



State of Tennessee
Department of State
Administrative Procedures Division
312 Rosa L. Parks Avenue
William R. Snodgrass Tower
Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472

November 17, 2025

[REDACTED]

Scott Bennett, Esq.
Bennett & DeCamp, PLLC
735 Broad Street, Suite 214
Chattanooga, TN 37402
Sent via email only to:
dsb@bennettdecamp.com

[REDACTED]

Tricia Craig
Tennessee Department of Education
Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
Sent via email only to: Address on File

RE: [REDACTED] THE PARENT AND [REDACTED] THE STUDENT V. HAMILTON COUNTY SCHOOLS, APD Case No. 07.03-255433J

Enclosed is a *Final Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division
Tennessee Department of State

Enclosure(s)

**BEFORE THE TENNESSEE DEPARTMENT OF EDUCATION DIVISION OF
SPECIAL EDUCATION**

IN THE MATTER OF:

██████ **THE STUDENT, and**
██████ **THE GRANDPARENT,**
Petitioners,

v.

HAMILTON COUNTY SCHOOLS,
Respondent.

APD Case No. 07.03-255433J

FINAL ORDER

On September 26, 2025, Petitioners, ██████, the student, and ██████, the grandparent, provided Respondent, Hamilton County Schools (the local education agency or LEA), with an expedited due process complaint¹ under the Individuals with Disabilities in Education Act (IDEA). Petitioners represent themselves. Attorney Scott Bennett represents Respondent. A hearing was held in Chattanooga, Tennessee, before the undersigned on October 30, 2025. The Final Order in this matter is due by November 17, 2025.

Petitioners allege that the LEA's decision to place ██████ in homebound school was an inappropriate placement, resulting from a manifestation of ██████ disability and lack of proper supports. The LEA filed a counter-petition seeking placement in a specialized program, such as the ██████ where specialists could address ██████ behaviors in a clinical setting. Meanwhile, the LEA would continue to provide an appropriately certified teacher to deliver any necessary educational services, thereby safeguarding against the possibility of educational regression. Thus, the first issue to be determined in this case is whether ██████ conduct was a manifestation of ██████ disability requiring ██████ to be returned to ██████ placement prior

¹ Expedited hearings are provided in cases pertaining to manifestation determinations. 20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532.

to being placed on homebound. Second, if the behavior was not a manifestation, whether [REDACTED] should be placed in a specialized program, such as [REDACTED], while receiving educational services and supports from the LEA. After reviewing the testimony, exhibits, arguments of the parties, and the record in this matter, it is determined that the Petitioners have failed to meet their burden of proving by a preponderance of the evidence that [REDACTED] conduct was a manifestation of [REDACTED] disability. Further, the LEA has proven by a preponderance of the evidence that the clinical services available at [REDACTED], combined with educational services provided or arranged by the LEA, represent the most viable option presently available to address [REDACTED] dangerous behaviors and provide [REDACTED] with a free and appropriate public education (FAPE)

WITNESSES

1. [REDACTED] Grandparent / Petitioner
2. Amy Thomson, Board Certified Behavior Analyst (BCBA), Hamilton County Schools
3. [REDACTED] Student Opportunity and Access Resource (SOAR) Classroom Teacher
4. Cassidy Rodriguez Evans, Registered Behavior Technician (RBT)
5. Jane White, Applied Behavior Analysis (ABA) Services Director, [REDACTED] [REDACTED]
6. [REDACTED] Principal, [REDACTED]
7. Rachel Gordon, Director of Behavior Support, Hamilton County Schools

EXHIBITS

- Exhibit 1-Daily Data Collection Reports
- Exhibit 2-Behavior Graph-August 2025
- Exhibit 3-Behavior Intervention Plan (BIP)-August 29, 2025
- Exhibit 4-Safety Plan-August 7, 2025
- Exhibit 5-PowerSchool Records
- Exhibit 6-IEP Amendment-September 8, 2025
- Exhibit 7-Prior Written Notice-September 8, 2025, meeting
- Exhibit 8-[REDACTED] Prior Written Notice-October 10, 2025
- Collective Exhibit 9 -Photographs from the September 4, 2025, incident
- Collective Exhibit 10 -Videos

FINDINGS OF FACT

Background and Procedural History

1. The Student, [REDACTED], is a [REDACTED] currently eligible for special education under the categories of Speech Impairment (“SI”) and Other Health Impairment (“OHI”).

2. [REDACTED] is the student’s grandmother and legal guardian.

3. Hamilton County Schools (“HCS”) is the LEA responsible for implementing the student’s IEP.

4. In August 2025, the parties resolved a prior due-process complaint through mediation. The mediated agreement included a transition to the SOAR classroom at [REDACTED] [REDACTED] and required the LEA to initiate a new Functional Behavioral Assessment (“FBA”).

5. On September 4, 2025, following multiple behavioral incidents at [REDACTED], the student was removed from school and placed on emergency homebound pending further IEP team action.

6. [REDACTED] filed the present complaint, asserting that homebound is an inappropriate placement.

7. HCS filed an Answer and Counter-Petition seeking authorization for a change of placement to [REDACTED] on a full-day basis.

Prior Educational History

8. At the start of the 2023-2024 school year, the student attended [REDACTED] [REDACTED] for kindergarten.

9. During that school year, the student engaged in multiple episodes of violent behavior, including kicking peers in the face, biting several students (breaking the skin), choking peers, and slapping classmates.

10. The LEA initiated interventions, including an assessment by a BCBA, assignment of an RBT, and consultation with Vanderbilt Treatment and Research Institute for Autism Spectrum Disorders (TRIAD).

11. For the 2024-2025 school year, with [REDACTED] agreement, the student was placed at the [REDACTED] a more restrictive setting with intensive behavioral supports. However, the student continued to exhibit significant aggression and elopement at [REDACTED], particularly when academic demands increased.

12. In March 2025, the student was suspended from [REDACTED] for the remainder of the school year.

Transition to [REDACTED] Elementary (SOAR Classroom)

13. Under the mediated agreement resolving the first due process complaint, the student was scheduled to begin SOAR at [REDACTED] for the 2025-2026 school year.

14. Prior to the transition, two BCBA's, Kim Davidson (prior BCBA at [REDACTED]) and Amy Thomson (new BCBA), collaborated to prepare the classroom and staff for the student's arrival.

15. Staff preparation included training on the student's existing Behavior Intervention Plan ("BIP"), training of assigned RBTs and behavior assistants, review of environmental triggers, ensuring materials and supports were available, and planning for reduced transitions and alternative communication strategies.

16. The SOAR classroom at [REDACTED] maintained a low student-to-adult ratio, embedded behavioral interventions throughout the academic day, and was designed to address disruptive behavior while maintaining access to grade-level peers.

17. At the time of entry, the student was assigned four adults at various times: the classroom teacher, the classroom assistant, an ancillary 1:1 assistant, and one or two RBTs.

First Days of School and Behavioral Incidents

18. On the first day of school, the student destroyed a classroom television, attempted to damage a teacher's computer, and attacked a peer by grabbing the child's head and repeatedly slamming her into the floor.

19. Following this incident, the LEA suspended the student for the time necessary to develop a crisis plan.

20. After returning, the student displayed additional physical aggression in the hallway, pulling a girl to the ground by her hair and kicking another student.

21. On a separate occasion, the student eloped from supervision, entered an unlocked workroom, and attacked a parent volunteer.

22. Classroom and behavior staff implemented a lockdown hallway protocol for restroom transitions due to repeated assaults on peers during routine movements.

23. Despite these interventions, the student continued to engage in high-risk behaviors, including elopement from the school building.

24. On September 4, 2025, the student eloped outside, entered the parking lot, and broke multiple car windows with rocks from the landscaping.

25. Following the September 4 incident, the student was removed from the building, and the LEA initiated emergency homebound status pending an IEP team review.

26. Based on the prior FBA and ongoing data, the student's primary behavioral triggers included transitions, waiting/downtime, and academic demands.

27. The BIP included teaching replacement behaviors, including the use of functional communication, asking for breaks, identifying emotions, and using alternative seating or transition supports.

28. Despite the implementation of the BIP, the student engaged in frequent physical aggression and elopement, consistent with [REDACTED] historical behavioral profile.

29. Additional supports were implemented, including structured schedules, pre-teaching expectations, reduced transitions, and crisis protocols. The classroom staff began implementing a hallway lockdown protocol for restroom transitions due to repeated incidents of assault during movement between locations.

30. The staff attempted to implement the BIP with fidelity, including modelling replacement behaviors, minimizing downtime, offering choices, and using proximity controls.

31. Despite intensive supports, the student's aggression escalated, posing a safety risk to peers and adults. The aggression was sudden, severe, and unpredictable.

32. Following the student's homebound placement, the LEA proposed full-day attendance at [REDACTED] where ABA therapy could occur in a clinical environment with embedded educational supports, including providing a certified teacher to ensure the student continued receiving academics while at [REDACTED]

33. [REDACTED] is eligible for IDEA services under the categories of Speech Impaired and Other Health Impaired. [REDACTED] has ADHD. Although the LEA initially determined that the September 4, 2025, incident was a manifestation of [REDACTED] disability, the record does not support this conclusion.

Placement Options Considered

34. The IEP team considered the following placement options after September 4:
- Continued placement in SOAR at [REDACTED];
 - Emergency homebound with temporary services;
 - Full-day placement at [REDACTED];
 - A split-day model (school + [REDACTED]), requested by the grandparent.
35. The LEA determined that continued placement at [REDACTED] was not safe due to repeated severe aggression toward students, staff, and community members.
36. The LEA rejected the grandparent's proposed split-day model based on concerns that transitions would exacerbate behaviors and that the student could not access academics safely at school at this time.
37. For at least the two school years preceding this hearing, the student has exhibited a longstanding pattern of severe behavioral challenges, including elopement from supervised areas and physical aggression toward peers and adults (biting, hitting, kicking, choking, pulling hair, slamming peers to the floor), as documented at [REDACTED] [REDACTED] and [REDACTED].
38. The record supports a finding that both the grandparent and LEA staff have acted, in different ways, with the student's welfare in mind: the grandparent by consistently advocating for trauma-informed supports and continuity of schooling, and the LEA by attempting to provide intensive supports in the SOAR setting and then seeking a more controlled clinical environment after severe safety incidents.
39. Based on the totality of the evidence, the undersigned finds that:
- The Student's behaviors at [REDACTED] were serious, frequent, and unsafe, even with multiple supports and intensive staff involvement;

- b. The LEA's concern that maintaining the current SOAR placement is substantially likely to result in injury to the Student or others is supported by the record;
- c. The clinical services available at [REDACTED], combined with educational services provided or arranged by the LEA, represent the most viable option presently available to address the Student's dangerous behaviors.

APPLICABLE LAW

- 1. 34 CFR § 300.530 states the following regarding a manifestation determination:

- (a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

- (b) General.

- (1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under § 300.536).

- (2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.

- (c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, 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 pursuant to paragraph (e) of this section, 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, except as provided in paragraph (d) of this section.

(d) Services.

(1) A child with a disability who is removed from the child's current placement pursuant to paragraphs (c), or (g) of this section must -

(i) Continue to receive educational services, as provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(2) The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting.

(3) A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

(4) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under § 300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, as provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

(5) If the removal is a change of placement under § 300.536, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section.

(e) Manifestation determination.

(1) Within 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 LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine -

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

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

(2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

(3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.

(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must -

(1) Either -

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

(g) Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child -

(1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;

(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or

(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

(h) Notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in § 300.504.

(i) Definitions. For purposes of this section, the following definitions apply:

(1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(2) Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law...

2. The implementing regulations of the IDEA regarding a manifestation determination review provide:

(a) General. The parent of a child with a disability who disagrees with any decision regarding placement under §§ 300.530 and 300.531, or the manifestation determination under § 300.530(e), or an LEA that believes that maintaining the current placement of the

child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to §§ 300.507 and 300.508(a) and (b).

(b) Authority of hearing officer.

(1) A hearing officer under § 300.511 hears, and makes a determination regarding an appeal under paragraph (a) of this section.

(2) In making the determination under paragraph (b)(1) of this section, the hearing officer may—

(i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of § 300.530 or that the child's behavior was a manifestation of the child's disability; or

(ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

(3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

(c) Expedited due process hearing.

(1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of §§ 300.507 and 300.508(a) through (c) and §§ 300.510 through 300.514, except as provided in paragraph (c)(2) through (4) of this section.

(2) The SEA or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing.

(3) Unless the parents and LEA agree in writing to waive the resolution meeting described in paragraph (c)(3)(i) of this section, or agree to use the mediation process described in § 300.506—

(i) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and

(ii) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.

(4) A State may establish different State-imposed procedural rules for expedited due process hearings conducted under this section than it has established for other due process hearings, but, except for the timelines as modified in paragraph (c)(3) of this section, the State must ensure that the requirements in §§ 300.510 through 300.514 are met.

(5) The decisions on expedited due process hearings are appealable consistent with § 300.514.

ANALYSIS

It is clear from the record that [REDACTED] has a disability; however, the proof fails to demonstrate that a nexus between the student's aggression and [REDACTED] disability exists, therefore it is determined that [REDACTED] violent behavior is not a manifestation of [REDACTED] disability. It is noted that the LEA made an initial determination that the September 4, 2025, incident was a manifestation of [REDACTED] disability; however, aside from the determination itself, the record does not support that finding. Furthermore, the proof demonstrates that the LEA implemented the IEP and that the conduct in question was not the result of the LEA's failure to do so. [REDACTED] intense and violent outbursts have caused injuries to peers and school staff as well as property damage on multiple occasions. The outbursts often occur without warning, and the trigger could be any normal school activity. [REDACTED] is substantially likely to cause injury if returned to [REDACTED] former placement despite the LEA's having made reasonable efforts to minimize risk, and the proposed interim alternative education setting (IAES) of [REDACTED] meets IDEA requirements. Returning [REDACTED] to

HCS at this time would constitute a reckless disregard for [REDACTED] own safety, the safety of [REDACTED] peers, and that of teachers, staff, and anyone else at the school.

CONCLUSIONS OF LAW

1. [REDACTED] is an individual entitled to protection under the IDEA due to [REDACTED] disability.

2. HCS is an LEA and is subject to the requirements of the IDEA.

3. [REDACTED] was appropriately assigned to homebound school in accordance with 34 CFR § 300.530 .

4. It is **CONCLUDED** that Petitioners have failed to prove that [REDACTED] violation of the student code of conduct was a manifestation of [REDACTED] disability. Therefore, Petitioners have failed to carry their burden of proof.

5. It is further **CONCLUDED** that Respondent has proven that returning [REDACTED] to HCS is substantially likely to result in injury to the child or to others. The Respondent has carried its burden of proof.

6. It is **CONCLUDED** that HCS is the prevailing party on all issues.

IT IS THEREFORE ORDERED that Petitioners' request for relief is **DENIED**, and their appeal is **DISMISSED**. Respondent's request for relief is **GRANTED**.

[REDACTED] shall be placed at [REDACTED] or a similar institution if [REDACTED] is unable to enroll [REDACTED], as an IAES for up to 45 school days.

The LEA shall ensure that [REDACTED] continues to:

- a. Receive FAPE;
- b. Receive services designed to address the behaviors that resulted in removal, so they do not recur;

- c. Participate in the general curriculum to the extent appropriate; and
- d. Receive academic instruction from a certified teacher provided or arranged by HCS.


The IEP team shall convene within 10 school days to revise the FBA, BIP, goals, and supports, and develop a reintegration and generalization plan for returning the student to a school setting following completion of the IAES period.

During any appeal of this Order, the IAES placement shall serve as the stay-put placement under 34 C.F.R. § 300.533.

The policy reasons for this decision are to uphold state and federal laws pertaining to the education of children with special needs.

It is so **ORDERED**.

This FINAL ORDER entered and effective this the **17th day of November 2025**.



J. SHANNON BARNHILL
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the **17th day of November 2025**.

NOTICE OF APPEAL PROCEDURES

REVIEW OF FINAL ORDER

The Administrative Judge's decision in your case in front of the **Tennessee Department of Education**, called a Final Order, was entered on **November 17, 2025**. If you disagree with this decision, you may take the following actions:

1. **File a Petition for Reconsideration:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration with the Administrative Procedures Division (APD). A Petition for Reconsideration should include your name and the above APD case number and should state the specific reasons why you think the decision is incorrect. APD must **receive** your written Petition no later than 15 days after entry of the Final Order, which is no later than **December 2, 2025**.

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied, you may file an appeal no later than **January 16, 2026**. See TENN. CODE ANN. §§ 4-5-317 and 4-5-322.

2. **File an Appeal:** You may file an appeal the decision in federal or state court within 60 days of the date of entry of the Final Order, which is no later than **January 16, 2026**, by:
 - (a) filing a Petition for Review "in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person's discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County," TENN. CODE ANN. § 4-5-322; or
 - (b) bringing a civil action in the United States District Court for the district in which the school system is located, 20 U.S.C. § 1415.

The filing of a Petition for Reconsideration is not required before appealing. See TENN. CODE ANN. § 4-5-317.

STAY

In addition to the above actions, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Final Order. A Petition for Stay must be **received** by APD within 7 days of the date of entry of the Final Order, which is no later than **November 24, 2025**. See TENN. CODE ANN. § 4-5-316. A reviewing court also may order a stay of the Final Order upon appropriate terms. See TENN. CODE ANN. §§ 4-5-322 and 4-5-317.

FILING

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: APD.filings@tnsos.gov

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

IN THE MATTER OF:
██████████, THE PARENT AND ██████████ THE STUDENT V.
HAMILTON COUNTY SCHOOLS

APD CASE No. 07.03-255433J

NOTICE OF APPEAL PROCEDURES

Secretary of State
Administrative Procedures Division
William R. Snodgrass Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102