

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

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Petitioner,

vs.

Case No. 26-0712E

BAY COUNTY SCHOOL BOARD,

Respondent,

and



Intervenor.

\_\_\_\_\_ /

FINAL ORDER

The due process hearing was held on April 24 and 27, 2026, via Zoom conference. Jessica E. Varn, an Administrative Law Judge with the Division of Administrative Hearings (DOAH), presided over the hearing.

APPEARANCES

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STATEMENT OF THE ISSUE

Whether the School Board denied the student a free and appropriate public education (FAPE) by failing to find the student eligible for exceptional student education (ESE) services, in violation of its child find obligation.

PRELIMINARY STATEMENT

Petitioner filed a request for due process hearing (Complaint) on February 3, 2026; which the School Board promptly forwarded to DOAH. A pre-hearing conference was held on March 13, 2026; and the parties agreed to set the due process hearing for April 24, 27, and 28, 2026.

The parties filed a Joint Stipulation of Facts on April 22, 2026. The hearing was held as scheduled. Petitioner presented the testimony of the student's [REDACTED]; [REDACTED], an expert in behavioral management in an education setting; and [REDACTED], an expert in the Individuals with Disabilities Education Act (IDEA) child find obligation. Respondents presented the testimony of [REDACTED], Principal; [REDACTED], Principal; [REDACTED], Director of Behavioral Intervention; [REDACTED], Assistant Principal; [REDACTED], Teacher; [REDACTED], Teacher; [REDACTED], Teacher; and [REDACTED], Attorney for the [REDACTED] school. DOAH's Exhibit Portal and the Transcript memorialize the exhibits entered by the parties.

At the end of the due process hearing, the parties agreed to file proposed final orders on May 12, 2026; and agreed to extend the final order deadline to May 27, 2026. The Transcript was filed on May 1, 2026. Both Petitioner and

Respondent filed proposed final orders, which were considered in preparing this Final Order.

Unless otherwise indicated, all rule and statutory references are to the version in effect at the time of the alleged violations. For stylistic convenience, the undersigned will use male pronouns in this Final Order when referring to Petitioner. The male pronouns are neither intended, nor should be interpreted, as a reference to Petitioner's actual gender.

### FINDINGS OF FACT

1. The student is ■ years old, and is in ■ grade. During the relevant period of this Complaint, he was a general education student without a 504 Plan<sup>1</sup> or an Individualized Education Plan (IEP). He has a history of maladaptive behaviors while at school, dating back to at least ■, which were all documented in his disciplinary record.

2. In December ■, the staff recorded, in a Tier 1 behavior review:

[\*\*] has a difficult time with disruptive behavior, disrespectful behavior, and impulsive behavior. [He] is often off task or being disruptive within the classroom. Numerous times per day, during instructional time, [\*\*] has to be redirected and reminded of expectations. [He] engages in inappropriate behavior, such as, not following directions, disrespecting teachers and peers, becoming angry and screaming at others, talking negative about [his] peers, rolling [his] eyes, and talking back. [\*\*] needs to stay on task during class time. [He] needs to raise [his] hand before blurting out. [He] also needs to be respectful to [his] peers and teachers.

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<sup>1</sup> The Rehabilitation Act of 1973, 29 U.S.C. § 795, *et seq.* (Section 504).

3. Two years later, in February [REDACTED],<sup>2</sup> he was in [REDACTED] grade, and his behavior had not improved. One day, he grabbed two students' heads and knocked them into one another, intentionally. The injured students were taken to the school nurse with marks; and the student was removed from his classroom and taken to the administration. He received one day of In School Suspension (ISS).

4. In April [REDACTED], the student moved from [REDACTED] to [REDACTED]. These two [REDACTED] schools are owned and operated by the same entity, and are considered "sister" schools. He finished [REDACTED] grade there.

5. Soon after [REDACTED] grade began, he was in trouble again. In September [REDACTED], he had a verbal confrontation with a peer on the playground. He used inappropriate language, and had to serve two lunch detentions.

6. In October [REDACTED], he got in trouble for failing to fill out his planner, causing a disruption in class, being off task, blurting out and talking to peers while in class, blocking a door with his foot, and not being prepared for class. He served three recess detentions, and one lunch detention.

7. In November [REDACTED], he got in trouble for slap fighting with a peer during a school assembly. He was suspended for three school days. Four days later, he was disrespectful to a staff member and refused to follow directions, and was suspended for two more days. A week later, he argued with a peer on the bus, was asked to move, and he refused. He was suspended from the bus for two days.

8. In December [REDACTED], he got in trouble during music class. He was talking and playing in music class, being disruptive, and exhibiting unacceptable behaviors. The teacher noted that he had a pattern of being disruptive, and that even when he was isolated from his peers, he was still disruptive. He

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<sup>2</sup> This month is the beginning of the relevant statutory period.

served two recess detentions, one lunch detention, and his seat was permanently changed.

9. In January [REDACTED], his phone was taken away because he broke a phone rule.

10. In February [REDACTED], he got in trouble for talking while a speaker was presenting, and he would not accept the consequences given by the teacher. He was disrespectful to the teacher. The teacher tried talking to him while he was waiting for the bus, but he ignored [REDACTED], walked away, and called his [REDACTED]. He was suspended for one day.

11. In March [REDACTED], he got in trouble for being disrespectful to an adult. He was asked to tuck in his shirt, ignored the instruction, and argued with the adult. He was also accused of peeing on the bathroom floor. He served three days of lunch detention.

12. In April [REDACTED], at the end of the school year, he got in trouble for attempting to take food from a peer. He would not apologize, stormed out of the area, and remained defiant. He was suspended for three days.

13. At this point, the student's [REDACTED] asked the staff if [REDACTED] son could receive counseling at school, and whether the school could evaluate him. The [REDACTED] school staff responded by providing the [REDACTED] with a list of private counselors, and an offer to refer the student to the "BDS Mental Health Team."

14. The student entered [REDACTED] grade in August [REDACTED]. Within the first month, he got in trouble for banging on classroom doors and yelling and disrupting other classes. He also disrupted his class by talking out of turn and being disrespectful. He served three detentions, one lunch detention, and three days of ISS.

15. In September [REDACTED], he got in trouble for repeated class disruptions. He would not stop talking, making comments, and yelling during class. He would not comply with adult directives, and would not listen. He also sat in the wrong seat on the bus, was asked to move, and used profane language. He

was removed from class several times, put on a behavior contract, served five days of lunch detention, assigned two work detail days, and he was suspended from the bus for five days.

16. In October [REDACTED], he was suspended from riding the bus for five days after knocking a phone out of another student's hands.

17. In November [REDACTED], he got in trouble for causing class disruptions, being argumentative and defiant, insubordination, and refusing to follow directions. He was removed from class and served three lunch detentions.

18. In December [REDACTED], the student got in trouble for refusing to respond to a teacher while [REDACTED] was giving a presentation, and causing a disruption in the classroom. After this incident, he was expelled from the [REDACTED] school. His [REDACTED] appealed the decision, and the [REDACTED] school reversed its decision.

19. Finally, at the start of [REDACTED], and the beginning of the spring semester, the school staff started to conduct a functional behavioral assessment (FBA).

20. In January [REDACTED], he got in trouble for refusing to follow directions, complete assignments, or read. He threw pencils, he was disrespectful, and he would not listen to the teacher. He was defiant in class and at lunch. He was removed from class, served four lunch detentions, and one day of Out of School Suspension (OSS).

21. On February 5, [REDACTED], the student was withdrawn from the [REDACTED] school and placed at his neighborhood public [REDACTED] school.

22. From [REDACTED] to the filing of the Complaint, the school staff never requested consent from the parents for an initial evaluation for eligibility for a 504 Plan or an IEP.

23. Also during this time, the student was not performing at grade level in most academic areas.

24. From February [REDACTED] to the date the Complaint was filed, the [REDACTED] school failed in its child find obligation by failing to evaluate a student who regularly exhibited maladaptive behaviors at school.

## CONCLUSIONS OF LAW

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

26. The burden of proof is on Petitioner, to prove the claim by a preponderance of the evidence. *See Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *Devine v. Indian River Cnty. Sch. Bd.*, 249 F.3d 1289, 1291 (11th Cir. 2001).

27. 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).

28. In enacting the IDEA, Congress intended to address inadequate educational services offered to children with disabilities and to combat the exclusion of such children from the public education system. *See* 20 U.S.C. § 1400(c)(2)(A)-(B). To achieve these aims, Congress provides funding to participating state and local educational agencies and requires such agencies to comply with the IDEA’s procedural and substantive requirements. *Doe v. Ala. State Dep’t of Educ.*, 915 F.2d 651, 654 (11th Cir. 1990).

29. The School Board, a local educational agency under 20 U.S.C. § 1401(19)(A), receives federal IDEA funds, and is thus, required to comply with certain provisions of that Act. *See* 20 U.S.C. § 1401, *et seq.*

30. 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).

31. The first and arguably most important procedural obligation, logically, is to identify and evaluate students for IDEA eligibility, most often referred to as the School Board’s ongoing “child find” obligation. Child find “refers to a school’s obligation, under relevant federal law, to identify students with disabilities who require accommodations or special education services proactively rather than waiting around for a child’s parents to confront them with evidence of this need.” *Culley v. Cumberland Valley Sch. Dist.*, 758 Fed. Appx. 301, 306 (3d Cir. 2018).

32. The IDEA sets forth the child find obligation as follows:

All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

20 U.S.C. § 1412(a)(3); 34 C.F.R. § 300.111(a).

33. In compliance with the child find mandate, rule 6A-6.0331 sets forth the school district’s ongoing responsibilities related to students suspected of having a disability. This rule provides that school districts have the responsibility to ensure that students suspected of having a disability are subject to general education intervention procedures. Additionally, they must ensure that all students with disabilities and who need ESE are identified, located, and evaluated, and FAPE is made available if it is determined that the student meets the eligibility criteria.

34. As an initial matter, the school district has the “responsibility to develop and implement a [multi-tiered system of support, or RTI], which

integrates a continuum of academic and behavioral interventions for students who need additional support to succeed in the general education environment.” Fla. Admin. Code R. 6A-6.0331(1).

35. The general education intervention requirements include parental involvement, observations of the student, review of existing data, vision, and hearing screenings, and evidence-based interventions. Fla. Admin. Code R. 6A-6.0331(1)(a)-(e). Rule 6A-6.0331(1)(f) cautions, however, that nothing in this section should be construed to either limit or create a right to FAPE or to delay appropriate evaluations of a student suspected of having a disability.

36. In *J.N. v. Jefferson County Board of Education*, 12 F.4th 1355 (11th Cir. 2021), the Eleventh Circuit clarified the child find obligation, explaining that a parent must, after establishing a child find violation, also put forth evidence that the student was owed ESE services for the time that lapsed before finally receiving ESE services. (“So to succeed in her claim, Molly’s mother needs to show more than a child-find violation. She needs to show that Molly’s education ‘would have been different but for the procedural violation.’”) *Id.* at 1366; quoting *Leggett v. District of Columbia*, 793 F.3d 59 at 68.

37. Here, there is overwhelming evidence that the student’s maladaptive behavior impeded his ability to access his education—he was constantly being disciplined for the same behaviors: being off-task, disrupting classrooms, being disrespectful, refusing to complete work, being unprepared for class, and being resistant to redirection. He is below grade level academically, as well.

38. The evidence demonstrated that the ██████ school failed in its child find obligation from February ██████ to February ██████. The evidence also demonstrated that the student needed an FBA and a Behavior Intervention Plan (BIP) to address these maladaptive behaviors, and perhaps more intense behavioral therapy and counseling. The behaviors were never replaced with positive behaviors, and never evaluated.

39. Because the █████ school procedurally violated the IDEA by failing in its child find obligation since February █████, the student has a right to appropriate remedies.

40. In that regard, if a district court or administrative hearing officer determines that a school district has violated the IDEA by denying that student FAPE, then the court shall “grant such relief as the court determines is appropriate.” 20 U.S.C. § 1415(i)(2)(C)(iii). In so doing, the court or administrative hearing officer has broad discretion. *Knable ex rel. Knable v. Bexley City Sch. Dist.*, 238 F.3d 755, 770 (6th Cir. 2001); *see also Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 244 n.11 (2009) (observing that 20 U.S.C. § 1415(i)(2)(C)(iii) authorizes courts and hearing officers to award appropriate relief, despite the provision’s silence in relation to hearing officers).

41. Such “appropriate” relief may include reimbursing parents for the cost of private replacement therapy; transportation expenses; credit card transaction fees and interest; and, for times when a trained service provider is unavailable, reimbursement for the time a parent spent in providing therapy personally. *See Bucks Cnty. Dep’t of Mental Health v. Pa.*, 379 F.3d 61, 63 (3d Cir. 2004) (“[W]e hold that under the particular circumstances of this case, where a trained service provider was not available and the parent stepped in to learn and performed the duties of a trained service provider, reimbursing the parent for her time spent in providing therapy is ‘appropriate’ relief”); *D.C. ex rel. E.B. v. N.Y.C. Dep’t of Educ.*, 950 F. Supp. 2d 494, 516 (S.D.N.Y. 2013) (awarding reimbursement for transportation costs); *JP v. Cnty. Sch. Bd.*, 641 F. Supp. 2d 499, 506-07 (E.D. Va. 2009) (awarding parents a reasonable rate of interest to compensate them for tuition payments made on their credit cards, as well as credit card processing fees). Appropriate relief also depends on equitable considerations, so that the ultimate award provides the educational benefits that likely would have accrued from special education services the school district should have

supplied in the first place. *Reid v. Dist. of Columbia*, 401 F.3d 516, 523 (D.C. Cir. 2005).

42. In addition, one type of relief that a court may provide is an award of compensatory education. *Sch. Comm. of Town of Burlington v. Dep't of Educ. of Mass.*, 471 U.S. 359, 369 (1985) (quoting 20 U.S.C. § 1415(e)(2))

Compensatory education is an award “that simply reimburses a parent for the cost of obtaining educational services that ought to have been provided free.” *Hall v. Knott Cnty. Bd. of Educ.*, 941 F.2d 402, 407 (6th Cir. 1991); see also *Draper v. Atlanta Indep. Sch. Sys.*, 480 F. Supp. 2d 1331, 1352-53 (N.D. Ga. 2007) (holding that, in formulating a compensatory education award, “the Court must consider all relevant factors and use a flexible approach to address the individual child’s needs with a qualitative, rather than quantitative focus”), *aff'd*, 518 F.3d 1275 (11th Cir. 2008).

43. Guided by the above stated principles, Petitioner is entitled to compensatory behavioral services, designed specifically for his behavioral needs, for the period between February [REDACTED] and February [REDACTED]; with a full evaluation, a BIP designed by behavioral experts, and a consideration of eligibility for a 504 Plan or an IEP.

### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the [REDACTED] school failed in its child find obligation; and Respondent is

ORDERED to:

1. Within 60 days, conduct a full evaluation of the student, including an FBA conducted by a behavior expert, to address all of the student’s current needs;
2. Create a BIP to address the student’s maladaptive behaviors;
3. After a full evaluation, within 30 days, consider ESE eligibility;

4. Provide compensatory education for every day of OSS imposed;
5. All other forms of relief are DENIED.

DONE AND ORDERED this 19th day of May, 2026, in Tallahassee, Leon County, Florida.

Case No. 26-0712E

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JESSICA E. VARN  
Administrative Law Judge  
DOAH Tallahassee Office

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Filed with the Clerk of the  
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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).