case Manager and Paraprofessional guided Student out of the classroom, he continued to attempt to tip chairs and grab desks. *Id.* He also “headbutted” Paraprofessional in the arm as they left the classroom. *Id.*
37. Case Manager and Paraprofessional first guided Student a few steps into the hallway immediately outside of his general education classroom. *Id.* There, Case Manager and Paraprofessional maintained their escort and again tried to de-escalate Student by using verbal commands and giving choices. *Id.* They prompted him to try taking a break and to talk to them about why he was upset. *Id.* However, Student refused and at this point remained “very” escalated. *Id.*
38. Case Manager gave Student the option to either go to her classroom or to the Room to calm down because Student had used those areas previously as calm-down spaces and to reinforce those options as safe de-escalation spaces for Student. *Interview with Case Manager*. Student continued to scream “no.” *Interviews with Case Manager and Paraprofessional*.



39. Because Student remained escalated and did not respond to the calm-down options, Case Manager and Paraprofessional determined it would be safest to guide Student to the Room since it was much closer than Case Manager's room. *Id.*
40. Case Manager and Paraprofessional maintained the same interlocking, guided walk with Student from the hallway to the Room. *Id.* The total walk time from Student's general education classroom to the Room was "less than 30 seconds." *Id.*; *see also Exhibit N*, p. 15.
41. During the transport, Student was never immobilized and could still move his torso, arms, legs, and head. *Interviews with Paraprofessional, Case Manager, RBT, and SNB Teacher.* According to SNB Teacher, who was in the SNB room when Student arrived, the transport looked "like a guided walk" where Case Manager and Paraprofessional were providing "guided support" and using "cupped hands" but were not using any "closed grasp around his wrist." *Interview with SNB Teacher.* Similarly, RBT described Case Manager and Paraprofessional as having "their arms looped through" Student's arms. *Interview with RBT.* Student looked visibly upset, including having red cheeks and clenched fists, but was walking on his own. *Interviews with SNB Teacher and RBT.*
42. Based on these findings—including the corroboration among interviews—the CDE finds that Case Manager and Paraprofessional used minimal physical contact, which lasted less than one minute, to safely transport Student from his general education classroom to the Room. *Id.*; *Consultation with CDE Specialist.*

#### Events in the Room

43. Around 1:12 p.m., Case Manager and Paraprofessional arrived with Student to the Room. *Interviews with Case Manager, Paraprofessional, RBT, SNB Teacher*; *see Exhibit N*, pp. 13-15. They guided Student into the middle of the Room and then released him from their support. *Interviews with Case Manager, Paraprofessional, RBT, and SNB Teacher.*
44. Case Manager and Paraprofessional did not close the door to the Room behind them after transporting Student into the Room. *Interviews with RBT, SNB Teacher, and Principal.* At this point, the goal was for Student to use the Room, like he had previously, as a calm-down space and de-escalation strategy. *Interviews with Case Manager, Paraprofessional, RBT, SNB Teacher, and Principal.*
45. After Student arrived in the Room, RBT and SNB Teacher, who were present in the SNB room, took control of the situation so that Case Manager and Paraprofessional could leave to support other students. *Id.*
46. RBT was QBS-certified as of February 20, 2025, is a member of District's QBS team, has worked as a QBS safety trainer for nearly eight years, and specializes in providing behavior support to students in crisis throughout District. *Exhibit G*, p. 6; *Interview with RBT.* SNB Teacher was also QBS-certified as of February 20, 2025. *Exhibit G*, p. 5. She is the lead teacher

for School's SNB Program and provides direct services for students with behavioral needs, including Student. *Interview with SNB.*

47. RBT and SNB Teacher did not close the door to the Room when they took over management of the situation. *Interviews with RBT and SNB Teacher.*
48. With the door to the Room open, RBT and SNB Teacher stood to the side of the door and began to verbally prompt Student, such as by asking him if he was ready to talk and by saying "we will know when you are ready when you show us a safe, calm body. A safe, calm body could be sitting down on the floor, it could be standing up and leaning against the wall." *Interview with SNB Teacher.* Student responded to these prompts by yelling "no" and "shutting down." *Id.* Student remained escalated at this time. *Id.*
49. After a few minutes of unsuccessful verbal de-escalation attempts, Student "shut the door" to the Room himself. *Interviews with SNB Teacher and RBT.*
50. Because Student had previously used the Room as a calm-down area, including with the door closed, RBT and SNB Teacher gave Student space but proceeded to monitor him through a window in the door and two mirrors in the back corners of the room. *Id.*; see also *Exhibit N*, pp. 4-7. Prior to this incident, Student would often "go into the Room and pace and do a couple of laps or take a deep breath, and then he would leave and walk out. This is not a new regulation strategy for him, and he has made that choice to go into the Room himself in the past." *Interview with SNB Teacher.*
51. At this point, Student was beginning to show signs of calming down: he was no longer yelling, but he continued to pace throughout the room. *Response*, p. 3; *Interviews with SNB Teacher and RBT.*
52. After Student had been in the Room for between seven to ten minutes with RBT and SNB Teacher monitoring, Student placed a mat—a component of an interlocking jigsaw floor—over the window. *Interviews with SNB Teacher and RBT.* At this point, RBT and SNB Teacher became concerned with being able to monitor Student given the importance of having eyes on an escalated student. *Id.*
53. RBT and SNB Teacher gave verbal prompts directing Student to remove the mat, such as by saying "we need to be able to see you for safety. Part of our job is to keep you safe. We want to give you space and want to respect that boundary, but we need to be able to see you; if you do not remove the mat, we will have to come and remove it." *Interview with SNB Teacher.* Student responded by yelling, "you cannot make me." *Id.*
54. RBT and SNB Teacher gave Student about "30 seconds" to process their request. *Id.* However, after that wait period when Student still had not removed the mat, RBT and SNB Teacher indicated "for safety that we needed to go in and remove the mat so that we could monitor." *Interview with RBT.* While continual monitoring of a dysregulated student is important, there

was no need to take the mat away from Student here; instead, it would have been more consistent with behavior management approaches for staff to enter the Room and sit with Student to monitor him directly. *Consultation with CDE Specialist*. By instead trying to take the mat away from Student, staff triggered a separate instance of escalation when Student was otherwise showing signs of calming down. *Id.*

55. When RBT and SNB Teacher entered the Room to remove the mat, Student began “punching and kicking” them. *Interviews with RBT and SNB Teacher*. Both staff members tried to back out of the Room, but Student kept trying to “physically aggress toward” them. *Id.*
56. Both RBT and SNB Teacher perceived Student’s behavior as an immediate threat to themselves because Student repeatedly tried to kick and hit them. *Id.* RBT and SNB Teacher stated that this incident was different from previous behavior incidents involving Student because of an extreme level of physical aggression toward them. *Id.*
57. When Student “physically aggressed” toward RBT and SNB Teacher after they removed the mat, RBT and SNB Teacher shut and held the door to the Room closed for about five minutes between 1:24 and 1:29 p.m. *Interview with RBT; Exhibit E, p. 3*. The door does not have a locking mechanism, so it was never locked. *Interviews with RBT and SNB Teacher*. However, Student was not able to leave the Room during this time because the door was held shut by RBT and SNB Teacher. *Id.*
58. While holding the door, RBT and SNB Teacher used a “wait/planned ignore” strategy to avoid giving attention to the unwanted behaviors. *Interview with SNB Teacher*. Both staff members also gave verbal prompts for Student to show a “safe, calm body” and verbally modeled the behaviors, such as sitting down somewhere staff could see him, that would demonstrate a “safe, calm body.” *Interviews with SNB Teacher and RBT*. Both staff members continued to monitor Student through the door window and mirrors while they held the door. *Id.*
59. RBT and SNB Teacher indicate that holding the door to the Room closed was necessary for their safety and Student’s safety because Student continued to punch, hit, and yell at both staff members. *Id.*

### Reintegration

60. At 1:29 p.m., after about five minutes with the door held closed by RBT and SNB Teacher, Student voluntarily walked toward the middle of the Room and sat down. *Id.*
61. When Student sat down in the Room and showed a “safe, calm body,” RBT and SNB Teacher immediately opened the door. *Id.* RBT and SNB Teacher then entered the Room. *Interview with RBT*. From 1:29 to about 1:38 p.m., RBT and SNB Teacher processed with Student inside the Room, including asking Student if he needed a drink of water or a snack, affirming his calm and safe body language, seeing if he was ready to talk, and giving him a superhero coloring sheet. *Id.* Student colored for a few minutes and then joined a small group of

students in [the SNB room] who were playing a behavioral strategies game. *Interviews with RBT and SNB Teacher; Exhibit E*, pp. 1, 3. Student was fully de-escalated by 1:38 p.m. *Interview with RBT; Exhibit E*, p. 1.

62. After Student had been participating in the small group in the SNB room for about an hour, Principal requested a conference with Student because his General Education Teacher had written up the Major Incident Form. *Interviews with SNB Teacher and RBT; see Exhibit D*, p. 1. RBT and SNB Teacher asked Student if he felt safe walking to Principal's office or if he wanted Principal to come to him in the SNB room. *Interview with SNB Teacher*. Student chose to have his conference with Principal in the office, and, after about an hour with her, came back to the SNB room to participate in more group activities. *Interviews with Principal and SNB Teacher*.
63. Student did not have any further behavior incidents throughout the day on February 20, and he was not involved in any further incidents of restraint or seclusion during the 2024-2025 school year. *Interviews with Parent and Principal*.

#### **E. Incident Notification and Documentation**

64. Parent's concern is that School staff did not provide proper notification and documentation after an improper use of restraint and/or seclusion on February 20, 2025. *Complaint*, p. 1.
65. When Student was guided into the Room on February 20, RBT alerted school administration via radio. *Interviews with RBT and Principal*. It is School policy to notify administration in this manner whenever a student is placed in the Room or has been placed in a physical hold. *Interviews with RBT and SNB Teacher*. Principal heard the radio call and was aware that there was an incident occurring with Student. *Interview with Principal*.
66. Principal also separately discussed the incident later that day with RBT and SNB Teacher. *Interviews with Principal and SNB Teacher*. These conversations provided Principal a rundown of the incident so she could inform Parent. *Interview with Principal*.
67. Around 3:09 p.m. on February 20, Principal and Parent spoke on the phone regarding the incident. *Interviews with Principal and Parent; see also Exhibit E*, p. 5. Principal provided Parent with an overview of the incident, including that Student was highly escalated, flipping desks and throwing chairs, and was escorted by staff and ended up in the Room where he ultimately tried to kick and hit staff. *Interview with Principal*. Parent learned from this call that staff used a two-person transport, that Student was placed in the Room, and that Student covered up the window of the Room. *Interview with Parent*. Principal also indicated to Parent that she had not yet done a full investigation and was going to talk with the staff involved and share incident paperwork by the next day. *Interviews with Principal and Parent*.
68. On February 21, the day after the incident, Principal emailed RBT about the status of Physical Management Paperwork for the incident because Principal had told Parent to expect

paperwork. *Exhibit K*, p. 34; *Interviews with RBT and Principal*. Principal also had in-person conversations with Case Manager and Paraprofessional that morning to “gather a clear understanding” of the incident so that she could complete the official Physical Management Report (“Incident Report”) for Parent. *Interview with Principal*.

69. On February 21, RBT drafted the Incident Report after receiving verbal input from SNB Teacher, Case Manager, and Paraprofessional. *Interviews with RBT, SNB Teacher, Case Manager, and Paraprofessional*. RBT shared the draft Incident Report with Principal, and Principal finalized the Incident Report by adding time stamps, staff member names, and a specific event description. *Interview with Principal*. This submission of written documentation to School administration is consistent with District’s policies and procedures. *Exhibit J*, p. 65.
70. Also consistent with District’s policies and procedures, Principal emailed the completed Incident Report to Parents at 9:49 a.m. on February 21, 2025. *Exhibit O*; *Exhibit J*, p. 65; *Interviews with Parent and Principal*. Principal also emailed the Incident Report to the District QBS team on February 21, 2025 at 4:51 p.m. *Exhibit K*, p. 35; *Interview with Principal*.
71. Principal added the Incident Report to Student’s file within a shared network drive. *Exhibit K*, p. 36; see *Exhibit E*, p. 5. Case Manager also added the Incident Report to Student’s file in her classroom. *Interviews with Case Manager and Principal*.
72. The Incident Report was developed from the District template used to report any incident of seclusion. *Interview with Director*. The Incident Report is titled “5 Minutes and Over Physical Management Report” and includes specific information related to the February 20, 2025, incident. See *Exhibit E*.
73. The Incident Report’s “Antecedent” section identifies the antecedent to Student’s behavior as “work/task,” and details that “[c]lassroom teacher was instructing the whole class. [Student] was tipping and moving his desk to hit other desks. [Case Manager] verbally tried to get student to stop and leave the classroom.” *Id.* at p. 2. Similarly, the “Problem Behaviors” section identifies that Student was exhibiting physical aggression toward others and property and was making “verbal statements/threats” to others. *Id.* at p. 1.
74. The Incident Report contains a section for the “[s]pecific description of the emergency situation (i.e. the serious, probable, and imminent threat of bodily injury) that necessitated the use of restraint.” *Id.* at p. 4. There, the Incident Report describes:

[Student] was angry and escalated while in class during instruction from his classroom teacher. He began to shove his desk around and was using it to hit other student desks while students were nearby. [Student] was refusing to follow verbal commands to stop. He was lifting his desk in an attempt to flip his desk. A staff member sat on his desk to prevent him from flipping it over. He continued to try to flip his desk over multiple times. After a forward, two-person transport, he was placed in our Opportunity/Seclusion Room. He charged at the door, screamed at

staff, punched at the door, and placed a mat that he had taken in with him in front of the window of the door.

*Id.*

75. The Incident Report also provides other descriptions of the incident. *Id.* at pp. 1-6. For example, it includes descriptions of Student's physical emotional, and behavioral conditions during and following "physical management." *Id.* at pp. 3-4. It notes that Student had "flushed pale skin" and "normal breaths" and was screaming, kicking, and punching during the physical management. *Id.* at p. 3. After the physical management, the Incident Report states that Student was flushed and following directions, but also that he "aggresses." *Id.* at p. 4
76. The Incident Report's "Lower Level Technique Used" section identifies that School staff implemented various techniques and alternatives in an effort to de-escalate the situation, including: physical redirection, verbal redirection, correction, help strategy/prompted communication, and wait strategy. *Id.* at pp. 1-2. This section also establishes the de-escalation techniques that School did not report using, including: sensory activity, withholding attention, incompatible prompt, and high probability prompt. *Id.*
77. For the strategies that the Incident Report indicates School staff did not use, RBT explained that these strategies are more appropriate for lower-level escalation. *Interview with RBT.* Because Student was already highly escalated and posed a threat to himself, property, and others, these lower-level strategies would have been ineffective and unnecessary. *Id.*
78. The Incident Report's "[t]ype of physical management" section identifies "forward transport" and "seclusionary" as the type of "core physical management holds" used. *Exhibit E*, p. 3. For duration of the restraint used, the Incident Report notes: escalation start time: 1:12; escalation end time: 1:38; physical management start time: 1:12; physical management release time: 1:29; and total duration of physical management: 17 minutes. *Id.* at pp. 1, 3.
79. "Escalation start time" refers to when a student is "starting to show escalation" and "escalation end time" refers to when the student has "gotten down to baseline." *Interview with RBT.* For District, these time stamps are more for the purpose of gathering data—such as identifying trends in what time of day students tend to escalate—and might not be accurate down to the minute for a specific incident. *Id.* "Escalation start time" at 1:12 p.m. refers to Student's behavior in his general education classroom but RBT noted that the escalation could have started a few minutes before 1:12 p.m. *Id.* The "escalation end time" at 1:38 p.m. refers to the moment Student had completely de-escalated in the SNB room after leaving the Room. *Id.*
80. "Physical management start" and "physical management release" times refer to the times at which physical management begins and ends. *Id.* Here, the "physical management start time" began at 1:12 p.m. when Case Manager and Paraprofessional transitioned Student from his general education classroom to the Room. *Id.* The "physical management release" at 1:29

p.m. refers the time at which RBT and SNB Teacher stopped holding the door to the Room closed. *Id.* While not noted in the Incident Report, RBT and SNB Teacher began holding the door at 1:24 p.m. *Id.* During restraint or seclusion, RBT uses his phone to capture screenshots of start and release times to ensure accurate reporting. *Id.* Staff were not actively using restraint or seclusion for the 17 minutes reported as “total duration of physical management;” instead, this duration includes Student’s transition to the Room and his time in the Room before RBT and SNB Teacher held the door closed. *Id.*

81. The Incident Report states that neither staff nor Student were injured during the incident. *Exhibit E*, pp. 4-5.
82. Finally, the Incident Report identifies the names of SNB Teacher, Paraprofessional, RBT, and Case Manager for “names of staff involved in physical management” and identifies SNB Teacher for “names of staff safety monitoring.” *Id.* at p. 1.
83. Following receipt of the Incident Report, Parent and School reviewed the incident “at length” at an April 2025 meeting. *Interview with Parent.*

### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation No. 1: District did not restrain Student during the incident on February 20, 2025. District secluded Student on February 20, 2025, but had an appropriate basis to use seclusion and ensured seclusion was properly administered. District complied with the PPRA.**

Parent raises two concerns about the incident that occurred on February 20, 2025. *Complaint*, p. 1. Each concern assumes that District “restrained” and/or “secluded” Student within the meaning of the PPRA. Accordingly, the CDE must first determine whether Student was restrained and/or secluded such that the PPRA applies.

#### **A. Definitions of “Restraint” and “Seclusion” under the PPRA**

The PPRA defines “restraint” as “any method or device used to involuntarily limit freedom of movement, including but not limited to bodily physical force, mechanical devices, and chemicals.” PPRA Rule 2.00(8). “Physical restraint” means “the use of bodily, physical force to involuntarily limit an individual’s freedom of movement for *one minute or more.*” PPRA Rule 2.00(8)(c) (emphasis added). However, “physical restraint” does not include:

- A physical intervention for less than one minute for the protection of the student or others or to prevent the destruction of property;
- A brief holding of a student by one adult for the purpose of calming or comforting the student;
- 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.

PPRA Rules 2.00(8)(c)(i)-(iv).

The PPRA does not explain what constitutes “minimal physical contact” in the context of an escort. See PPRA Rule 2.00(8)(c)(iii). Historically, the CDE has relied on guidance from the U.S. Department of Education to determine whether escort actions involve only “minimal physical contact”—and therefore do not constitute “physical restraint”—under the PPRA:

Physical restraint, although not defined in IDEA and its implementing regulations, means a personal restriction that immobilizes or reduces the ability of a student to move their 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 purposes of inducing a student who is acting out to walk to a safe location.

*Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA’s Discipline Provisions*, 81 IDELR 138 (OSERS 07/19/22); see also *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities*, 69 IDELR 80 (OCR 2016) (containing the same quotation).

The PPRA defines “seclusion” as “the placement of a student alone in a room from which egress is involuntarily prevented.” PPRA Rule 2.00(9). However, seclusion does not include “time-out,” “which is the removal of a student from potentially rewarding people or situations. A [t]ime-out is not used primarily to confine the student, but to limit accessibility to reinforcement. In a [t]ime-out, the individual is not physically prevented from leaving the designated [t]ime-out area.” PPRA Rule 2.00(9)(b).

#### **B. Student Was Not Physically Restrained on February 20, 2025**

The CDE must determine whether the forward, two-person transport of Student from the classroom to the Room constituted a “physical restraint” under PPRA Rule 2.00(8)(c), or whether the transport was an escort with minimal physical contact excepted under PPRA Rule 2.00(8)(c)(iii).

Here, Case Manager and Paraprofessional looped their arms under Student’s arms to transport him from his general education classroom to the middle of the Room. (FF #s 36-40). The two-person transport lasted around 30 seconds total because of the general education classroom’s proximity to the Room, which is just inside the entrance to the SNB room from the hallway outside of Student’s classroom. (FF #s 15, 40). Not only did this physical intervention last for only 30 seconds, but it was also initiated to protect Student, General Education Teacher, 22 second-grade students, Case Manager, and Paraprofessional from Student’s repeated attempts to flip and slam his desk and throw chairs. (FF #s 25-27, 30, 32, 35). Student could not remain in his classroom because he did not respond to de-escalation attempts and his behavior was physically



aggressive and posed an immediate threat to himself and others. (FF #s 25-34). As such, Case Manager and Paraprofessional needed to use the forward, two-person transport to safety escort Student from his classroom to a safer calm-down area. (FF # 35). During the 30-second transport, Student was never immobilized, and he retained his ability to move his torso, arms, legs, and head. (FF #s 40-41). Indeed, Student remained physically aggressive and attempted to grab furniture and headbutt Paraprofessional during the transport, indicating that the transport did not reduce his ability to move freely. (FF #s 36, 41). While Case Manager and Paraprofessional temporarily touched Student's arms by using the looped position in transit, they did not use a closed grip around Student's wrists, and Student walked on his own with the guided support. (FF # 41).

Overall, the two-person transport lasted for less than one minute and involved minimal physical contact for the purposes of: protecting Student, others, and School property; and, safely escorting Student, who was highly escalated, from one area to another. As such, this two-person transport falls squarely within the exceptions to PPRA Rule 2.00(8)(c) and does not constitute a "physical restraint" under the PPRA. See PPRA Rule 2.008(c)(i); 2.008(c)(iii).

Accordingly, the CDE finds and concludes that Student was not physically restrained during the incident on February 20, 2025.

### **C. Student Was Secluded on February 20, 2025**

The CDE must determine whether the placement of Student in the Room constituted "seclusion" under PPRA Rule 2.00(9).

Here, School used the Room as a calm-down space and de-escalation strategy for Student. (FF #s 20-23). Case Manager and Paraprofessional did not close the door upon leaving Student in the middle of the Room, and RBT and SNB Teacher did not close the door when they first took over monitoring nor did they enter the Room. (FF #s 44, 47-48). At this point, no staff member intended to use the space to seclude Student. (FF # 44). However, Student then closed the door to the Room and ultimately placed a floor mat over the door window used by RBT and SNB Teacher to monitor. (FF #s 49, 52-53). When RBT and SNB Teacher entered the Room to remove the mat and Student proceeded to physically aggress toward them, RBT and SNB Teacher held the door to the Room shut so that Student could not exit. (FF #s 55-57). The staff members held the door shut for about five minutes, during which Student was alone in the Room and could not egress through the only door. (FF #s 57-61).

Student's placement alone in the room while RBT and SNB Teacher held the door shut for approximately five minutes constituted seclusion under PPRA Rule 2.00(9). Accordingly, the CDE finds and concludes that Student was secluded during the incident on February 20, 2025.

#### **D. District Had an Appropriate Basis to Use Seclusion**

Next, the CDE must determine whether District had an appropriate basis for the use of seclusion on February 20, 2025. PPRA Rule 2.01. The PPRA provides that seclusion may only be used:

- In an emergency and with extreme caution; and
- After the failure of less restrictive alternatives or a determination that such alternatives would be inappropriate or ineffective under the circumstances.

PPRA Rule 2.01(1)(a)-(b).

Seclusion may only be used in cases of emergency. *Id.* “Emergency” means “serious, probable, imminent threat of bodily injury to self or others with the present ability to effect such bodily injury.” PPRA Rule 2.00(4). “Bodily injury” includes “physical pain, illness, and any impairment of physical or mental condition.” PPRA Rule 2.00(1).

Here, an imminent threat of bodily injury existed for Student, RBT, and SNB Teacher when Student physically aggressed toward both staff members as they attempted to remove the mat from the Room’s window. (FF #s 55-57). RBT and SNB Teacher—both of whom are QBS-certified—indicated the situation constituted an emergency given the extreme nature of Student’s physical aggression and his attempts to kick and hit both staff members. (FF #s 46, 55-59.) For these reasons, the CDE finds and concludes that the situation in the Room constituted an emergency under PPRA Rule 2.01(1)(a).

Even in an emergency, the PPRA permits the use of seclusion only after the failure of less restrictive alternatives (or a determination that those alternatives would be inappropriate or ineffective). PPRA Rule 2.01(1)(b)(i)-(ii). Less restrictive alternatives include positive behavior supports, de-escalation, and restructuring the environment. *Id.*

After Student placed the mat over the window to the Room, RBT and SNB Teacher could no longer visually monitor Student. (FF #s 52-53). RBT and SNB Teacher entered the Room to remove the mat and thus triggered a separate escalation event for Student (FF #s 54-55). Indeed, it would have been more consistent with behavior management protocol for RBT and SNB Teacher to enter the Room and monitor Student directly, rather than trigger further escalation by trying to take the mat from him. (FF # 54). However, given that Student became physically aggressive and immediately tried to kick and hit RBT and SNB Teacher when they entered the Room to remove the mat, less restrictive alternatives would have been inappropriate and ineffective at this time. (FF #s 55-59). At this point, closing the door to the Room to prevent physical contact between Student and staff was a necessary reaction to a situation that risked injury to Student and staff. (FF #s 56-59). RBT and SNB Teacher acted consistently with District’s policies and procedures, which allow for physical management only if there is an imminent risk of serious harm, there is no other practical way to prevent the harm, and the risk of inaction is greater than the risk of

intervening. (FF # 9). Thus, the CDE finds and concludes that RBT and SNB Teacher attempted less restrictive alternatives consistent with PPRA Rule 2.01(1)(b)(i)-(ii).

For these reasons, the CDE finds and concludes that District had an appropriate basis to use seclusion under the PPRA during the February 20, 2025, incident.

#### **E. District Properly Administered the Seclusion**

The CDE must next determine whether School properly administered the seclusion on February 20, 2025. In addition to requiring an appropriate basis for the use of seclusion, the PPRA also requires seclusion to be properly administered. PPRA Rule 2.02(2).

When a district uses seclusion, proper administration requires that the “student placed in [the] seclusion room must be continually monitored.” PPRA Rule 2.02(e)(iii). As such, “there must be at least one window for monitoring when the door is closed” or, if a window is not feasible, the district must monitor through a video camera. *Id.* Additionally, when staff determines that seclusion is “no longer necessary to protect the student or others . . . staff must reintegrate the student or clearly communicate to the student that (s)he is free to leave the area used to seclude the student.” PPRA Rule 2.02(1)(a)(v).

Parent’s concern is that District did not properly administer seclusion because District did not: ensure that the seclusion room had a window for monitoring; consistently monitor Student; and, reintegrate Student after the use of seclusion or clearly communicate that Student was free to leave the area. (FF # 24).

Here, the Room has a door with a window for monitoring, and it also has two mirrors on the ceiling in the back-left corner of the room. (FF # 16). Because the window is on the door, staff can monitor even with the door closed. (FF # 16). RBT and SNB Teacher both monitored Student when he was inside the Room and closed the door on his own accord. (FF #s 47-52). When Student placed a mat over the window and thus compromised RBT and SNB Teacher’s ability to monitor, the staff members intervened and removed the mat as soon as possible. (FF #s 52-55). Both RBT and SNB Teacher continued to monitor Student through the door window and mirrors while they held the door. (FF # 58). Accordingly, the CDE finds and concludes that Student was continually monitored through the window and mirrors while in the Room consistent with PPRA Rule 2.02(e)(iii).

Regarding reintegration, RBT and SNB Teacher—who are both QBS-trained in the use of restraint and seclusion—opened the Room door as soon as Student sat in the middle of the room and calmed down. (FF #s 8, 14, 46, 60-61). RBT and SNB Teacher offered Student water and a snack, affirmed his safe and calm body language, asked if he wanted to talk about the incident, and gave Student a superhero coloring book which he used. (FF # 61). After Student colored for a few minutes, he joined SNB Teacher and a small group of students to play a behavior strategy game. (FF #s 61-62). He remained in the smaller classroom environment of the SNB room for about an

hour and was fully de-escalated. (FF # 62). After about an hour, he had a conference with Principal about the incident, and he was given the choice whether to attend this conference in the office or in the SNB room. (FF # 62). Student chose to walk to the office for his conference, as he enjoys using walks as a break. (FF # 62). Accordingly, the CDE finds and concludes that Student was reintegrated after the seclusion consistent with PPRA Rule 2.02(1)(a)(v).

For these reasons, the CDE finds and concludes that District properly administered seclusion under the PPRA during the incident on February 20, 2025.

**Conclusion to Allegation No. 2: District provided proper notification and documentation of the seclusion used on February 20, 2025. District complied with the PPRA.**

Finally, Parent's concern is that District did not properly notify Parent about or document the use of seclusion on February 20, 2025. *Complaint*, p. 4.

**A. PPRA Notification and Documentation Legal Requirements**

The use of restraint and seclusion triggers PPRA notification and documentation requirements. PPRA Rule 2.04(2). The following notification and documentation requirements apply when any type of restraint or seclusion is used:

- District Procedures: Each district shall have procedures in place to ensure that the use of restraint or seclusion is documented in the record of the student that was restrained or secluded. PPRA Rule 2.04(2)(a).
- Staff Report: The staff member who used the restraint or seclusion must notify their school or school administration as soon as possible. Within one school day of the use of restraint or seclusion, that staff member must submit a written report to school administration or district staff consistent with district policies. PPRA Rule 2.04(2)(b).
- Same-Day Notice to Parent: School principal must also "verbally or in writing notify the [p]arent as soon as possible but no later than the end of the day" that restraint or seclusion was used. PPRA Rule 2.04(2)(c).

PPRA Rule 2.04(2)(a)-(c).

However, the following notification and documentation requirements apply only if a staff member "uses a restraint on a student that lasts five minutes or more" under PPRA Rule 2.04(2)(e):

- Written Report: School administration must complete a written incident report and "mail, fax, or e-mail" the report to parent "not more than five calendar days after the use of the

restraint on the student.” PPRA Rule 2.04(2)(e). A copy of such a report must be placed in a student’s confidential file. PPRA Rule 2.04(3). This report must include:

- Antecedent to the student’s behavior, if known;
- A description of the incident;
- Efforts made to de-escalate the situation;
- Alternatives that were attempted;
- Type and duration of the restraint used;
- Injuries that occurred, if any; and,
- Staff present and staff involved in administering the restraint.

PPRA Rule 2.04(4)(c)(i)-(vii).

- Administrative Review: When an administrator issues a written report under PPRA Rule 2.04(2)(e), the administrator or their designee should conduct a “review to assure that appropriate procedures were followed and to minimize future use of restraint when possible.” PPRA Rule 2.04(4). This staff review should include, but is not limited to: ensuring follow-up communication with student and their parents; considering whether there were alternative strategies that could have been used; and recommending adjustment of procedures where appropriate. PPRA Rules 2.04(4)(a)(i)-(iii).
- Review Meetings: Finally, when an administrator issues a written report under PPRA Rule 2.04(2)(e), they must also convene a meeting to review the incident “if requested” by a parent. For students with disabilities, this review meeting may occur through “the IEP process.” PPRA Rule 2.04(4)(b).

## **B. Application of Notification and Documentation Requirements to Seclusion**

Because the plain language of PPRA Rule 2.04(2)(e) requires a written report only if a staff member “uses a restraint,” the CDE must first interpret whether “restraint,” in this context, includes seclusion. See PPRA Rule 2.04(2)(e). The PPRA Rules were most recently amended on June 30, 2023. See HB 22-1376. Prior to this amendment, the PPRA Rules defined “restraint” as “any method or device used to involuntarily limit freedom of movement, including but not limited to bodily physical force, mechanical devices, chemicals, **and seclusion.**” 1 Colo. Code Regs. § 301-45:2620-R-2.00 (eff. Nov. 30, 2017) (emphasis added). Because this definition of restraint expressly incorporated seclusion, any reporting requirement triggered by use of “restraint” would therefore have also applied to instances of seclusion under the previous PPRA Rules. *Id.*

However, after the PPRA Rules were amended in June 2023, the definition of “restraint” no longer includes “seclusion.” See PPRA Rule 2.00(8). Yet, in certain instances, the PPRA Rules nonetheless suggest that “restraint” still incorporates “seclusion.” See PPRA Rule 2.02(1)(a). For example, PPRA Rule 2.02(1)(a), which outlines general requirements for the use of restraint and seclusion, treats seclusion as a form of restraint: “[w]hen **restraints, including seclusion, are used** . . .” *Id.* (emphasis added).

On their face, the notification and documentation requirements under PPRA Rule 2.04 seem to distinguish between restraint and seclusion. PPRA Rule 2.04(2). While the notification requirements of PPRA Rule 2.04(2)(b) and (c) use the phrase “any type of restraint . . . or seclusion,” the reporting requirements of PPRA Rule 2.04(2)(d) and (e) only mention “a physical restraint” or “restraint.” *Compare* PPRA Rule 2.04(2)(b)-(c) *and* 2.04(2)(d)-(e). Under the old PPRA scheme, the reporting requirements triggered by use of “restraint” would apply to instances of “seclusion” because seclusion was incorporated into the definition of restraint. *See* 1. Colo. Code Regs. § 301-45:2620-R-2.00. However, the inconsistencies in whether the amended PPRA Rules incorporate “seclusion” as a form of restraint make it an open question as to whether reporting requirements apply to seclusion.

On May 24, 2025, the Governor signed House Bill 25-1248 into law, further amending the PPRA. *See* HB 25-1248. Notably, this legislation clarifies the PPRA documentation requirements: “if a physical restraint is used for five minutes or more, **or if the student is placed in seclusion for any length of time,**” the district must issue a written report to parent within five days of the incident that contains similar information as required under current PPRA Rule 2.04(2)(e). C.R.S. § 22-15.5-106(4). The PPRA Rules have not yet been updated to reflect the passage of this legislation; however, the law is nonetheless highly instructive here: if seclusion is used, the district is obligated to report the incident. *Id.*

Moreover, it would also be against the spirit of the PPRA—which emphasizes using restraint and seclusion only in emergencies and with extreme caution—to not require a written report for instances of seclusion. *See* C.R.S. § 22-20-103. If that were the case, a school could confine a student for seven hours without needing to provide any documentation to parents about such an extreme seclusion. Indeed, here, District acknowledges “its responsibility to notify parents and document all incidents of restraint or seclusion.” *Response*, p. 4. Moreover, District requires staff members to fill out its “5 Minutes and Over: Physical Management Report” template if a student is placed in seclusion for any length of time. (FF # 11).

Based on clear legislative intent and the spirit of the PPRA, the CDE applies the reporting requirement of PPRA Rule 2.04(2)(e) as to restraints, including seclusion, that last five minutes or more. Therefore, the reporting requirement of PPRA Rule 2.04(2)(e) applies to seclusion that lasts five minutes or more.<sup>6</sup>

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<sup>6</sup> The 2025 legislation amending the PPRA adds reporting requirements for the use of seclusion beyond the current requirements of PPRA Rule 2.04(2)(e). *Compare* C.R.S. § 22-15.5-106(4) *and* PPRA Rule 2.04(2)(e). The legislation requires reporting if a student is placed in seclusion for any length of time, and it mandates that the report include details concerning the notification provided to a parent and, for seclusion, whether the door was opened or closed—in addition to the existing reporting requirements reflected in PPRA Rule 2.04(2)(e). C.R.S. § 22.15.5-106(4)(a)-(j). Districts that use template reports for instances of restraint and seclusion should therefore revise any such templates to comply with current legal requirements.

### **C. District Provided Proper Notice and Documentation**

The CDE must determine whether District provided proper notification and documentation of the February 20, 2025, seclusion per PPRA Rule 2.04.

Here, regarding the district procedures requirement under PPRA Rule 2.04(2)(a), District's "Physical Management Report" templates, which are available to all staff and referenced in District trainings, require District staff to verify that a copy of any such report is placed into a student's confidential file. (FF # 11). Indeed, here, School checked that box on the Incident Report confirming that Principal had placed the Incident Report into Student's file. (FF #s 71-72). The CDE thus finds and concludes that District's templates function as a procedure to ensure that the use of restraint or seclusion is documented in student records consistent with PPRA Rule 2.04(2)(a).

Next, the staff reporting requirement of PPRA Rule 2.04(2)(b) applies because School secluded Student. (See Section 1.C above). As such, the School employee who used seclusion was required to notify administration as soon as possible and to submit a written report within one school day of the incident (by February 21, 2025). PPRA Rule 2.04(2)(b). Here, as soon as Student was transported into the Room on February 20, RBT notified Principal via radio informing her that Student was involved in an incident. (FF # 65). By the next day, February 21, RBT submitted a written report to Principal consistent with District's "Criteria for the Use of Physical Management" procedure, which requires that written documentation be submitted to administration within a day of restraint or seclusion. (FF #s 68-69). While SNB Teacher, Case Manager, and Paraprofessional did not submit written documentation, RBT consulted each of these staff members and used their input to inform his written report. (FF # 69). The CDE thus finds and concludes that District complied with the staff report requirements of PPRA Rule 2.04(2)(b).

Regarding same-day notice to parents under PPRA Rule 2.04(2)(c), this requirement also applies because School secluded Student. (See Section 1.C above). Here, both Principal and Parent agree that Principal called Parent on the afternoon of February 20—the same day as the incident—to notify her about the use of a two-person transport hold and seclusion within the Room. (FF # 67). Accordingly, the CDE finds and concludes that District complied with PPRA Rule 2.04(2)(c).

The reporting requirement of PPRA Rule 2.04(2)(e)—which CDE has determined applies to instances of restraint, including seclusion, lasting for five minutes or more—applies here because RBT and SNB Teacher secluded Student for at least five minutes. (See Section 2.B above). Principal completed a written Incident Report and e-mailed it to Parent on February 21, within five days of the February 20 incident. (FF # 70). Principal and Case Manager both placed a copy of the Incident Report within Student's virtual and hard-copy confidential file. (FF # 71). The Incident Report included the antecedent to Student's behavior, a description of the incident, the efforts and alternatives used to de-escalate the situation, the type and duration of the restraint used, and the names of staff involved in the physical management and the safety monitoring. (FF #s 72-82). While the Incident Report could have provided more precise time stamps regarding the

duration of the seclusion—the time from when RBT and SNB Teacher held the door to the Room closed to the time they released the door—and the duration of the forward transport hold, the Incident Report nonetheless indicated the types of restraints used and that the total physical management lasted longer than five minutes. (FF #s 78-80). As such, the CDE finds and concludes that the Incident Report satisfies the reporting requirements of PPRA Rule 2.04(4)(c)(i)-(vii).

Regarding the administrative review requirement of PPRA Rule 2.04(4), Principal here followed up with both Student and Parent regarding the incident. (FF #s 62, 67, 70, 83). Principal also spoke with all School staff involved in the incident to understand which de-escalation strategies were used and to gather a complete picture of the incident. (FF #s 66, 68). It was not necessary to District to adjust procedures because School properly implemented the seclusion. (See Section 1.E above). The CDE thus finds and concludes that District reviewed the incident consistent with PPRA Rule 2.04(4)(a).

Finally, regarding convening a meeting to review the incident if requested under PPRA Rule 2.04(4)(b), Parent and School reviewed the incident following Parent's request. (FF # 83). Therefore, the CDE finds and concludes that District responded to Parent's meeting request consistent with PPRA Rule 2.04(4)(b).

For these reasons, the CDE finds and concludes that District properly notified Parent about and documented the February 20, 2025 incident.

### **REMEDIES**

The CDE concludes that District complied with the requirements of the PPRA. Accordingly, no remedies are ordered.

### **CONCLUSION**

The Decision of the CDE is final and is not subject to appeal. *CDE's State Complaint Procedures*, Section E, ¶ 2; PPRA Rule 2.07(9)(c). This Decision shall become final as dated by the signature of the undersigned State Complaints Officer ("SCO").

Dated this 21st day of July, 2025.

A handwritten signature in blue ink, reading "Elizabeth Stonehill", is positioned above a horizontal line.

Elizabeth "EP" Stonehill  
State Complaints Officer



## **APPENDIX**

### **Complaint, pages 1-8**

- Exhibit 1: Physical Management Report
- Exhibit 2: IEPs and BIPs
- Exhibit 3: Evaluation Report

### **Response, pages 1-5**

- Exhibit A: IEPs
- Exhibit B: BIPs
- Exhibit C: N/A
- Exhibit D: Disciplinary Reports
- Exhibit E: Incident Documentation
- Exhibit F: Behavior Log
- Exhibit G: Staff Certifications
- Exhibit H: Restraint Review
- Exhibit I: District Calendar
- Exhibit J: Policies
- Exhibit K: Correspondence
- Exhibit N: Images
- Exhibit O: Transmission of Physical Management Report to Parent
- Exhibit P: Feb. 13 Training Log
- Exhibit Q: Feb. 12-13 Training Slides

### **Telephone Interviews**

- Parent: June 20, 2025
- RBT: June 18, 2025; June 25, 2025
- SNB Teacher: June 18, 2025
- Case Manager: June 18, 2025
- Paraprofessional: June 18, 2025
- Principal: June 18, 2025
- Director: June 18, 2025