

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**,

Petitioner,

vs.

Case No. 26-2047E

PINELLAS COUNTY SCHOOL
BOARD,

Respondent.

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FINAL ORDER

The due process hearing was held on June 8 and 9, 2026, via Zoom conference. Administrative Law Judge (ALJ) Jessica E. Varn, from the Division of Administrative Hearings (DOAH), presided over the due process hearing.

APPEARANCES

For Petitioner: Petitioner, pro se
 (Address of Record)

For Respondent: Amy D. Envall, Esquire
 Sniffen & Harmon, P.A.
 123 North Monroe Street
 Tallahassee, Florida 32301

STATEMENT OF THE ISSUES

Whether during the 2024-2025 and 2025-2026 school years, the School Board failed to implement the behavior intervention plan (BIP) with fidelity.

Whether during the 2024-2025 and 2025-2026 school years, the School Board's failure to provide 1:1 support resulted in a denial of free and appropriate public education (FAPE).

Whether during the 2024-2025 and 2025-2026 school years, the student's individualized education plan (IEP) failed to consider the use of positive behavioral interventions and supports, and other strategies, to address the student's behavior.

PRELIMINARY STATEMENT

On or about April 14, 2026, Petitioner filed a request for a due process hearing (Complaint) with the School Board. The case was assigned to ALJ Sara Marken when the Complaint was filed with DOAH. The School Board filed a timely response to the Complaint on April 24, 2026.

On May 18, 2026, after a pre-hearing conference with the parties, ALJ Marken set the due process hearing for June 8 and 9, 2026. On that same date the case was transferred to the undersigned.

The due process hearing was held as scheduled. Petitioner's Exhibits 1 through 8, pages 3 and 4 of Petitioner's Exhibit 9, 10 through 31, and 34 were admitted. School Board Exhibits A through Z; and AA through WW were admitted by stipulation. The student's [REDACTED] testified, and Petitioner called [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] as witnesses. The School Board presented the testimony of [REDACTED] and [REDACTED].

The Transcript was filed on July 1, 2026. The parties agreed to file proposed final orders 14 days after the transcript was filed and the final order would issue 14 days after the proposed final orders were filed. The parties' proposed final orders were due on July 15, 2026; and the final order deadline was July 29, 2026. The parties timely filed proposed final orders,

which were considered in preparing this Final Order; and the parties agreed to extend the final order deadline to August 5, 2026.

Unless otherwise indicated, all rule and statutory references are to the versions in effect during the relevant period. For stylistic convenience, the undersigned uses male pronouns when referring to the student. The male pronouns are neither intended, nor should be interpreted, as a reference to the student's actual gender.

FINDINGS OF FACT

1. The student is a rising [REDACTED] grader, and he is described as a bright boy with a great sense of humor. He makes friends easily in the classroom. He has deep knowledge of matters that interest him and enjoys sharing that knowledge with others. He is eligible for exceptional student education (ESE) services under the eligibility categories of Autism Spectrum Disorder (ASD) and Other Health Impaired (OHI).

2. During the [REDACTED] school year, the student was in [REDACTED] grade. He demonstrated persistent emotional and behavioral challenges that required intensive support across the school day. Although these behaviors did not interfere with his [REDACTED] grade academic performance, they significantly impacted the safety and functioning of the classroom environment.

3. He exhibited verbal aggression when dysregulated, often shouting phrases such as "Go away," "I hate you," or using profanity, including "[REDACTED]," "[REDACTED]," and "[REDACTED]" toward peers and staff. Physical aggression included hitting, kicking, and the use of objects such as a backpack to strike others. He had shown repeated instances of property destruction, including pulling on and damaging blinds, tearing down classroom posters, dismantling bookshelves, and once, throwing and breaking a school-issued computer against a door.

4. Documented instances of property destruction occurred on these dates: January 8, 15, and 27, [REDACTED]; February 6, [REDACTED]; March 4, 11, and 24, [REDACTED]; April 1, 3, 9, and 28, [REDACTED]; and May 1, 5 and 20, [REDACTED]; totaling 14 incidents across five months. These behaviors often coincided with ordinary events during a school day: transitions, adult redirection, or being asked to perform a non-preferred or challenging task. Property destruction varied in intensity but often involved damage to school-owned materials or classroom learning environments, disrupting not only his learning but also that of his peers.

5. The student struggled significantly with transitions, both from home to school and between classes or academic activities and his behaviors often escalated when prompted to shift to a new task.

6. One of the most critical behaviors of concern was frequent elopement, which manifested itself when at home as well. He typically eloped by walking, not running, and he would kick doors during moments of heightened frustration. From September [REDACTED] through May [REDACTED], he eloped 48 times while at school.

7. The student received Applied Behavior Analysis (ABA) therapy from a private provider. He received this private therapy after school, for about 12 hours weekly. The private therapy also included a Registered Behavior Technician (RBT) who was assigned to work on replacement behaviors. At all relevant times for this Complaint, the IEP team knew that the parents were providing this private therapy, and were given access to communicate with the Board Certified Behavior Analyst (BCBA) assigned to his case. There is no evidence establishing that the IEP team ever availed themselves of this opportunity or that the private BCBA or RBT were ever included on the IEP team, despite the extensive knowledge they possessed about the student.

8. The school staff did, however, try multiple interventions and strategies, which included: verbal encouragement; prompts or cues to stay on task; instruction and tests provided in a small group setting; no more than five students per adult in the classroom; preferential seating; a token reward

system for task completion; visual supports for expected behaviors; unlimited access to a preferred adult for check in; choices for autonomy; continuous supervision throughout the day for the safety of students and others; prompts/reminders/modeling to utilize self-regulation strategies; unlimited access to a safe space area; and reminders/modeling to request breaks when frustrated/dysregulated.

9. During the [REDACTED] grade school year, the IEP team met multiple times to amend the IEP, a functional behavior assessment (FBA) was conducted and amended, a Positive Behavior Intervention Plan (PBIP) was drafted and amended; and a Crisis Intervention Plan was created.

10. The more persuasive evidence established that during the [REDACTED] grade year, the IEP team was amending the IEP, FBA, and PBIP to address the student's behaviors. The IEP team appropriately considered the use of positive behavioral interventions, supports, and other strategies to address the student's behavior.

11. For the [REDACTED] school year, the student was in [REDACTED] grade. He was still attending private ABA therapy after school, and continued to work with his private RBT. His IEP, PBIP, and Crisis Intervention Plan were all tweaked and amended all year long. The school staff continued to utilize multiple interventions and strategies to manage his behaviors.

12. But his dangerous behaviors continued. From August [REDACTED] to October [REDACTED], he eloped five times. He engaged in physical aggression toward others or objects seven times. The aggression included tearing up papers, knocking items off desks or tables, and touching peers during work time.

13. On October 21, [REDACTED], an incident occurred in music class, where the student kicked a number of musical instruments, and kicked and punched the music teacher.

14. By January [REDACTED], the private BCBA and RBT had extinguished the elopement episodes while he was at home and in the community. The

student's █████ described the effectiveness of the private ABA therapy:

ABA therapy, and I would like to make this clear, has done wonders for [him]. It has -- honestly, it's changed everything. It's definitely helped. Okay. [He] has struggled with feeling different from [his] peers, and has often viewed [himself] as a bad kid, rather than -- you know, these are my words, but if [he] views himself as a child that's not liked, or, you know, and it makes it -- [he] goes inward when that happens.

And [**] deserves an opportunity to be sent -to attend school safely while preserving [his] dignity. [He] deserves support that can help [him] succeed before a crisis occurs. It's not -- not only interventions after a crisis has already happened...

15. Also in January █████, the student's █████ requested that a 1:1 RBT be assigned to the student and added to his IEP. █████ also offered to have the private RBT work with the student at school, and the school's Principal agreed. The █████ explained:

The issue I ran into was insurance. Insurance basically said they were not going to cover that because the school has an obligation. I don't -I can't -- I don't want to give the exact words because I might misquote it, but basically, that the school needs to provide what [he] needs to access the education, and they were not going to cover the RBT in the school, and I did make them [IEP team] aware of that as well.

16. A prior written notice (PWN) issued on January 22, █████, corroborates the █████ recollection. It states:

The provision of a Registered Behavior Technician (RBT) was discussed and formally requested by the parent. The principal indicated a willingness to approve an outside agency to provide RBT services on campus; however, at this time, **the district is**

not offering or providing RBT services directly.

(Emphasis added).

17. The record makes clear that the School Board does not provide RBT services, even if the student, as in this case, needs one. Every School Board witness testified that the student never needed a 1:1 RBT, and every PWN issued on the topic, after the January [REDACTED] PWN, reflects that same position.

18. The January [REDACTED] PWN quoted above, however, reflects that the student needed the intervention of a 1:1 RBT, and the school staff agreed, but because the district categorically does not provide them, and because the student's [REDACTED] could not persuade [REDACTED] insurance company to pay for the service, this student went without a 1:1 RBT in school. The rest of his days in school reflect his need for a 1:1 RBT. The following events are demonstrative.

19. On March 10, [REDACTED], the student left the cafeteria because other students were moved to a different spot and he could not share his lunch. He walked out of the cafeteria and tried to leave through the front gate. The staff blocked access to the outside door, so he went into the front office and attempted to leave. The office door was blocked on the outside keeping the student inside. The student's [REDACTED] was called and asked to come pick up [REDACTED] son because of safety concerns. While waiting for his [REDACTED] to arrive, he continued to try to leave and ripped up office materials.

20. On March 23, [REDACTED], the student eloped from the general education classroom because he wanted to go to the book fair. After eloping, he went to the ESE room and asked to call his [REDACTED]. Unsatisfied with his [REDACTED] message, he walked out of the room and headed to the front gate of the school. Two staff members followed him off campus for a few blocks until police officers arrived.

21. A week later, at the start of the school day on April 1, [REDACTED], the student walked directly to his ESE teacher rather than reporting to his class. After being denied access to an event, he eloped. He left out the front gate,

walked a few laps around the campus, and then returned. Later that same day his teacher announced it was time to go to specials and lined up the students. The student refused to line up to leave the room. He began to rip up materials and push furniture. He punched his teacher in the stomach and called [REDACTED] a “[REDACTED]” and then punched [REDACTED] a second time. His teacher removed [REDACTED] from the situation and escorted the other students to a safe location while a staff member stayed with the student. He called the staff member a [REDACTED] and said he “hates his life and nobody loves me.” He pushed the emergency alert button, activating a 911 response, screaming at the 911 first responder that he wanted to go home and he was in danger. He punched the emergency sign and kicked doors. He continued to state that “he hates his life and nobody loves me” and said, “the teacher is turning my friends against me.” He then eloped from the campus, walking three blocks away from campus and ending up at an apartment complex. Police arrived at the scene, as well as his parents.

22. Two weeks later, this Complaint was filed, and the [REDACTED] pulled the student out of school because [REDACTED] was, understandably, gravely concerned about [REDACTED] son’s safety.

CONCLUSIONS OF LAW

23. 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).

24. 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).

25. Congress passed the Individuals with Disabilities Education Act (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).

26. 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.” *Id.* 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).

27. 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).

28. 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).

29. 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).

30. 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.*

31. 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.").

32. In this case, Petitioner has established that the IEPs failed to include a 1:1 RBT, and that this failure led to escalating behaviors, placed the student and others in danger, and denied him access to a FAPE. The school-based team members agreed that the student needed an RBT, but told the parent that the district would not provide one. The parent was told that [REDACTED] had to provide the RBT, and go through an approval process to get [REDACTED] son's private RBT in the classroom. This failure to provide a needed intervention resulted in a denial of FAPE.

33. Petitioner also alleges that the IEPs failed to appropriately consider the use of positive behavioral interventions, supports, and other strategies to address the student's behavior. The IDEA provides that "[i]n the case of a child whose behavior impedes the child's learning or that of others, [the IEP must] consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior." Title 34 C.F.R. § 300.324. It is undisputed that the student's behavior impeded his learning, and that his safety and that of others was at risk throughout most of his days at school. To address those behavioral needs, the School Board did meet its obligation in [REDACTED] grade, but from the start of [REDACTED] grade, the student needed more intense interventions; specifically, a 1:1 RBT.

34. Lastly, Petitioner alleges that the student's BIP was not properly implemented. The Eleventh Circuit addressed the issue of implementation for the first time in *L.J. v. School Board*, 927 F.3d 1203 (11th Cir. 2019). The court outlined the standard for claimants to prevail in a "failure-to

implement case.” *Id.* The court concluded that “a material deviation from the plan violates the [IDEA].” *L.J.*, 927 F.3d at 1206. The *L.J.* court expanded upon this conclusion as follows:

Confronting this issue for the first time ourselves, we concluded that to prevail in a failure-to implement case, a plaintiff must demonstrate that the school has materially failed to implement a child’s IEP. And to do that, the plaintiff must prove more than a minor or technical gap between the plan and reality; de minimis shortfalls are not enough. A material implementation failure occurs only when a school has failed to implement substantial or significant provisions of a child’s IEP.

Id. at 1211.

35. The court provided a few principles to guide the analysis. *Id.* at 1214. First, the court said that the focus in implementation cases should be on the proportion of services mandated to those provided, viewed in the context of the goal and importance of the specific service withheld. Thus, the task is to compare the services delivered to the services described in the IEP. In turn, “courts must consider implementation failures quantitatively and qualitatively to determine how much was withheld and how important the withheld services were in view of the IEP as a whole.” *Id.*

36. Additionally, the *L.J.* court noted that the analysis must consider implementation as a whole:

We also note that courts should consider implementation as a whole in light of the IEP’s overall goals. That means that reviewing courts must consider the cumulative impact of multiple implementation failures when those failures, though minor in isolation, conspire to amount to something more. In an implementation case, the question is not whether the school has materially failed to implement an individual provision in isolation, but

rather whether the school has materially failed to implement the IEP as a whole.

Id. at 1212.

37. Here, Petitioner provided no persuasive evidence that the student's PBIP, as written, was not materially implemented. The evidence showed that the staff did their best to record data, and followed the deficient BIP as best they could, materially implementing the PBIP. Thus, this claim fails.

38. Because the School Board violated the IDEA by failing to provide a 1:1 RBT from the start of [REDACTED] grade, the student has a right to appropriate remedies.

39. In that regard, if a district court or administrative hearing officer determines that a school district violated the IDEA by denying FAPE, 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 its silence in relation to hearing officers).

40. 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 time a parent spent 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 interest rate to compensate for tuition payments made by credit card, 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).

41. In addition, a court may provide 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).

42. Guided by the above principles, Petitioner is entitled to compensatory behavioral services designed specifically for his behavioral needs, for the period between August [REDACTED] and April [REDACTED]. The School Board must develop a PBIP designed by a BCBA utilizing ABA therapy, consistent with his private therapy. He is also entitled to a new IEP that incorporates a 1:1 RBT at public expense. The IEP team must also include contributions from the student’s private RBT and BCBA.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the School Board denied the student a FAPE during the

2025-2026 school year, by failing to incorporate a 1:1 RBT in the student's IEP. The School Board is ordered to:

1. Develop a PBIP, designed by a BCBA and including input from the student's private BCBA and RBT within 30 days of this Final Order.
2. Reconvene the IEP within 30 days, incorporating the input from the student's private BCBA and RBT, and adding a 1:1 RBT.
3. Provide compensatory behavioral services in the form of ABA therapy for eight months, August [REDACTED] to April [REDACTED].

DONE AND ORDERED this 3rd day of August, 2026, in Tallahassee, Leon County, Florida.

Case No. 26-2047E

JESSICA E. VARN
Administrative Law Judge
DOAH Tallahassee Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 3rd day of August, 2026.

COPIES FURNISHED:

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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).