STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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Petitioner,

vs. Case No. 25-5000E

BAY COUNTY SCHOOL BOARD,

Respondent.
_____/

FINAL ORDER

This case came before Administrative Law Judge (ALJ) Sara Marken of the Division of Administrative Hearings (DOAH) for final hearing via Zoom conference on November 17 and 18, 2025.

APPEARANCES

For Petitioner: Stephanie Langer, Esquire
Langer Law, P.A.
450 State Road 13 North
Suite 106 Box 162
St. Johns, Florida 32259

For Respondent: Barbara Joanne Myrick, Esquire
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STATEMENT OF THE ISSUES

Whether the student's individualized education plan (IEP), dated September 10, 2025, is designed to provide a free appropriate public education (FAPE);

Whether the School Board predetermined the student's September 10, 2025, IEP;

Whether the School Board denied the student's parents the right to meaningful participation at the September 10, 2025, IEP meeting; and

What relief, if any, is appropriate?

PRELIMINARY STATEMENT

Petitioner filed a request for a due process hearing (Complaint) with the School Board on September 15, 2025, which the School Board forwarded to DOAH on the next day. The case was initially assigned to ALJ Nicole Saunders. ALJ Saunders issued a Case Management Order on September 16, 2025. On September 26, 2025, Respondent filed a Response to Petitioner's Due Process Complaint. On September 29, 2025, Respondent filed a Notice of Waiver of Resolution Meeting, indicating the parties had agreed to waive the resolution session. On September 30, 2025, ALJ Saunders issued a Notice of Zoom Scheduling Conference for October 1, 2025. That same day, Petitioner's parents filed a Motion to Open Hearings to the Public, and Respondent filed a Motion to Dismiss Petitioner's Request for a Due Process Hearing (Motion to Dismiss). Petitioner filed a Response to the Motion to Dismiss on October 1, 2025. ALJ Saunders held a pre-hearing Zoom conference on October 1, 2025. On October 7, 2025, Respondent filed a response to Petitioner's Motion to Open Hearings to the Public.

On October 8, 2025, ALJ Saunders issued an Order denying Respondent's Motion to Dismiss. On October 9, 2025, Petitioner replied to Respondent's response to the Motion to Open Hearings to the Public. Subsequently, on October 13, 2025, ALJ Saunders issued a Notice of Telephonic Scheduling Conference for October 15, 2025. The scheduling conference took place as scheduled. That same day, Stephanie Langer, Esquire, filed a Notice of Appearance on behalf of Petitioner. At the conference, the parties agreed to extend the final order deadline to December 15, 2025, and to schedule the

final hearing for November 17 and 18, 2025, via Zoom conference. On November 5, 2025, this matter was transferred to the undersigned. The parties timely filed proposed exhibits and submitted a Joint Statement of Stipulated Facts on November 10, 2025.

The undersigned conducted the final hearing as scheduled. The hearing was open to the public. Petitioner presented the testimony of [redacted], Exceptional Student Education (ESE) Instructional Specialist; [redacted], educational advocate; [redacted], ESE Coordinator for Secondary and Behavior; [redacted], Guardian ad Litem Certified Advocate; [redacted], teacher; [redacted], Principal; [redacted], IEP meeting facilitator; and Petitioner's parent. The undersigned admitted Petitioner's Exhibits 1 through 7, portions of Exhibit 8, 9 through 11, portions of Exhibits 14 through 17, 18 through 26, and rebuttal Exhibits 1 through 3. Respondent presented the testimony of [redacted], Speech and Language Pathologist (SLP); [redacted], School Psychologist; and [redacted], Director of ESE and Pre-Kindergarten Education. The undersigned admitted Respondent's Exhibits 4, 7, 8, and rebuttal Exhibit 1 into evidence.

At the end of the due process hearing, the parties agreed to file proposed final orders by December 22, 2025, and that the undersigned would issue the Final Order by January 5, 2026. The Transcript of the due process hearing was filed on December 9, 2025. On December 22, 2025, Petitioner filed an Unopposed Motion for a One-Day Extension (Motion) to file the proposed final orders. On the same day, the undersigned granted the Motion extending the deadline for Proposed Final Orders to December 23, 2025, and the Final Order deadline to January 6, 2026. The parties both filed timely Proposed Final Orders, which the undersigned considered in drafting this Final Order.

Unless otherwise indicated, all rule and statutory references refer to the version in effect at the time of the alleged violations. For stylistic convenience, the undersigned uses male pronouns in this Final Order when referring to Petitioner. The male pronouns neither intend, nor should anyone interpret them, as a reference to Petitioner's actual gender.

FINDINGS OF FACT

1. Before the due process hearing, the parties stipulated to these facts:

Stipulated Facts

2. Petitioner is a [redacted]-year-old student who attends [redacted] School ([redacted]) in Bay County, Florida, and is in the [redacted] grade.

3. Petitioner is eligible for ESE services under the Individuals with Disabilities Education Act (IDEA) under the categories of Developmentally Delayed and Language Impaired.

4. In May [redacted], the Bay County School Board amended its Dress Code policy to take effect July 1, [redacted].

5. On July 9, [redacted], Petitioner made an initial request for an accommodation under the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act, in writing, via email sent to [redacted], Ed. D., Executive Director of ESE and Student Support Services.

6. On July 24, [redacted], [redacted] responded that the District needed to schedule an IEP meeting to consider the accommodation request.

7. The IEP team met on September 10, [redacted].

8. On September 10, [redacted], the District members of the IEP team denied the request for an accommodation.

Findings of Fact based on the record

9. At the time of the due process hearing, the student had attended [redacted] for two years and received instruction in a self-contained classroom for students with varying exceptionalities. [redacted] taught the class and had

served as the student's teacher for those two years. The student's IEP provided for 30 minutes of language therapy per week and transportation to school as a related service.

10. He has a documented history of significant trauma, including physical and sexual abuse. He is compassionate, sweet, friendly, and generally compliant in the school environment. At the time of the due process hearing, the student lived with his adoptive parents and eight siblings, six of whom attended schools operated by Respondent.

11. The student's language impairment includes deficits in receptive and expressive language. He requires repetition of information and struggles to understand and respond to multi-step directions. These language-based deficits affect his ability to access grade-level academic tasks, particularly those requiring listening comprehension and verbal responses.

12. In addition to his language-based needs, the student, at times, becomes emotionally dysregulated; he may exhibit shut-down behaviors, including quivering lips, crying, freezing, or withdrawal, particularly when faced with non-preferred tasks or challenging situations.

13. The student's parents testified that the student historically earned mostly A's and B's, but his academic performance has declined during the current school year. The testimony did not include specific grade information, and the remaining record does not reflect the student's grades for this school year.

14. The School Board adopted Policy 5511 during the summer of [redacted], imposing, for the first time, a uniform requirement. The policy became effective August 1, [redacted]. In pertinent part, the policy states as follows:

> **STUDENT UNIFORM AND GROOMING**
>
> Appropriate dress is the primary responsibility of the student and his/her parent or guardian. In order to promote safety, personal hygiene, academic well-being, and moral development, students shall be expected to comply with reasonable requirements

relating to dress, grooming and personal appearance. Students are expected to come to school dressed appropriately with proper attention having been given to personal cleanliness, grooming, and neatness of dress.

The following is the dress code for grades K-12 except students at [redacted] and [redacted].

The dress code policy applies from the time the student arrives on campus until the end of the school day and at all school activities during the school day. Exceptions may be made by the principal for field trips or other special activities (examples: Honors and Awards ceremonies).

Tops:

• All tops must be unaltered and appropriately fitted with sleeves; cannot be so sheer or tight as to reveal underwear or body parts

• Collared or crewneck tops only; scoop or v-neck shirts will not be permitted

• School approved T-shirts (club, spirit, etc) **are permitted**

• School colors preferred and encouraged

• **Students in grades K-5th**: any solid color or print patterns; manufacturer's graphics or logos permitted

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• Students may layer their tops; however, all visible tops including camisoles or undershirts must be in solid colors

Bottoms:

• Bottoms must be any solid color

• Bottoms must be appropriately fitted and seated at the waist; cannot be so sheer or tight as to reveal underwear or body parts

• No shorts, skirts or dresses shorter than five inches (5") above the kneecaps as measured standing up, (K–5 students may wear jumpers)

• Any pants with holes, rips, or tears 5 inches above the kneecaps are not permitted

• Dresses with sleeves (underarm must be covered) must be a solid color or print patterns but no graphics

> • Small manufacturer's trademark and minimal embellishments are acceptable
> • Fitness pants such as leggings, yoga pants, exercise tights, etc. are permitted but must be covered with a top that reaches fingertip length when arms are at sides
>
> ***
>
> **Exceptions to wearing dress code attire are permitted when:**
>
> ***
>
> • A reasonable accommodation is needed to address a student's disability or medical condition. A request in writing shall be made to the principal by the student's parent/guardian.
>
> ***

15. The policy at [redacted] requires the students to wear a solid white, red, or blue shirt.

16. On July 9, [redacted], the student's parents emailed [redacted], who at the time was the Executive Director of ESE and Student Services. The student's parents requested a dress code accommodation for their son. The parents expressed concerns that the new dress code might cause emotional stress and limit the student's ability to access education, which could violate federal disability rights laws.

17. [redacted] responded and stated that the IEP team had to support any updates to the student's plan with data. The school-based team planned to schedule an IEP meeting by the end of the first month of school to assess how the dress code would affect the student's education. Until then, he had to follow the dress code. [redacted] asked for specific details about how the dress code would affect the student and what accommodations were needed, and emphasized that the District would review the request collaboratively. The parents requested that the school exempt the student from the dress code until the IEP team reviewed the matter and asked for written confirmation that the school would not discipline him during this time.

18. The parents requested a state-facilitated IEP meeting to discuss the requested uniform accommodation.

19. The IEP team convened on September 10, [redacted]. The undersigned reviewed a video recording of the IEP meeting, which lasted three hours. Present at the meeting were [redacted], the meeting facilitator; the student's parents; [redacted], the student's educational advocate; [redacted]; [redacted], the Director of ESE and Pre-Kindergarten Education; [redacted], the student's teacher; [redacted], Principal; [redacted], the student's SLP; [redacted]; [redacted]; and [redacted], who served as notetaker.

20. The parents stated that the requested accommodation was to allow the student to choose an age-appropriate shirt to wear to school that could, at times, include graphics such as Spiderman. The IEP team limited the meeting's scope to the requested uniform accommodation and, despite updated evaluations, did not discuss or amend any other portions of the IEP.

21. At the time of the IEP meeting, the parents reported that in August, the student generally complied with the new uniform policy. In the first days of September, the student's parents presented him with choices, but he did not always choose to wear the appropriate complying shirt. The frequency of noncompliance increased after the School Board granted his siblings accommodations, exempting them from the new uniform policy.

22. The parents raised concerns that strictly enforcing the uniform policy would result in an emotional response by the student, as he tends to become dysregulated—"shut-down"—when he perceives that he is in trouble or when he believes he has done something wrong.

23. [redacted] stated during the IEP meeting that she had observed these emotional responses during the [redacted] school year but had not observed such reactions during the [redacted] school year. She added that when such emotional responses occurred at school, staff easily and quickly

redirected him, and those responses did not affect his learning. The student served as a helper and leader in her classroom.

24. In contrast, the parents stated during the IEP meeting that these emotional responses significantly impact the student at home and that he is more difficult to redirect in that setting. Their concern at the time of the meeting was that requiring strict compliance with the uniform policy would make it difficult to get the student onto the school bus and to school, thereby impeding his access to education.

25. At the IEP meeting, the parents also presented a letter from [redacted], the student's former Guardian ad Litem Advocate. Through her letter and her testimony at the final hearing, [redacted] supports the requested dress-code accommodation. She based her opinion on the student's trauma history and her observations of the student in the home and community settings.

26. [redacted], the SLP, conveyed during the IEP meeting that she did not have data supporting the need for additional social-emotional goals at that time. She suggested strategies to address the parents' concerns, yet the IEP team elected to limit the scope to granting or denying the requested accommodation.

27. She based her position on her experience providing therapy this school year, the student's SLP evaluations, and her observations of the student in the instructional setting. At the IEP meeting, and during her testimony, she explained that the student willingly participates in speech-language services, stays engaged, responds to instructional supports, and does not display shut-down behaviors during those sessions. Although she recognized the student's receptive and expressive language deficits and acknowledged the parents' concerns, she reported that she lacked data connecting those deficits to the requested dress-code accommodation.

28. The meeting concluded without a consensus. Thus, the IEP team did not add the requested accommodation. They agreed to conduct certain

re-evaluations, but they made no other changes or additions to the IEP. The team also decided to reconvene if compliance with the uniform policy impaired the student's access to education.

29. The video recording of the September 10, [redacted], IEP meeting and the testimony presented at the hearing reflected that the parents, their advocate, and district staff each had the opportunity to express their positions about the requested dress-code accommodation freely. Participants asked questions, responded to one another, and presented information throughout the meeting. Although the parties did not reach an agreement regarding the requested accommodation, the record reflects that the decision resulted from differing views of the information presented, rather than a restriction on participation or a predetermined outcome.

30. Following the IEP meeting, the student often complied with the uniform policy; in the days following the IEP, the student missed school several times. The missed instructional time harmed his grades.

31. The greater weight of the evidence did not establish that the School Board predetermined the student's IEP or denied the parents the opportunity to meaningfully participate in its development. Instead, the evidence demonstrated that the School Board considered the parents' concerns and allowed for full participation in the IEP process. The record also reflects insufficient evidence to establish that, at the time of the IEP meeting, the requested accommodation was necessary to enable the student to make appropriate progress in light of his unique circumstances.

CONCLUSIONS OF LAW

32. DOAH has jurisdiction over the parties and the subject matter of this proceeding pursuant to sections 1003.57(1)(c) and 1003.5715(5), Florida Statutes, and Florida Administrative Code Rule 6A-6.03311(9)(u).

33. The burden of proof is on Petitioner to prove the claims by a preponderance of the evidence. *See Schaffer v. Weast*, 546 U.S. 49, 62 (2005);

Loren F. v. Atlanta Indep. Sch. Sys., 349 F.3d 1309, 1313 (11th Cir. 2003); *Devine v. Indian River Cnty. Sch. Bd.,* 249 F.3d 1289, 1291 (11th Cir. 2001).

34. Congress passed the IDEA "to ensure that all children with disabilities have available to them a free appropriate public education [FAPE] that emphasize[s] special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A); *Phillip C. ex rel. A.C. v. Jefferson Cnty. Bd. of Educ.*, 701 F.3d 691, 694 (11th Cir. 2012).

35. In enacting the IDEA, Congress sought to "ensure that all children with disabilities have available to them a free appropriate public education that emphasized special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A); *Phillip C. v. Jefferson Cnty. Bd. of Educ.*, 701 F.3d 691, 694 (11th Cir. 2012). The statute was intended to address the inadequate educational services offered to children with disabilities and to combat the exclusion of such children from the public-school system. 20 U.S.C. § 1400(c)(2)(A)-(B). To accomplish these objectives, the federal government provides funding to participating state and local educational agencies, contingent on each agency's compliance with the IDEA's procedural and substantive requirements. *Doe v. Ala. State Dep't of Educ.*, 915 F.2d 651, 654 (11th Cir. 1990).

36. The IDEA provides parents and children with disabilities with substantial procedural safeguards. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 205-06 (1982). Among other protections, parents can examine their child's records and participate in meetings concerning their child's education; receive written notice before any proposed change in the educational placement of their child; and file an administrative due process complaint about any matter relating to the identification, evaluation, or educational placement of their child, or the provision of FAPE. *See* 20 U.S.C. § 1415(b)(1), (b)(3), & (b)(6).

37. In *Rowley*, the Supreme Court held that a two-part inquiry must be undertaken in determining whether a local school system has provided a student with FAPE. First, it is necessary to examine whether the school district has complied with the IDEA's procedural requirements. *Rowley*, 458 U.S. at 206-07. A procedural error does not automatically result in a denial of FAPE. *See G.C. v. Muscogee Cnty. Dist.*, 668 F.3d 1258, 1270 (11th Cir. 2012). Instead, the school board denies a student FAPE only when a procedural flaw impedes the student's right to FAPE, significantly infringes on the parents' opportunity to participate in the decision-making process, or causes an actual deprivation of educational benefits. *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 525-26 (2007).

38. Petitioner asserts that the School Board denied the student's parents the opportunity to meaningfully participate in the IEP meeting on September 10, 2025, and that it had predetermined its refusal of the dress code accommodation before the meeting took place.

39. The Eleventh Circuit addressed the issue of predetermination for the first time in *R.L., S.L., individually and on behalf of O.L. v. Miami Dade County School Board*, 757 F.3d 1173 (11th Cir. 2014). In that case, the Eleventh Circuit held that "Predetermination occurs when the state makes educational decisions too early in the planning process, in a way that deprives the parents of a meaningful opportunity to fully participate as equal members of the IEP team." 757 F.3d at 1188. This prohibition arises out of the IDEA's implementing regulation, which "maintains that a child's placement 'must be based on the IEP.'" *Id.* (citing 34 C.F.R. § 300.116(b)). Thus, "the state cannot come into an IEP meeting with closed minds, having already decided material aspects of the child's education program without parent input." 757 F.3d at 1188. *See N.L. v. Knox Cnty. Schs.*, 315 F.3d 688, 694-95 (6th Cir. 2003) (finding no predetermination where school district representatives "recognized that they were to come to the meeting with suggestions and open minds, not a required course of action"); *H.B. v. Las*

Virgenes Unified Sch. Dist., 239 Fed. App'x 342, 344 (9th Cir. 2007) (explaining that when determining predetermination, a trier of fact must make findings on the school district's predetermined plan and its unwillingness to consider alternative options).

40. That said, "'[P]redetermination is not synonymous with preparation,' which the IDEA allows." *M.V. v. Conroe Indep. Sch. Dist.*, CV H-18-401, 2019 WL 193923, at *5 (S.D. Tex. Jan. 15, 2019). Therefore, school-based members of the IEP team may have pre-formed opinions on what is appropriate for a child's education so long as such views do not "obstruct the parents' participation in the planning process." *R.L.,* 757 F.3d at 1188.

41. As the Court explained, to avoid a finding of predetermination, there must be evidence that the School Board was receptive and responsive at all stages to the parents' position, even if it ultimately rejected it. *Id.* (citing *Doyle v. Arlington Cnty. Sch. Bd.,* 806 F.Supp. 1253, 1262 (E.D.Va. 1992)). The inquiry into whether predetermination occurred is inherently fact-intensive, but it should identify those cases in which parental participation is meaningful and those in which it is merely a formality. *R.L.,* 757 F.3d at 1189.

42. The video recording of the September 10, [redacted], IEP meeting and the testimony presented at the hearing reflected that the parents, their advocate, and School Board staff actively discussed the requested dress-code accommodation. During the meeting, participants exchanged information, asked questions, and responded to one another's statements. The discussion included clarification of the student's compliance with the uniform policy, the parents' concerns over potential emotional dysregulation if the School Board required strict compliance, and school staff observations that, at the time of the meeting, the student had not exhibited emotional dysregulation at school, had not experienced difficulty arriving at school or riding the bus, and can regulate quickly when emotional responses occur. School staff described the student as functioning well in the classroom and not demonstrating

behaviors that interfered with learning. Although the participants did not reach agreement regarding the requested accommodation, the record reflects that the decision followed a discussion of the information presented rather than a restriction on participation or a predetermined outcome.

43. The remaining issue centers on the adequacy of the student's IEP and whether it provided FAPE in light of his individual needs.

44. To satisfy the IDEA's substantive requirements, school districts must provide all eligible students with FAPE, which is defined as:

> [S]pecial education services and related services that –
> (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under [20 U.S.C. § 1414(d)].

20 U.S.C. § 1401(9).

45. The components of FAPE are recorded in an IEP, which, among other things, identifies the child's present levels of academic achievement and functional performance; establishes measurable annual goals; addresses the services and accommodations to be provided to the child, and whether the child will attend mainstream classes; and specifies the measurement tools and periodic reports to be used to evaluate the child's progress. 20 U.S.C. § 1414(d)(1)(A)(i); 34 C.F.R. § 300.320. "The IEP is the centerpiece of the statute's education delivery system for disabled children." *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 137 S. Ct. 988, 994 (2017) (quoting *Honig v. Doe*, 108 S. Ct. 592 (1988)). "The IEP is the means by which special education and related services are 'tailored to the unique needs' of a particular child." *Id.* (quoting *Bd. of Educ. v. Rowley*, 458 U.S. at 181).

46. In *Endrew F.*, the Supreme Court held that "[t]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F.*, 137 S. Ct. at 999. As discussed in *Endrew F.*, "[t]he 'reasonably calculated' qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials," and that "[a]ny review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal." *Id.*

47. Most importantly, the IDEA provides that an IEP must be individualized to the student and include measurable annual goals and services designed to meet each of the educational needs that result from the student's disability. 20 U.S.C. § 1414(d)(1)(A)(i)(II); *Alex R. v. Forrestville Valley Cmty. Unit Sch. Dist. #221*, 375 F.3d 603, 613 (7th Cir. 2004) (explaining that an IEP must respond to all significant facets of the student's disability, both academic and behavioral); *CJN v. Minneapolis Pub. Schs.*, 323 F.3d 630, 642 (8th Cir. 2003) ("We believe, as the district court did, that the student's IEP must be responsive to the student's specific disabilities").

48. In this case, the IEP included all of the required components—present levels of academic achievement performance, measurable annual goals, specially designed instruction, related services, and a placement determination. Petitioner does not argue otherwise. The question centers on whether the IEP, at the time it was developed, was reasonably calculated to enable the student to make progress in light of his circumstances, not whether it is ideal or incorporates every parental preference. *See Endrew F.*, 137 S.Ct. at 999. Since the IEP team limited its discussion to the uniform accommodation and did not address updated evaluations or other IEP components, the issue before the undersigned concerns only the denial of the requested accommodation, which resulted in a denial of FAPE. On that narrow issue, Petitioner did not meet the burden of proving that the absence

of the requested accommodation rendered the IEP unreasonable or substantively inadequate.

49. In sum, Petitioner failed to prove, by a preponderance of the evidence, that the School Board denied the student FAPE.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner failed to satisfy his burden of proof related to the claims asserted in Petitioner's Complaint. All requests for relief are DENIED.

DONE AND ORDERED this 6th day of January, 2026, in Miami, Dade County, Florida.

SARA M. MARKEN
Administrative Law Judge
DOAH Miami Office

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Filed with the Clerk of the
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This 6th day of January, 2026.

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NOTICE OF RIGHT TO JUDICIAL REVIEW

This decision is final unless, within 90 days after the date of this decision, an adversely affected party:

a) brings a civil action in the appropriate state circuit court pursuant to section 1003.57(1)(c), Florida Statutes (2014), and Florida Administrative Code Rule 6A-6.03311(9)(w); or
b) brings a civil action in the appropriate district court of the United States pursuant to 20 U.S.C. § 1415(i)(2), 34 C.F.R. § 300.516, and Florida Administrative Code Rule 6A-6.03311(9)(w).