

**KENTUCKY DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND EARLY LEARNING
AGENCY CASE NO. 2526-58**

█

PETITIONER

v.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND FINAL ORDER**

█

SCHOOLS

RESPONDENT

Petitioner is a 15-year-old student who qualifies for special education in the category of Specific Learning Disability (SLD). Student assaulted another student, which constituted a violation of the student code of conduct. A manifestation determination meeting was held and the school found the violation of the student code *not* to be a manifestation of Student's disability. At a disciplinary hearing, placement was changed to the school district's alternative program. However, stay put was invoked by Petitioner and an expedited hearing was requested to challenge the manifestation determination.

Kentucky. 707 KAR 1:340, Section 15 *Manifestation Determination* states:

(1) Within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the relevant members of the child's ARC, as determined by the LEA and the parent, shall convene a meeting to review all relevant information in the student's file, including the child's IEP, any teacher observations, teacher-collected data, and any relevant information provided by the parents to determine:

(a) If the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or

(b) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(2) The conduct shall be determined to be a manifestation of the child's disability if the ARC determines that either of the conditions in subsection (1)(a) or (b) of this section was met.

Applicable law permits School to discipline Student for student code violations, including change of placement, in the same manner as non-disabled students unless the conduct is a manifestation of the Student's disability, in which case the student's placement may not be changed. 707 KAR 1:340, Section 14 (4) states:

If the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability (as described in Section 15 of this administrative regulation), school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities for removals that would exceed ten (10) consecutive school days.

In the present case, the parties agree that the student's conduct was not a manifestation of SLD, but Petitioner contends that Student has a diagnosis of ADHD and would also be a child with a disability under the category of OHI. 707 KAR 1:002 (42) states:

"Other health impairment" or "OHI" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that:

- (a) Is due to a chronic or acute health problem, such as acquired immune deficiency syndrome, asthma, attention deficit disorder, attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, Tourette syndrome, or tuberculosis; and
- (b) Adversely affects a child's educational performance.

The definition of "child with a disability" is a child who meets the requirements of an eligibility category, such as OHI, "who, as a result, needs special education and related services." 707 KAR 1:002(9).

Petitioner contends that the school had a basis of knowledge to know Student was a child with a disability in the category of OHI due to ADHD and that the conduct in question was a manifestation of the alleged ADHD-related disability. 707 KAR 1:340 Section 17 *Basis of Knowledge* states:

- (1) An LEA shall be deemed to have knowledge that a child is a child with a disability if:

- (a) The parent of the child has expressed concern in writing, or orally if the parent cannot express it in writing, to supervisory or administrative personnel of the appropriate LEA or to the teacher of the child, that the child is in need of special education and related services;
 - (b) The parent of the child has requested an evaluation pursuant to the requirements in 707 KAR 1:300; or
 - (c) The teacher of the child, or other personnel of the LEA, has expressed concern about a pattern of behavior or performance of the child directly to the director of special education or other supervisory personnel of the LEA.
- (2) An LEA shall not be deemed to have knowledge that a child is a child with a disability if, after receiving information that the child may have a disability:
- (a) The LEA conducted an evaluation and determined the child was not a child with a disability;
 - (b) The LEA determined an evaluation was not necessary and provided notice to the parents of these determinations; or
 - (c) The parents refused to consent to an evaluation or refused initial services.
- (3) If an LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities.

Petitioner seeks an order finding the manifestation determination was in error; that Respondent inappropriately made a disciplinary change I placement in violation of 707 KAR 1:340; and that Student should be immediately returned to the last agreed-upon placement at [REDACTED].

A hearing was held on January 13, 2026, within the required time period for an expedited hearing, at [REDACTED] Board of Education offices in [REDACTED] Kentucky. Counsel filed post-hearing memoranda. By well-settled law, Petitioner bears the burden of proof. Being sufficiently advised the hearing officer makes the following findings of fact, conclusions of law, and final order.

FINDINGS OF FACT

1. Student was a 14-year-old ninth grade student at [REDACTED] at the time of the violation of the student code.

This is undisputed.

2. Student qualifies for special education under the category of Special Learning Disability.

This is undisputed.

3. Student's 2/17/23 Integrated Psychoeducational Report during Student's 6th grade year reflects a FSIQ of 70 and low scores in tests measuring reading, writing, and math and recommended evaluation for eligibility based upon Special Learning Disability.

Joint Exhibit 1. The amended report on 3/24/20 did not recommend an evaluation for eligibility based upon behavior issues. (P013).

4. Student has some history of conduct problems, but nothing as serious as the event which resulted in his expulsion.

An assessment during Student's third grade year in 2020 based on reports of parents and teachers reflects elevated scores for hyperactivity, aggression, and conduct problems. (JX000002-3; T109). Petitioner's Exhibit 18 presents a number of Behavioral Detail Reports between 2017 and the spring of 2025 for disrespectful behavior, cussing, attendance violations, phone use violations, and disruptive behavior. At the 2/23/23 ARC meeting Student's teacher reported "[Student] has shown much improvement in how he treats his peers in the Resource Room." In sixth grade, the principal sent an email "so I could inform you about the incident of bullying and what will happen (from a school standpoint and legal standpoint) should a future incident occur" (P027). During fall of 2025, prior to the incident that was the subject of the manifestation determination, there had been two instances of disruptive behavior, one on 11/4/25 and the other on 9/15/25, and one violation of phone policy. (JX000058-59).

However, as a whole, the student's conduct at school was not viewed as a major problem by the parents. [REDACTED], who privately tutored Student, testified as follows:

Q. [D]id Mom express to you that the school folks had been expressing concerns with his behaviors in school during the time you worked with him?

A. Not anything of major importance. You know, it was more of that staying on task, you know, quit chatting.

Q. Okay.

A. And not anything like -- not fighting or throwing things or destruction of property or nothing of that nature

T147-148. After the decision to expel the student, the parent stated in Student/Guardian Grievances Regarding Administrative Decisions that "This was [Student's] first and only disciplinary incident in his entire school history. He has never been in trouble at school prior to this event." (P128). Behaviors at home, on the other hand, were frequently mentioned by the parent at ARC meetings.

5. Student's IEPs over the years consistently state that Student's behaviors do not impede the learning of Student or others

See 3/10/22 IEP P047; 2/23/23 IEP P077; 2/15/24 IEP P085; 2/5/25 IEP P115 and JX00033.

6. Student's IEPs over the years consistently report Student's Social and Emotional Status as commensurate with same-aged peers.

See 3/10/22 IEP P047; 2/23/23 IEP P077; 2/15/24 IEP P084; 2/5/25 IEP P113 and JX000031.

7. Student has never had behavior goals or a behavior intervention plan, nor do conference summaries suggest that the ARC ever thought behavior was something that needed to be addressed by the ARC.

ARC conference summaries that do not reflect any serious behavior concerns at school. All teachers at the hearing testified that they had never observed behaviors that led them to believe Student should be referred for additional evaluations or services. (See testimonies of [REDACTED]).

8. Student has some history of being distracted or misbehaving in class, but the weight of the testimony from teachers was that this was not a great concern.

[REDACTED], Student's 9th Grade English teacher, testified Student presented no significant behavior issues or impulsive behaviors. (T16).

[REDACTED], a special education teacher who supports Student in his 9th grade English class, testified that Student exhibited n significant behavior issues. Student sometimes didn't pay attention in class or would lay his head down on the desk to try to sleep but responded to redirection. (T34-36; 47-48). As reflected in the 11/10/25 ARC meeting minutes, Student was "good behaviorally in class" and behavior was not a concern to the ARC. (T48-49). While Student was sometimes impulsive, it wasn't beyond the standard of what would be expected from any teenaged boy. (T49-50).

[REDACTED], who taught Student math in 6th period, testified that Student was sometimes disruptive due to socializing when seated with friends in the rear of the class.

[REDACTED] sent an email to parent stating student was a "constant disruption" (See P036) but the problem was resolved when seating was changed. (T77-80)

[REDACTED], a special education teacher supporting Student, testified that student did not exhibit violent or impulsive behaviors and that student's behavior was typical of a 9th grade boy. (T88). [REDACTED] testified that Student was redirected easily without requiring repeated prompts.(T88-89)

Thus, while student definitely has some history of misbehaving at school, it was not atypical or impeding his education in the view of teachers or School personnel.

9. Student's misbehaviors generally were viewed as choices, not a symptom of a disability.

Misbehavior was not a focus in ARC meetings. One exception is the 2/5/25 ARC meeting which reports the following:

The team discussed that [Student] is capable of displaying appropriate behaviors, but depending upon the environment, he does not always display that. Mom shared that this is what she has heard for most of [REDACTED] school career. **He makes choices** of how he behaves in each area.

(P 104, emphasis added).

10. Student's failing grades at the time of the incident were the result of not attending school.

See JX000053 Manifestation Determination meeting 12/8/25. Joint Exhibit 8, Student Profile Attendance Report, corroborates the excessive absences, although the attendance had improved after a meeting was called to discuss the attendance issue. (JX000053). The testimony of special ed teacher [REDACTED] was that absences created gaps in learning that made it difficult for Student to catch up.

[H]is major dilemma when you talk to his teachers is absenteeism. It isn't about his ability. It isn't about what he can produce when he's with us. His dilemma comes when he's not with us. And so what you will note is that -- and I can't -- I can't do more than what I can do when he's with us. And his gaps come from not having --not being in class.

T61. Also see T43-45. [REDACTED], a special education teacher supporting Student, testified Student's absences played a role in causing his struggles in math. (T92)

Absences, rather than ADHD or behavioral issues, were the reason Student had fallen behind was not doing well in classes.

11. Student failed to prove that Student had ADHD or any other condition, other than SLD, that adversely affected his educational performance.

Whether School knew or should have known that Student had a particular diagnosis is not dispositive of whether Student is a child with a disability in the category relevant to that diagnosis. ██████████, Director of Special Education and a trained school psychologist, testified as follows:

Q. Would you agree that just because a student has a diagnosis does not necessarily mean that they are eligible for services in Kentucky?

A. Right. According to Kentucky's eligibility criteria, the regulation, having a diagnosis does not -- it's not -- if then that you have a diagnosis, then you're eligible. You have to have adverse effect and require specially designed instruction related to it.

T 314-315. Nor does the fact that a student receives medication for ADHD mean Student would qualify as a child with a disability. T 316. A School district only has to evaluate a student when it suspects the student has a disability and needs special education as a result. *Mineral Wells Independent School District*, 123 LRP 32087 (SEA TX 2023). Petitioner cites Timothy O. v. Paso Robles Unified Sch. Dist., 822 F.3d 1105, (9th Cir. May 23, 2016), but in Timothy O the school psychologist testified that he observed conditions that would ordinarily qualify a student to receive special education services for autism, but he did not disclose that possibility at the IEP meeting. Weighing all the facts, Petitioner failed to show that ADHD or other behavior-related conditions were having such an adverse effect on Student's education that Student potentially required specially designed instruction related to it.

12. On December 3, 2025, Student engaged in a physical altercation with another student, which is the conduct for which Student was disciplined.

This is undisputed.

13. A manifestation determination conference was held on December 8, 2025,

attended by Student and Student's parents.

JX00052.

14. Student's violation of the conduct code was not caused by a manifestation of his disability of SLD or failure to implement Student's IEP.

This is undisputed.

15. School did not consider whether the violation was caused by or had a direct substantial relationship due to ADHD or conditions other than SLD.

This is undisputed.

16. The violation of the student code was planned, intentional, and deliberate and was motivated by a long-running conflict between Student and the victim of Student's assault.

The Level II Behavioral Hearing/Probation Violation Documentation quotes Student as saying at the disciplinary hearing that he "snapped" because of comments the victim had previously made. (JX000064). Student did not testify at this due process hearing to explain what he meant by snap. However, the weight of the evidence shows that Student's violation was premeditated and in response to comments made by the victim outside of school at some earlier date.

The summary notes at the manifestation determination meeting state "Student sought out a student, with a friend. The student waited outside and when the student came out of the classroom he began hitting him repeatedly." Parents said at the manifestation determination meeting that "there may have been some other things said and done outside of school, potentially causing the student to go too far." (JX000053).

The events outside of school were part of what the mother characterized as an ongoing problem. “[Student]. has been having problems with [the victim of the assault] for quite a while. He had been saying some bad stuff to [Student].” T161. The specifics of what was said appear in the transcript of testimony and are not repeated in the hearing officer’s findings.

The Behavior Detail Report on the incident states:

Two friends have been having an ongoing problem with another student for awhile outside of school. Today the 2 students found out where the other student was and went into his classroom. He was punched multiple times in class by one of the 2 and then was assaulted in the hallway where the other friend was waiting.

JX000057. A letter dated December 4, 2025, to the Superintendent from [REDACTED], the Assistant Principal in charge of discipline and a witness at the hearing, states:

On 11/22/25 We received a police report from nightly rounds informing us that [Student] and another student were reported in a neighborhood trying to locate and fight a third student. After break we were keeping an eye on the situation. On Monday everything appeared normal. Tuesday we had a snow day, and Wednesday we returned to school. At the 1:30 bell change we received a call to room 118 where [there] were two students that were being held. After the investigation it was found that [Student] and another student found out where the third student’s class was and went to find him. When they found him one of the boys went in and started punching the third student and the teacher intervened. As the third student left the classroom to escape, [Student] was waiting on him and punched him and kept repeatedly punching him in the face .In leu of these very significant injuries were obtained by the third student and charges are pending.

Joint Ex. 10, JX000063. The testimony of [REDACTED], corroborated by video footage of the hallway where the incident took place, established that the location of the incident was not near or on the same floor as the classroom of Student’s class for that period and that a crowd of students had gathered in the hallway outside the classroom where the incident occurred prior to the incident because students had been told in advance that the fight would take place at that location and time. (Also see the testimony of Assistant Principal [REDACTED]). Whether Student or the Student’s friend who assaulted the victim first was the ringleader of this planned assault,

there is enough planning and deliberate action for the school to reasonably conclude Student's behavior was deliberate and premeditated rather than impulsive. The incident was treated as a Tier 3 offense, the most serious. (T 298).

17. Parents did not assert at the manifestation determination hearing that the behavior was involuntary or a manifestation of Student's disability but objected to the resulting disciplinary expulsion.

The sequence of events involves two separate steps. The ARC conducted a manifestation determination and agreed, including the parents, that the conduct violation was not a manifestation of the student's disability. Then the ARC meeting was paused, and members other than the family left the room and the Director of Pupil Personnel and other administrators entered to conduct a Tier 3 administrative disciplinary hearing. Because the Student's violation had been found not to be a manifestation of disability by the ARC, the administrators were free to take whatever disciplinary action was appropriate and permitted for non-disabled students. The result of the disciplinary hearing was expulsion for one calendar year. After the hearing, the ARC members returned to the room to resume the ARC meeting in light of the placement change resulting from the disciplinary hearing. See T56-57. "[A]t that point that Mom said she would not tolerate this, she wasn't going to do it, and she would fight it any way that she could." T58.

The notion that ADHD played any role in Student's violation of the student conduct code only occurred to mother sometime after learning the disciplinary hearing outcome. Mother testified she did not assert that student's behavior was a manifestation of Student's ADHD at because "I just thought it was he was going to be disciplined for something, not realizing that his disability played a big part of why he did what he did." T172. However, during the manifestation

determination meeting, the parents opined Student's behavior was prompted by events that had occurred outside of school and Student was remorseful for his actions. Whether the mother's view in retrospect that ADHD was involved is correct or incorrect, at the time of the hearing no one in ARC thought Student's misbehavior were involuntary.

18. School knew or should have known, prior to his violation of the conduct code, that Student was taking medication and seeing a doctor to regulate it.

The parent reported at the manifestation determination meeting that student had not been taking his medication. See JX000053 Manifestation Determination meeting 12/8/25. The father mentioned something about medication to Student's special education teacher during a phone call to discuss Student's absences (T30). The mother testified:

Q. [After the diagnoses in 2020] [d]id you give any information to any administrator or teacher at his schools regarding these diagnoses and the fact that he was going to be taking medication?

A. Absolutely, yes.

Q. Tell us about that.

A. So in middle school we had several conversations about the way he was acting in class and things like that. And I let them know that he was going to be taking another medication at lunchtime that would hopefully help with his conduct that he was having. But there was several conversations with several different teachers, his special education teacher, about all of this as well.

T101-102. Parent testified that in ARC meetings in 2020 "it was always discussed about, you know, that [Student] has different diagnoses." T104. ARC meeting summaries do not corroborate the mother's recollection, other than mention of medication. In sixth grade, at ARC dated 2/23/23 the mother reported to the ARC that she was "having a lot of issues with his behavior at home. She is taking him back to the doctor." P063. The ARC summary from 2/05/25 reports that the mother told the ARC "that family is working with [Student's] doctor about potentially adding a second dose of ADHD medication during the day to help as family has

noticed a big difference between morning and afternoon.” P104. The hearing officer finds that the School knew or should have known prior to the incident that resulted in expulsion, that Student was taking medication and seeing a doctor to regulate it.

19. Student presented no diagnosis, medical records, or testimony establishing that Student has ADHD of a type or to a degree that it adversely affected his educational performance or required special education and related services.

No medical diagnosis or medical records documenting ADHD or its impact on the student were ever presented to the school. [REDACTED], a special education teacher who privately tutored Student during Covid and occasionally still tutors as needed, testified she saw behaviors she'd seen in student diagnosed with ADD and ODD and prompted mother to mother to see the doctor in 2020. (T129; 135; also see mother's testimony T176). At the hearing of this matter, a one page document the parent said was printed off of My Chart documents a doctor's visit on July 21, 2020, that states "The following issues were addressed" followed by a list of items that include ADHD, ODD, Conduct Disorder, Generalized Anxiety, Obesity, Learning Difficulty, and Circadian rhythm sleep disorder. (Petitioner Ex. 15). The doctor in question did not testify nor were any records introduced to show what "addressed" meant. The mother testified that she understood student had several diagnoses. Mother testified records existed that showed diagnoses but she didn't bring them to the hearing and couldn't remember if she'd ever given them to the school. T 178-179; 182). Mother testified:

[Student] started seeing a counselor. He was prescribed medication at that time. And he continues till this day to go see a doctor every six months and get medicine checked and -- about his diagnoses.

Q. All right. Do you know what type of medications he was prescribed?

A. He is on Adderall, the time release

T100. It was not shown that School was provided any records by the parent or had any reason to inquire about medical records prior to the incident. No doctor or psychologist testified on behalf of Petitioner and no other medical or mental health records were introduced at the hearing. *Boggs v. Bd. of Educ. of Fayette Cnty.*, Civil Action No. 5: 24-136-DCR, 2025 LX 264428, at *15 (E.D. Ky. June 30, 2025) held that without information from an actual diagnosis, a causal connection could not be drawn between the diagnosed condition and a student's behavior.

20. Student did not prove that the violation of code of conduct at issue was caused by or had a direct substantial relationship to ADHD or any other behavioral condition.

While the mother's statement at the manifestation determination meeting that Student had not been taking his medication prior to the altercation might suggest a causal link between failure to medicate and Student behavior, that is insufficient to demonstrate that the conduct code violation was caused by or had a direct substantial relationship to ADHD or any other behavioral condition. To the extent that there was any proof at all about the general nature of ADHD, it was that ADHD is characterized by impulsivity, not planning. (See T72; T320). The conduct in question was not impulsive. It was planned, intentional, deliberate and motivated by an ongoing conflict that occurred over a period of time. *C.D. v. Atascadero United Sch. Dist.*, 74 IDELR 188, 124 LRP 11529 (9th Cir. 2019, unpublished) held that a Student's actions before, during, after an incident properly may be considered in determining whether an assault was volitional and not a manifestation of ADHD.

During the hearing, Petitioner suggested Student's conduct might have been a manifestation of Oppositional Defiance Disorder (ODD). ODD is mentioned in the list of items "addressed" in the meeting with a doctor in 2020, referenced elsewhere herein, and there was testimony that Student's father said that Student was absent because when the father was out of

town Student wouldn't do what his mother told him to do. (T29). However, ODD is unlikely to have played a role in student's assault of another student as ODD involves opposition to the authority of adults. (T73; 318).

Mother testified she took Student to an unnamed doctor after the incident, that Student told the doctor what happened, and that the doctor "said that it was part of his impulse control of why it happened." T 219-220. Given that no medical records or written records were offered to corroborate this hearsay statement or document upon what the statement was based and that said doctor was not called as a witness, it will be given no weight.

██████████, the ARC chair at the manifestation meeting, testified as follows:

Q. [I]f you had been provided with information that [Student] had an ADHD, ODD, or other type of diagnosis, would that knowledge of that diagnosis have affected your ultimate conclusion that this was not a manifestation of his disabilities?

A. No.

Weighing all the evidence, the hearing officer finds Petitioner did not establish that Student's conduct was a manifestation of ADHD or any other behavioral condition.

21. It was not proven that Parent expressed concern to school personnel in writing that Student to a school administrator or teacher that Student needed special education services for OHI due to ADHD.

While there were communications between teachers and the parent regarding Student's misbehaviors, no writing was introduced at the hearing in which parent suggested Student needed special education services for OHI due to ADHD.

22. It was not proven that the parent of the child has requested an evaluation pursuant to the requirements in 707 KAR 1:300

A review of emails from mother introduced at the hearing and testimony shows mother was concerned generally about the student's behavior, especially at home, but that does not constitute a request for an evaluation. Petitioner cites *Copley-Fairlawn City School District*, 116 LRP 12829, March 21, 2016. However, in *Copley-Fairlawn City School District*, the parent previously had requested in writing that the school address the special needs of a student who had not been evaluated. In the present case there was no request from the parent that student be evaluated for behavior issues or that she believed he needed special education services for his behaviors.

23. It was not proven that teachers or other personnel expressed concern about specific patterns of behavior or performance of the child directly to the director of special education or other supervisory personnel of the LEA.

Regulations do not define “concern about specific patterns of behavior or performance” but it is understood that the concern expressed would need to be in the nature of what triggers Child Find, in effect, that the student potentially needs special education services for behavior issues. There is nothing in the record indicating his teachers or other school personnel ever expressed such a concern. Additionally, all teachers testified at the hearing that they had no such concern.

CONCLUSIONS OF LAW

1. School did not have a basis of knowledge that Student is a child with a disability in the area of OHI due to ADHD or any other condition.

Petitioner failed to prove that Student, in fact, has ADHD or another condition listed under OHI of the type and to the degree that it adversely impacted educational performance and

who, as a result, was a “child with a disability” who needed special education and related services. However, proving disability in fact is not required. Disciplinary protections apply if there is a “basis of knowledge” defined under **34 CFR 300.534(b)**:

A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred—

- (1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
- (2) The parent of the child requested an evaluation of the child pursuant to §§ 300.300 through 300.311; or
- (3) The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

Per fact findings hereinabove, none of the three circumstances listed were proven to exist.

Therefore, School had no basis of knowledge which required disciplinary protections for the student.

2. The manifestation determination was not in error.

The only condition for which Student was a child with a disability, or for which was a basis of knowledge that Student was a child with a disability, was SLD. School properly found that the conduct code violation was not a manifestation of SLD or failure to implement the IEP. Further, even if Student had been a child with a disability in the category of OHI due to ADHD or other condition, the conduct in question was not proven to be a manifestation of same per fact findings hereinabove.

3. The disciplinary change in placement did not violate 707 KAR 1:340.

School was lawfully permitted to discipline student in the same manner as non-disabled students. 707 KAR 1:340 Section 17(3) states

If an LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities.

Additionally, 707 KAR 1:340 Section 14 (4) states:

If the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability (as described in Section 15 of this administrative regulation), school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities for removals that would exceed ten (10) consecutive school days.

School's disciplinary placement did not violate either provision cited above.

ORDER

Petitioner is not entitled to any relief.

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 Office of Legal Services, 300 Sower Blvd., 5th floor, Frankfort KY 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.

Dated January 21, 2026.

/s/ Mike Wilson

MIKE WILSON, HEARING OFFICER

CERTIFICATION:

The foregoing was emailed to the following on January 21, 2026.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Kentucky Department of Education
kdelegal@education.ky.gov

_____/s/ Mike Wilson_____
Hon. Mike Wilson, Hearing Officer