

KENTUCKY DEPARTMENT OF EDUCATION
DIVISION OF SPECIAL EDUCATION AND EARLY LEARNING
AGENCY CASE NO. 2526-55

██████

PETITIONER

V

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

████████████████████

SCHOOLS

RESPONDENT

PROCEDURAL HISTORY

The initial Due Process Complaint was filed herein by the mother of student on October 1, 2025 and alleged as follows:

1. That the IEP was not being followed in that the student had been denied breaks since the sixth grade which were provided for in his IEP. Student was in eighth grade at the time of filing.
2. That certain adults at the school provoked the student and had been bullying the student.

The District filed its Response to the original Complaint on December 2, 2025, and asked that the case be dismissed as it did not allege violations of student's procedural safeguards, did not allege that the student had been denied FAPE, and only stated that IEP had not been followed by failure to give appropriate breaks. Further, it was alleged that the Complaint did not include a proposed resolution of the problem.

A Telephonic Prehearing Conference was held on December 10, 2025, and at that time the mother of student stated other issues and was directed to file an Amended Complaint which was filed on or about December 19, 2025. The Amended Complaint added allegations in factual support of the claim the IEP was not being followed, but did not raise any additional legal issues. The proposed resolution was following IEP when student returned to the high school (which would

be 2026-27 school year). There was no complaint student should be removed from the alternative school where student was placed in September 2025 due to discipline infractions. Both mom and student repeatedly praised the alternative school placement during the hearing.

On January 2, 2026, the District filed an Answer to the Amended Complaint also requesting same be dismissed as there was no allegation that the procedural safeguards of student had been violated, that FAPE had been denied, and stated that the student's mother was satisfied with the current placement and the student's performance at the alternative school. The District raised the one year statute of limitations per 707 KAR 1:340 section 8 (3)(b) as related to his sixth grade year.

The Hearing Officer broadly interpreted student's claim to be that of a failure by the District to provide FAPE due to failure to implement student's IEP. An Evidentiary Hearing was held on March 20, 2026 with testimony of student, the student's mother, the school's Director of Special Education, [REDACTED]; the Special Education Teacher, [REDACTED]; Special Educational Instructional Assistant, [REDACTED]; Middle School Principal, [REDACTED]; and Alternate School Special Education Teacher, [REDACTED].

At that hearing and in the Briefs submitted thereafter, the student's mother alleged that the District (1) denied a Free Appropriate Public Education to the student; (2) failed to Implement the student's IEP; (3) failed to provide adequate transportation to the student; (4) failed to maintain a safe educational environment; (5) engaged in predetermination of a placement in violation of IDEA; and (6) failed to act in good faith via the alleged ill intended actions of the District's employees.

BACKGROUND

2023-24 SCHOOL YEAR. When student began as a 6th grader at [REDACTED] School, services were provided under the April 12, 2023, IEP (District Exhibit 7, pg. 0156). The primary

disability listed was emotional behavioral disability. Student's diagnosis per the April 12, 2022 Integrated report was Attention Deficit Hyperactivity Disorder and Oppositional Defiant Behavior Disorder. The IEP notes that the behavior of the student impeded the student's learning or that of others and included positive behavioral intervention strategies and supports to address the behavior including Check In/Check Out Program; Tangible Reward; Positive Reinforcement; Scheduled/Non-Scheduled Breaks; and Preferential Seating. Goal 3 of the IEP was that the student would

“maintain appropriate social and classroom behaviors with 80% accuracy as measured by daily reporting/communication log, and daily walk-through logs. Progress will be monitored by regular educator, special educator, and support staff.”

The specially designed instruction provided for assistance in attaining Goal 3 of the IEP was

“direct instruction of responsible behavior, systemic reward for responsible behavior, role modeling, instruction of deescalation strategies and self-monitoring awareness.”

Supplementary aids and services included

“extended time, modified tests and assignments, highlighting, oral/visual presentations of materials, paraphrasing, rephrasing summarizing repeated directions, repetitive practice, redirection and corrective feedback, preferential seating, individual/small group instruction and scheduled breaks.” (District's Exhibit 7, pg 0158-0160)

Student's Behavioral Report, (District's Exhibit 4), reports the following behavioral incidents:

- a. August 21, 2023, misuse of electronic communication device policy with student's phone being taken away and sent to the office until the end of the day due to texting and calling during class.
- b. On September 14, 2023, the student wanted to get a sticky figure off the ceiling, got out of their seat and ran over and started jumping and was told to stop to sit down. Student responded by yelling and cursing and said “what the [REDACTED]”. Student also picked

- another student up at that student's request, then would not put him down. Student received a verbal warning for this incident.
- c. On September 22, 2023, student's phone was taken by [REDACTED] in the café and student received a second warning for the violation of the district's cell phone use policy.
 - d. On September 26, 2023, student was caught a third time using a cell phone during school hours when student was in the hall on Snapchat. Student's phone was checked in to the office before school for thirty (30) days as a result of this violation.
 - e. On September 27, 2023, during a school sponsored event during school hours, the student was charged with disorderly conduct without an injury. No details of this incident were included in the Behavioral Report, but as a result of the incident, it was ordered that through May 24, 2024, the student would not be transported to after school programs.
 - f. On October 16, 2023, while outside on break, student was extremely disrespectful toward substitute teacher, [REDACTED]. Student asked to go inside to the nurse, but was completely fine and did not need to go to the nurse. Student asked again and was told no by the reporting teacher and [REDACTED]. [REDACTED] stated, "if [REDACTED] said no, then I am going to say no." Student got in [REDACTED] face and screamed "NO" four times and when student was told to not walk away, he said "watch me". [REDACTED]. [REDACTED] was brought in by the teacher concerning this behavior. The resolution was that the administration talked with the parent and student. The student was noted to be in between medications at the time. He understood that if this type of behavior continued, there would be consequences.

- g. On October 23, 2023, student was defiant during school hours. Student was told numerous times student was not allowed upstairs in the sensory room, but went up there. When student came back down they said “there are some things I want to say, but I am not going to say them.” Student also left the room several times without permission after being told not to and would not sit down when asked. Student acted out and was disrespectful to the teacher making comments under student’s breath. As a result of this, there was another parent notification and the mother was going to set up a meeting for teachers and parents to discuss the behavior.
- h. On November 3, 2023, student was repeatedly cursing in the sensory room and when asked to sit down, stated no. Student proceeded to say that they were going to leave the room and after being redirected not to, student left the room and walked the halls. Student went to the office to get his guardian’s phone number and preceded to walk to the bathroom before the principal was called to talk to student. Student calmed down and returned to the room without any further issues.
- i. On November 30, 2023, while in P.E. class, the student got mad while playing a game. Student left the classroom even after the teacher told student to come to them. Student was very rude and disrespectful. Also on November 30, 2023, student punched another student in the jaw twice with no provocation. Student received one day in school suspension for this violation.
- j. On February 8, 2024, student was brought from lunch by the principal for refusing to take thier hood off after being told to do so by the principal and vice principal. While it was being explained to student why it was impermissible to wear the hood on school grounds, student refused to understand or accept that and got frustrated and commented

“I guess if I have my hood up, I am just gonna blow up the school.” No resolution of this incident was provided. Parent was notified.

- k. On February 13, 2024, student was standing behind [REDACTED] before the bell rang and when she turned around, student was right in her face. This caused her a lot of concern because it was something that had never happened and was very unusual. [REDACTED] was called. [REDACTED] saw a video of someone holding a gun on the video student was watching. [REDACTED] contacted [REDACTED] to let him know about the situation. The resolution was listed as a withdrawal of privileges.
- l. On February 29, 2024, student threatened to hit another student. [REDACTED] asked student to get back in the “busted status” area, but student refused. Ultimately, student went back to the area. Student continued to bother other students in the “busted area”. When asked to stop, student told [REDACTED] no, that the teacher had a problem with student and student was going to throw hands and student didn’t care if I was a teacher or a student. Student also threatened to “clock” the other student. The resolution was listed as a parent notification.
- m. On February 29, 2024, student was kicked out of class because student was disrespectful and disruptive. Student was sent to [REDACTED] and upon arriving stated that the teacher was doing this because she did not like student. Student stated nothing was student’s fault and was asked to sit in the “busted area”, but refused and got a cell phone out. [REDACTED] requested the phone, but again student refused. Student asked if they could go to the bathroom and they agreed to walk student down to the bathroom. When student was walking out, student hid, then ran to the first floor bathroom and refused to come out. [REDACTED] got student out of the bathroom and took student to his

- room to cool off and then brought student back to [REDACTED] classroom. Student refused to participate in the “busted status” guidelines. Mom was called and she stated that she was coming up to talk to student and wanted to speak with the teacher as well.
- n. On March 1, 2024, student refused to work and balled up assignments and threw them. Student shoved room dividers and hung from them. Student was redirected, given breaks, and reminded to use coping skills. Student told the teacher to send student “[REDACTED] home”. Student refused to sit in the “busted status” area. When asked to return to that area, student responded “that is too bad, because I am not”. Student took colored pencils and started stabbing themselves with them, and stated that if someone did not come get them an orange so he could eat it and have a reaction that student was going to continue stabbing. When [REDACTED] (a therapist) intervened, the student crawled under the table and refused to get up. These problems had been going on all day and both [REDACTED], [REDACTED] and [REDACTED] had been trying to deescalate student and work with coping skills. Student then threatened saying that they would “commit arson to the school”, self-harm, said [REDACTED] should die, said student was going to break the windows in the room, jump out and hoped to broke their legs. Student threatened to continue stabbing if not left alone. This matter was resolved by parent notification and was testified to at the Hearing. (District’s Exhibit 4 pg 137-144).

Due to ongoing behavioral difficulties, the ARC met again on March 12, 2024 with the purpose of the meeting being to amend the students’ minutes of education from a full day to a half day to improve student’s academic success. [REDACTED] school-based therapist provided a letter requesting adjusting the schedule and the committee was in agreement on a half day schedule for student. (District Exhibit 9, pg 0164-0165).

2024-25 SCHOOL YEAR. For the student's seventh grade year, the IEP dated April 10, 2024 and ending March 1, 2025, controlled most of the year. The IEP noted areas of concern being that during transitional periods

“the child requires frequent redirection for movement and conversation level. [child] requires frequent redirection for movement during instructional periods. [child] also requires frequent redirection when given a task on their chrome book. [child] often attempts to play games, and [child] will log on to view inappropriate videos throughout the day. [child] also attempts to sleep throughout various classes during [child] morning classes.”

It was noted that the student's delays in social skills and difficulty utilizing coping skills impacted their ability to interact appropriately with peers, deal with frustration appropriately across school settings and impacted ability to stay focused in the classroom. In addition, it was found it may cause student to lose time away from instruction. (District Exhibit 12, pg 0178-0184). This IEP continued to find that the student's behavior impeded their learning and the learning of others and listed the same positive behavioral intervention strategies as the prior IEP. The measurable goal concerning behavior remained identical to the prior IEP. The IEP was changed stating that the student would require a shortened day schedule to improve their academic success, beginning at 8:30 a.m. and ending at 12:20 p.m. The student's schedule was to begin with study skills for 1st period, social studies for 2nd period, science for 3rd period, and ending the day in lunch before leaving for the day. The mother was to pick him up after lunch each day. All members of the ARC were in agreement with this IEP.

An ARC was convened on January 23, 2025 to assess student's progress in achieving their IEP goals with the purpose being to begin the process of doing a three year reevaluation to include behavioral observations in the academic area, social development history and various testing. (District's Exhibit 17, pg 0196-0200).

A reevaluation report was generated on March 21, 2025. The report noted that there was a severe discrepancy between the student's aptitude and achievement in written expression and found the student to be intellectually average and their curriculum needs were primarily determined by behavior, emotional, and attention problems which hampered student's efforts in the classroom and interfered with interpersonal skills with both adults and peers. It noted that student would require specially designed curriculum with the learning environment that offers one on one or small group work in a structured setting with consistent reinforcement for socially appropriate behavior, task focus, and academic performance. Student would need a behavioral management plan to be used across home and school settings for consistency. The report noted that behavioral/emotional problems of this severity may require a host of community based services in order to monitor destructive and self-destructive behavior. It will be important to establish an open line of communication with treating mental health professionals and medical professionals in order to monitor treatment efficiency and to aid in curriculum planning. (District's Exhibit 20, pg 0214-0222).

The evaluation further noted that the parents and teachers agreed that student was demonstrating significant behavior problems such as, arguing, being easily upset, often moody, defying teachers, and often irritable and angry. It noted that student did not handle stressful situations well and indicated that student loses their temper easily and will tease others at times. Parents and teachers described rule breaking behaviors, using foul language, and sometimes threatening others. Both also report a significant degree of internalized distress in the form of anxiety and depression. The student is often distressed, loses their temper easily, thinks negatively about things and is easily frustrated. Student's scores also indicate problems with attention, staying on task, trouble concentrating, being disorganized, overly active, speaking out of turn, seeking

attention and often being impulsive. Overall, student's emotional, behavioral and attention problems are significantly greater than others their age. The student reported a poor attitude toward school, was often sensation seeking, and had problems with attention and overactivity. Students diagnosed of opposition defiant disorder and ADHD continued.

After receipt of this reevaluation, during an ARC meeting on March 21, 2025, the ARC agreed to allow the child to return to full days of classes with the expectation of following classroom and school rules. The supports listed in the IEP would be used to aid in the success of return to full days. A daily behavior log was to be kept by student's teacher and teacher's aid and be sent home on Fridays for parent's review and a copy added to student's file. (pg 0227).

The March 21, 2025 IEP, which was to end on September 7, 2025, (District Exhibit 22, pg 0230-0235) contained the same strategies for positive behavioral intervention as prior IEPs and contained the same goal concerning appropriate social and classroom behavior. Supplementary aids and services remained the same with the only changes being that the student was in school the entire day resulting in three fifty-five minutes a day periods in the resource room.

The District's Behavioral Report (District's Exhibit 4 pg 129-137) reflect the following behavioral incidents:

- a. On August 20, 2024, student called another student a "[REDACTED]" twice during class. The other student was not offended. Student was sent to the office for the rest of the class, which was approximately five minutes and received lunch detention for one day.
- b. On October 29, 2024, student was told multiple times to stay seated in the cafeteria, but was very loud and yelling. When [REDACTED] went to the cafeteria to get a student, student yelled "[REDACTED]" and was banging on the table. [REDACTED] corrected student and they laughed at her. The resolution to this matter was one day of lunch detention.

- c. On November 19, 2024, a camera at the school showed student pulling down another student's pants and causing the student to fall to the ground to keep from being exposed to his peers. The student was suspended for the remainder of that school day and the next day.
- d. On January 31, 2025, student was using racial slurs towards another student during 2nd and 3rd periods as well as breakfast. Student was calling her a [REDACTED], [REDACTED] word. The resolution to this was a notification to the parent.
- e. On March 12, 2025, student was skipping class. When student was questioned about it, they were disrespectful to [REDACTED] and lied to [REDACTED] about looking for their work. Student looked at [REDACTED] and said "what the [REDACTED] are you talking about?" and when she said that student could not talk to her like that, student said "nah, [REDACTED] that". This was done in front of the whole class. This was resolved by a three day out of school suspension.
- f. On April 10, 2025, while an African American student was asking questions of an instructor, student shouted "[REDACTED]". The other student did not hear him, but the teacher informed [REDACTED] of this behavior. Student received one day of after school detention.
- g. On April 11, 2025, student and another were constantly making noises by yawning excessively loud, coughing repeatedly, tapping their feet and making various noises with textbooks that had been supplied to them so they could do their work. They were doing anything they could do get out of their work and neither had finished the assignment and failed to even start it. This matter was resolved by Friday after school detention.
- h. On April 30, 2025, at the beginning of a bus evacuation drill, student looked at another and said "[REDACTED]?". During the end of the bus evacuation drill, student pretended to hug another student from behind and [REDACTED] toward them in public view.

There had been another incident on Thursday, April 24, 2025, where student was found standing at an empty desk, with student's hands in the air [REDACTED] against the empty desk hard enough to move it saying, "Yay Yay". At that time they had talked about the inappropriate behavior, how serious such actions could be and how punishments could extend beyond school for such things. The teacher stated that as usual, the student pled for grace and "one more chance". Since student was not doing these actions toward another student, student was told that a write-up would be filled out, but not sent out yet and if student could behave between then and the end of the year, it would not be sent out. Student was told that if there were other behaviors like this, which are outside of the coverages of the IEP and diagnosis, student would have a discipline referral for this incident and the new incident and a suspension would most likely occur. An email was sent to mom to inform her of the issue after the April 24 incident. [REDACTED] informed [REDACTED] of the choice to show grace to the student one more time in regards to student's disruptive and inappropriate behavior. [REDACTED], the IEP case manager, was also informed of this incident as there had recently been a manifestation meeting with the mother regarding suspensions and review of his IEP. At that manifestation meeting it was determined that the behaviors attributed to ODD were not explicitly covered and there was no coverage for inappropriate behavior the student had exhibited in the past. No resolution is shown for this incident.

- i. On May 1, 2025, student had shown an increase in behaviors in [REDACTED] class. Student's class included a lot of close friends, but the disruptions had gotten to the point where she could not settle it except to write student up. The write up was not necessarily involving a specific incident on May 1, but behavior throughout the week including,

shouting out in class, yelling, not staying in a specific seat, continued conversations with friends when told to be quiet, and lack of respect for other's learning environment. This was resolved by a verbal warning.

- j. On May 2, 2025, the teacher was talking to a group of students in the gym bleachers about being loud and yelling and student made the comment "this is [REDACTED] up." Student received a one day out of school suspension for using profanity.
- k. On May 6, 2025, student smacked [REDACTED] [REDACTED] behind for no apparent reason. [REDACTED] had done nothing to provoke student. This occurred on the second floor after lunch. Student was not to be on the second floor at that time because student's class for fifth period was on the first floor. This was resolved by lunch detention for one day.
- l. On May 8, 2025, several times during the day student burped so loud that it disrupted the whole class. The instructor warned student twice that the behavior was unacceptable and on the third time the instructor pulled student to his desk and told student that it is now not just disruptive, but disrespectful behavior because student had been told to stop. This was resolved by a verbal warning.
- m. On May 9, 2025, student received a third tardy, having been tardy on May 6, 7 and 9. Student walked past [REDACTED] room to the bathroom every time and did not ask to go to the restroom before class so that the instructor knew that student would be a minute or two late. Student was five to ten minutes late each time. Student received after school detention.
- n. On May 13, 2025, student had been warned multiple times not to be on the second floor after lunch, as their fifth period class was on the first floor. Student did so and received lunch detention for one day.

- o. On May 27, 2025, student was yelling at the top of their lungs for no reason and continually despite being given multiple redirections. Student thought the instructor couldn't tell it was student. It was not the first time this had happened. It was noted that another student was also doing it, but the reporting instructor, [REDACTED], did not know who that child was. This was resolved by a verbal warning to student.

2025-26 SCHOOL YEAR. An ARC meeting was held on August 29, 2025 at the beginning of the student's eighth grade year after numerous disciplinary issues. The conference summary reflects that the mother stated that she did not feel that the student's brain understood that it was inappropriate to use language or do inappropriate things due to student's disability. She spoke about alleged mistreatment last year and that the student had been bullied by staff. She stated that she had spoke to the football coach and they agreed the student needed to serve their suspension time. She agreed that student should have consequences for the event that caused the suspension. A question was asked about the perceived threat that the student exhibited toward an office staff member, and the mother was frustrated with this perceived threat and stated she felt that the child was mewing, which according to testimony at the Hearing by the student, is where a person points to their jawline with no real intention. Mother insisted the student's behavior was not a threat and asked that the meeting be stopped and stated that she would get a lawyer. Mediation and written complaint Due Process forms were provided to the mother who then declined explanation and left the meeting. (District Exhibit 27, pg 0254-0257).

The Disciplinary Behavior Detail Report for that school year up until the date of the above ARC meeting reflected as follows (District's Exhibit 4 pg 125-129).

- a. On August 14, 2025, student was walking out of the cafeteria as [REDACTED] was headed to the teacher's lounge. As student started up the stairs they made loud noises and

were asked to come back down. Student stated “what the [REDACTED]” (did not say the full word). [REDACTED] informed the student that yelling and making loud noises in the hallway had to stop and especially in the stairwell because it echoed and people were in class which made it disruptive. Student responded with “that’s the point bro”. Student was informed not to call a teacher bro and to return to class. A verbal warning was the resolution to that incident.

- b. Also, on August 14, 2025, when [REDACTED] entered her classroom, student was pacing around the room. Student began to tell [REDACTED] that student did not like student’s schedule. [REDACTED] explained that to change the schedule to the classes student wanted, that student would have to meet expectations in the current classes. Student used “[REDACTED]” several times and was redirected not to curse. Student began to talk about [REDACTED] class and how she was getting mad at student for “talking to [myself]”. [REDACTED] stated that anytime she gave out directions that student shouted out the opposite or shouted the word no. Student stated that is how student talks to himself then said that student would not care if she died and wanted out of her class. The teacher ended the conversation with saying that the student should not say things like that. At that point the student opened the door and left the classroom. The instructional assistant opened the door and asked student where student was going and student said the bathroom. The instructional assistant asked student to come back and ask permission first which was ignored and student continued walking to the bathroom. Student did return to class and asked the teacher about a new student in the advisory class yesterday. Teacher and student began talking about the new student including that he was on [REDACTED]. Student

said that student asked the other student why he had it and he said that he had broke into a house and student stated “you can’t get [REDACTED] for breaking into houses.” The teacher proceeded to say that is a serious crime and student stated “no its not, I have broken into several and I just ran.” The teacher stated student should not be doing that and student stated “I knock on houses now before I go in them to make sure no one is in there, is that illegal?”. The teacher explained to student that it was and that student should not do it. This incident was resolved with one day of AER and the mother being called.

- c. Also, on August 13, 2025, student skipped fifth period. Student was fifteen minutes late coming to class on the 14th. This was resolved by a notification to the parent.
- d. On August 18, 2025, during class student required multiple redirections on several things student had been asked to do. No matter what it was, student did one of two things, (1) completely ignore or (2) yell out “I don’t want to”. This happened the entire class period. When the class needed to be quiet and listen to instructions, student continued to talk while teacher was talking even after being asked to stop. Teacher was aware that [REDACTED] had implemented a break card system with student and student had the break cards out and was telling classmates about them, but never used them. This incident was resolved with student serving AER during seventh period and administration speaking to the student.
- e. On August 22, 2025, student was screaming nonsense when exiting the gym. Whenever student tried to go to the locker room to get ready for gym, [REDACTED] told student they were to wait like everyone else until all students are dismissed

before going to get ready for gym. Student proceeded to walk into the locker room. This was resolved by a notification to the parent.

- f. On August 22, 2025, during second period class, as they were moving around doing experiments, and had permission to go a window to use a solar cell, Student told another student when student was leaving the window area to “get out of my way or I am going to shove this up your [REDACTED]” (referring to a pencil). [REDACTED] quickly told student to sit back down, but student continued talking aggressively about football. Student talked about loving football so much because he got to crush people. Student was sent to the office for this incident and received a three day out of school suspension for threatening another student.
- g. While in the office on August 22, 2025 waiting for mother, student looked at the school secretary and put student’s finger to student’s mouth and then took student’s finger across their throat. When questioned about this, student repeated those actions again. The staff believed it was a threat to her. As a result of these August 22, 2025 incidents, the parent was notified and student was referred to the [REDACTED] School.

At the Hearing, the mother stated that the student used sign language when upset and was signing after reviewing the videos of the alleged threat against staff. She felt that student was signing “I’m deaf”. However, during the August 29, 2025 ARC meeting, she stated that the student was mewling. After the mother left, the ARC completed the meeting and placement was changed to the alternative school as a result of the disruption of the educational process at the school effective September 2.

As a result of this ARC meeting, a new IEP was developed with a start date of September 8, 2025 and an end date March 20, 2026, with the only changes being that the student was at the alternative school, with the same positive behavioral intervention strategies in support, the same measurable goal and monitoring thereof, and the same supplementary aids and services. Placement was to be reviewed after forty-five days. Student's special education services were changed to one forty-five minute time period per day. (District's Exhibit 30, pg 0268-0283).

The student was a member of this ARC and the mother stated that she understood the check in / check out program being used with the student at the alternative school and approved of student sitting close to [REDACTED] in the high school alternative school class in order to avoid distractions until student was used to the routine of the alternative school. The mother was pleased and appreciative of how things were going at the alternative school. (District's Exhibit pg 0265). The mother also expressed the sentiment at the Hearing that she was entirely pleased with how things were going at the alternative school.

[REDACTED], the Special Education teacher, was aware that the student had an IEP in place beginning student's sixth grade year (Transcript pg 121-122). He followed the IEP by doing a check in and check out and providing breaks when the student needed them. (Transcript pg 122-123). Compliant stated that in the first semester of the 2024-2025 school year (7th grade), the student received several disciplinary write-ups and warnings for disruptive behavior and using profanity in class. The mother was notified of these incidents. Thereafter, an ARC meeting was held in March 2025, where it was determined the student would return to full time days with the expectation that student would follow classroom and school rules. [REDACTED]. received special education instruction in Math, Writing and study skills in the resource room with all other services provided in general education. (District's Exhibits 21-22). Again, [REDACTED] testified that he followed

the March 2025 IEP utilizing check in and check out strategies, offering tangible rewards such as computer time and games to student, that he engaged in positive reinforcement, and offered both scheduled and nonscheduled breaks. (Transcript pg 130-131). [REDACTED] also described what interventions were used under the terms of the IEP when student had a behavioral incident. Specifically, he would help to deescalate student until student could calm down and would also engage in role modeling practices. (Transcript pg 134-136).

[REDACTED] was the special education instructional assistant assigned to student to provide emotional and academic support in the classroom for student's eighth grade year. (Transcript 150). [REDACTED] was aware that the IEP included behavioral intervention strategies such as the check in/check out program, tangible rewards, positive reinforcement, scheduled and nonscheduled breaks, and preferential treatment. He testified that he used each of those behavioral intervention strategies during the school day. (Transcript pg 153-158). [REDACTED] stated that the student was given opportunities to take breaks when student needed them and received both scheduled and nonscheduled breaks. In order to accomplish nonscheduled breaks, the child was given two laminated break cards each morning and could use those cards any time during the day if student started to feel overwhelmed. (Transcript pg 156-157). [REDACTED] testified that he only recalled student using a break card on one occasion, but that student always had the opportunity to take the breaks. (Transcript pg 159). [REDACTED] stated that the student's behavior was attention seeking behavior where student would yell, curse, and have outbursts. To address these behaviors, [REDACTED] would make eye contact with student, instruct student that the behavior was inappropriate, and speak to the student in a low voice away from other students to help redirect student's behavior. (Transcript pg 161-162).

██████ was witness to an August 22, 2025 incident, which in part resulted in the student being moved to the alternative school. During this time the student threatened another student during science class and ██████ intervened, instructing the student that such language was inappropriate, but the student continued to disrupt the class. (Transcript pg 173-176). This disruptive behavior continued into social studies class with the student being loud and cursing with ██████ again attempting to redirect the student and instructing him that the language was inappropriate (Transcript pg 177-178).

The mother did not make any claims that the behavior was not monitored or that she did not receive the behavior monitoring information that was introduced as the Exhibit from the District.

BURDEN OF PROOF

A student bears the burden of proving entitlement to relief by preponderance of the evidence. The student also bears the ultimate burden of persuasion on the elements of student's claims. Schaffer v Weast, 546 US.49, 57-58 (2005) and KRS 13B.090. Further, the student bears the burden of proof by proving by preponderance of the evidence that the District violated the IDEA. Doe v Board of Education of Tullahoma City Schools, 9F 3rd 455, 458 (6th Cir. 1993).

ISSUES

1. Whether the District failed to provide the student with FAPE during the student's sixth through eighth grade years.
 - a. Whether the District failed to develop an appropriate IEP
 - b. Whether the District failed to implement the student's IEP
2. Whether the student and parents are entitled to reimbursement for transportation expenses.

3. Whether the school failed to maintain a safe educational environment.
4. Whether the determination to place the student in the alternative school was predetermined in violation of IDEA and Whether the District acted in good faith.
5. Were allegations beyond one year prohibited to be heard by the statute of limitations?

FINDINGS OF FACT

1. Student had an IEP in the eligibility category of emotional behavioral disability during all school years at issue in this case. The IEP called for use of check-in/check-out programs, tangible rewards, positive reinforcement, preferential seating, and scheduled and non-scheduled breaks.
2. During each school year in question, the student was provided break cards and given the opportunity to use them. In addition, student exercised the use of these cards on occasion. Further, student frequently left the classroom without permission (District Exhibit 4). Therefore, the Hearing Officer does not find it credible to believe that the student was denied rights to use the break cards.
3. There were no other allegations of failure to implement IEPs other than the allegations that student was denied the right to breaks. There were no allegations that the IEPs were not properly developed.
4. Student engaged in misconduct primarily with disrespectful language and behavior during all three years in question.
5. Student did engage in more serious actions on occasion. Student threatened to hit another student on February 29, 2024. On November 19, 2024, student pulled another student's pants down in view of other students. On January 31, 2025, student directed a racial slur toward another student. On April 10, 2025, student addressed a racial slur

to another student. On April 30, 2025 student asked another student “[REDACTED]” and student herein began [REDACTED] toward the other student.

6. Ultimately, on August 22, 2025 student told another student to get out of the way or student would shove a pencil up their [REDACTED]. Student was sent to the office and during that time student put a finger across student’s throat on two occasions toward the office secretary. She perceived this as a threat to her. The mother tried to explain this in ARC meetings as “mewing” a trend where student’s point to their jaw line. At the hearing she described it as American Sign Language indicating “I am deaf”. Neither of these explanations are credible to the Hearing Officer.
7. Student acknowledged during testimony that student liked to run his mouth and stated when his cell phone was taken, “I wasn’t having it”. (Transcript pg 47)
8. Student acknowledged yelling, and the other incidents at school, other than threatening the secretary. Student and mother blamed these incidents on student being targeted or disliked by teachers.
9. Student was often only talked to about these offenses with no actual consequence. The only punishments or suspension occurred based on actions against others.
10. Neither the student or mother believed the student should be accountable for talking out, disruptive behavior or student’s offenses against other students.
11. Student’s testimony reflected clear intent that if he did not get what he wanted, he did not accept it and made decisions to act out in such circumstances.
12. The student’s behavior over time shows that he is not afraid to exercise what he perceives as his rights and based upon student’s behavior over time, student’s testimony and the testimony of school administrators, the Hearing Officer finds that student was

not denied the right to take breaks when requested and finds it unreasonable to believe that student would have been afraid to request said breaks.

13. Both the student and mother testified that they were entirely pleased with how things were going at the alternative school and that student was thriving in that setting. (Transcript pgs 60, 62, 30, 32, 38)

CONCLUSIONS OF LAW

I. THE CHILD WAS NOT DENIED FAPE

- a. The student's IEPs were properly formulated and implemented.

707 KAR 1:290, section (1) requires that a LEA must make a Free Appropriate Public Education (FAPE) available to children with disabilities. FAPE must be provided to each child with a disability even if the child has not failed or been retained in a course and is advancing from grade to grade based on the child's unique needs and not on the child's disability. The education provided must be based on an appropriate IEP, developed after a thorough assessment of the student's unique education needs. Endrew F v Douglas County School District RE-1, 137S.Ct.988 (2017) established that in order to meet the substantive obligation under IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. Id. at 999. A reasonably calculated IEP reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials. The act contemplates that the fact intensive exercise of forming an IEP will make use of the expertise of school officials and input of the child's parents. Any review of the IEP must appreciate that the question is whether the IEP is reasonable, not whether it is ideal. Id. at 999.

It is clear that the District held ARC's composed of all required members and considered all behavioral data by both teachers and the parents as well as the medical diagnosis in formulating

the IEP at issue herein. (District's Exhibits 8, 9, 11, 14, 15, 16, 17, 19, 20, 21, 23, 26, 27, 28, and 29). The parents received notification of the ARC meetings, attended said meetings, and made valuable contributions at said meetings. Their input was considered, and in fact mother agreed with all ARCs and IEPs that resulted there from until the August 29, 2025 meeting wherein it was determined that a change in placement to the alternative school take place. Further, parents did not claim they failed to receive all ARC notices.

b. Student's IEPs were appropriately implemented.

Districts are required to make a good faith effort to assist a child in achieving the goals, objectives, or benchmarks listed in the IEP. 707 KAR 1:320, section 9 (1). There must be more than a de minimus failure to implement an IEP in order to prevail on such a claim. There must be demonstrated that the District failed to implement substantial or significant provisions of the IEP. Houston Independent School District v Bobby R., 200 F 3rd 341 (5th Cir. 2000).

The District provided testimony that the IEPs were followed and there were various methods used to attempt to deescalate the student. The fact that student was not succeeding in meeting his IEP goals alone is not evidence that the IEP was not properly formulated or implemented nor that student had been denied FAPE. Further, the evidence presented in the District's Exhibits 2, 4, 24, 31 and 32, show that the goals were properly monitored and information concerning the student's progress thereon passed to the parents. The parents did not complain of any lack of monitoring.

II. STUDENT IS NOT ENTITLED TO REIMBURSEMENT OF TRAVEL EXPENSES.

The issue of transportation costs can not be appropriately considered in this matter due to failure to raise the issue prior to the Hearing. 707 KAR 1:340 section 12 (1) states that when a parent requests a due process hearing they must provide notice of the nature of the problem and

the facts relating to it as well as a proposed resolution. In the original complaint, amended complaint, and at ARC conferences and the pretrial conference, the mother never alleged any transportation failure, nor sought any reimbursement for such expenses. Therefore, she could not raise such claims at the Hearing. No evidence was introduced that the mother ever requested that the District transport the student while he was on a half day schedule. (Transcript pg 110-111). None of the ARC meeting conference summary notes or IEPs showed any requests by the parent to have the student transported to and from school by the District. (District Exhibits 7, 12, 22, & 30).

III. IDEA DOES NOT PROVIDE RECOURSE FOR ISSUES CONCERNING A SAFE ENVIRONMENT FOR A STUDENT

The school did not fail to maintain a safe educational environment. No provision under IDEA requires a safe educational environment. Same is obviously required for all students, but there are no special requirements for students with special educational needs. Therefore, the undersigned Hearing Officer does not have authority to grant any relief. However, there was no evidence provided in this case that the school environment was unsafe for the student.

Although the mother repeatedly stated that the school acted with ill intentions toward the child and that the educational environment was not safe, she nor the child never testified to any specific incident that supported such claims. Prior to the August 29, 2025 decision of the ARC to change the setting of the student's services to the alternative school, the mother never alleged safety issues concerning the school. There was testimony from the mother and child concerning a suicide attempt which resulted in student receiving inpatient treatment at a mental health facility. This did not occur at school. No evidence was introduced showing that anything that happened at school caused this hospitalization. Same was never mentioned in any ARC meetings or complained of by the mother until the incident of the student being placed in the alternative school.

IV. THE SCHOOL DID NOT ENGAGE IN ANY PREDETERMINATION TO PLACE THE STUDENT IN THE ALTERNATIVE SCHOOL IN VIOLATION OF IDEA AND DID NOT ACT IN BAD FAITH.

707 KAR 1:340 Section 1 requires parental participation in meetings. As stated previously herein, the mother was notified of the ARC meeting and did not ever claim not to be. Mother claimed that the school had decided as of the first day of the eighth grade year that student would be sent to the alternative school and that the school had ill intentions concerning her child. (Transcript pg 20, 22, 25, and 29) However, mother did not provide anything other than some alleged heresay that someone had told them that a football coach had said to a school staff member that he hoped student had a good year and the staff member said “we will see about that”. This statement does not in any way indicate any ill motive on behalf of the school district, but that they would see how things went. The evidence is clear that the ARC meeting on August 29, 2025 was concerning the student’s behavior and where he would physically receive his educational services. (District’s Exhibit 27). The mother received notice of this meeting and its purpose. She attended until she disagreed with the discussion of threat allegation involving the finger crossing the throat. Just because she did not like that the staff were talking about alleged threats to a staff member, that she did not believe the actions were threats and left the meeting, does not make the issue predetermined.

It should also be noted that the mother was nothing but complimentary of the alternative school experience that her son had received. She was not asking that he be removed from that setting, but was truly seeking other remedies against the school which IDEA does not authorize.

IV. IT IS PROPER TO CONSIDER ALL THREE YEARS OF ALLEGATIONS AS THERE WAS AN ALLEGATION OF A CONTINUING PATTERN OF BEHAVIOR

707 KAR 1:340 Section 8(3)(h) does impose a one-year statute of limitation. However, states are free to expand same. Kentucky has chosen to do so. KRS 157.224 (6) provides that “a hearing can be requested within three years of the date of the incident if there is a continuing violation. The nature of the claims in this case were an alleged continuing violation and therefore, claims could properly be made by student for the entire three years claimed.

BASED UPON THE FOREGOING it is hereby Ordered that the Due Process Complaint and Amended Due Process Complaint are DISMISSED.

Dated this 29th day of July, 2026.

/s/ KIM HUNT PRICE
KIM HUNT PRICE
HEARING OFFICER

CERTIFICATE OF SERVICE

The foregoing Order was served by electronic mail to [REDACTED]
[REDACTED]; with the original being emailed to Hon. Corey M. Nichols
at KDELegal@education.ky.gov, this 29th day of July, 2026.

/s/ KIM HUNT PRICE
KIM HUNT PRICE
HEARING OFFICER

NOTICE

A party to a Due Process Hearing that is aggrieved by the hearing decision may appeal the decision to Members of the Exceptional Children Appeals Board as assigned by the Kentucky Department of Education at the Office of Legal Services, 300 Sower Blvd. 5th Floor, Frankfort, Kentucky 40601. The appeal shall be perfected by sending, by certified mail, to the Kentucky Department of Education, a request for appeal within thirty (30) calendar days of date of the Hearing Officer’s Decision.