

BEFORE THE DUE PROCESS HEARING OFFICER

IN THE MATTER OF THE SPECIAL EDUCATION)
EXPEDITED DUE PROCESS HEARING FOR STUDENT)
)
and) Case No. 26-EP-260-001
)
USD 260 DERBY PUBLIC SCHOOLS)
)

Pursuant to K.S.A. 72-2252 et seq.

Notice of Hearing Officer's Decision

Larry Rute, the Hearing Officer, has been appointed in the matter of the Special Education Expedited Due Process Hearing requested for ----- and USD 260, Derby Public Schools.

On October 16, 2025, a Pre-Hearing Conference was conducted via Zoom, establishing the dates of the manifestation hearing to be held in person on October 28 and 29, 2025, in Derby, Kansas. Two full days of hearings were conducted on October 28 and 29, 2025.

I. Derby Public School Manifestation Determination Review Team Meeting.

A Manifestation Determination Review Team Hearing was conducted on October 6, 2025. -----'s mother, -----, attended the meeting. The Notice of Meeting set out the following incident notification:

TO: Xxxxx Xxxxx JAC

RE: Notification of long-term suspension or expulsion hearing

In accordance with KSA 72-6114 - 72-6619 of the Kansas Statutes the practice of Unified School District 260, Derby, Kansas notification of a long-term suspension or expulsion hearing within 24-48 hours after a short-term suspension has been impose

You are hereby notified that Xxxxx has been suspended temporarily for the following reasons, length and dates

Incident Date: 10/02/2025 10:02 AM

Entity: Swaney Elementary School

Offense: BATTERY

Discipline Officer: ADDIS, JOEL S

Description:

Kansas Law K.S.A. 72-6114 states that the Board of

Education of any school district may

suspend, expel, or by regulation authorize any certified employee or committee of certified employees to suspend or expel any pupil or student guilty of any of the following:

Conduct which substantially disrupts, impedes or interferes with school xxxxxxxxx

The following violations may result in a short-term suspension, a long-term suspension, expulsion, or other disciplinary measures.

1. Vandalism and destruction of property.

19. Assault and/or battery to another student or a staff member.

Throughout the morning, services and accommodations were provided per Xxxxx's current IEP.

The incident began during Music when Xxxxx entered the classroom and went to the calm spot. He sat briefly, then began exploring the nearby recycling box., repeatedly calling for Mrs. Townsend. after being ignored for a short time as the teacher was teaching the class, he asked for paper from the recycle bin and was allowed to take one. The next time the music teacher looked over, he had taken an empty plastic bottle, said he was going to make music with it, and began banging it on the floor. He later joined the class, but when it was time to transition, he declined to leave the bottle and ignored directions from the music teacher that it could not go with him.

At 9:20 AM, additional assistance was called to support the transition. A special education para arrived to help. She reported that when she arrived, Xxxxxx had taken the bottle from recycling and was declining to put it away. He was given the option by the para and Mrs. Mayes to either store it in his locker or throw it away, but declined and went to the bathroom with the bottle.

Mrs. Hearn and Ms. Paeten arrived at 9:24. A timer was set, and Xxxxx was given the option to decide where the bottle would be kept when the timer ended. He declined the option. Staff continued using visuals, timers, and calm, limited verbal cues. He exited the stall but walked toward C Hall, declining the option to decide where the bottle would go. Staff redirected him back towards his locker, continued to use the "OFFICE" visual, and gave him the option to place the bottle in either Paeten's office or Mr. Addis's office. He continued to decline the options. Timers utilized during this period were in the 7 to 9 minute range.

Xxxxx then walked up and down C Hall and began removing nuts and bolts from student lockers and placing them in the bottle. Staff stood in front of hte lockers and let him know that this was not safe or appropriate. Despite repeated visuals and verbal support, he continued opening lockers and removing hardware {district maintenance staff have been asked to come to the building and repair the lockers - cost unknown at this time}. Timers were set to give him the option to place the bottle in either Paeten's office or Mr. Addis's office. Timers utilized during this period were in the 7 to 9 minute range.

At approximately 9:53 AM, Mr Addis arrived to provide additional support and calmly gave Xxxxx the option to return the bolts and the bottles. Xxxxx stated that he did not know where the bolts came from and did not want loose bolts in his locker because he wanted his locker to be OK. Staff continued to provide options and use visuals to guide him, but he declined and persisted in manipulating lockers and adding hardware to the bottle. At 9:57, a seven-minute timer ended, and Xxxxx was given the choice to take the bottle to Mr. Addis or Ms. Paeten's office.

Xxxxx ignored, but then began giving nuts and bolts from the bottle to Mr. Addis. He then went to sit in the bottom of his locker and attempted to hold the door shut. Mr. Addis prevented Xxxxx from closing the locker door. At times, Xxxxx was putting things in his mouth. At 10:01, Mr. Addis prompted Xxxxx for another timer. 7 or 8 minutes were given as options. Xxxxx said he wanted 6. The timer was set, and then Xxxxx said he wanted 8 minutes. Mr. Addis said we had already made a choice, and the timer was going, and then Xxxxx asked if it had already turned to 6 minutes. Mr. Addis said yes. Xxxxx said OK.

At 10:02, Xxxxx dropped the bottle, and it rolled into the hall. Mr. Addis picked it up and before he was able to give Xxxxx the options between putting the bottle in either his or Paeten's office, Xxxxx put his hands on Mr. Addis's right forearm, trying to grab the bottle. Mr. Addis prompted Xxxxx to take his hands off of him. Xxxxx continued to grab Mr. Addis' arms to get the bottle, at times hanging his arm, twisting his hands, and pulling on his arm hair. Xxxxx said Give me the bottle. Two staff members held up the office visual and did provide verbal directions.

At 10:30, Xxxxx took his hands off Mr. Addis, got his headphones out of the locker, and threw them. He then threw his backpack out of the locker and got back inside the locker. Xxxxx was prompted verbally that he needed to go to the office because he put his hands on staff, with staff also showing office visual.

At 10:04, Xxxxx tried to close the locker door. Addis prompted that he was going to hold it open because closing it was not safe. He then took his shoes off, hitting Mr. Addis with one and then throwing the other at Ms. Paeten, missing her. He continued to request additional timers, explore his backpack, put his body fully inside his locker at times, and play with food items in a ziplock bag from his backpack while declining the options provided and calm visual supports.

At 10:17, Mr. Addis stepped away to ask the office to call Xxxxx mom. At 10:19, when given the option to transition, Xxxxx scooted down the hall. Staff maintained close proximity, kept verbal interaction minimal, and repeatedly used visuals. He crawled under and behind furniture in the commons. At 10:26 a.m., the student had scooted to B Hall and pushed against a metal cabinet full of OT/PT items. Mr. Addis placed his hand on the cabinet to prevent it from tipping and calmly prompted that this was not safe. The student scooted behind the cabinet, causing it to move forward and tip further. At 10:27, Ms. Hearn also prompted that the situation was unsafe, but the student continued to scoot behind the cabinet while Mr. Addis held it to keep it from falling, and the student began pushing on the back. Ms. Hearn continued to hold the office visual. At 10:28, the student came out, and Mr. Addis started setting the back legs of the cabinet down, but the student returned behind it. At 10:29, the student used his body to push against the cabinet, tipping it forward more, the cabinet doors opened at this point, which prevented it from being knocked over completely, though items

inside fell out. The student came out, and Ms. Howard positioned herself in front of the space to block further access. At 10:30, the student said "dang it" and began messing with the items that had fallen out. At 10:32, Officer Stitt arrived as part of her regular schedule. She asked if we needed assistance, and the staff said no. Xxxxx continued to play with items on the floor, while staff monitored with minimal verbal cues, no timers, and visuals given. Xxxxx mother arrived at 10:45 and asked the staff to give her space while she talked with Xxxxx. Xxxxx mother had him pick up the items from the cabinet, and left with him at approximately 11:03 AM.

Ordered Date: 10/02/2025

Action: OUT OF SCHL SUSPENSION W/O SER

Status: Open

Follow Up Officer: ADDIS, JOEL S

Total To Serve: 4.00 Day(s)

Total Served: 0.00 Days(s)

At the conclusion of the meeting, the Team marked "No" to the question "Was the conduct in question caused by or have a direct or substantial relationship to the student's disability?" and marked "No" to the question "Was the conduct in question a result of the school's failure to implement the IEP?." (Exh. 112)

II. Hearing Officer's Findings & Decision.

Two days of hearing time have allowed the Hearing Officer to review a great deal of more information by way of testimony and exhibits than available to the Manifestation Determination Review Team. It appears that the Review Team's deliberations concluded after approximately one (1) hour. ----- appeared at that meeting without legal representation.

During the hearing on the merits, both parties were represented by experienced legal counsel. The Review Team's discussion was generally limited to a single series of events that occurred on October 2, 2025. By contrast, the Hearing Officer has been given the opportunity to review more than 12 incident reports involving ----- from August 21, 2025, through September 23, 2025.

This information is supplemented by a number of exhibits which include, in particular, a psychological evaluation presented by Air Capital Counseling & Assessment, LLC, providing a diagnosis for ----- as "Attention-Deficit/Hyperactivity Disorder, combined presentation (ADHD) and Autism Spectrum Disorder, Level 1, without language impairment, without intellectual impairment (ASD)." (Exh. 128) And, a letter from -----'s pediatrician indicating that he has been diagnosed with Autism, ADHD, ODD, and aggressive behavior. (Exh. 119.)

Important testimonial information, under oath, was provided by Dr. Janine Kesterson-Craben ("Dr. Craben"); Ana Regaldo, LMSW, Therapist; -----'s Mother, -----, Joel Addis, Building Principal; Hannah Story-Kilpatrick, School Psychologist; and Dawn Gresham, Special Education Director.

A. Dr. Janine Kesterson-Craben's Testimony:

Dr. Craben is a licensed psychologist and board-certified behavior analyst. In the past, she has worked for TASN, a technical assistance support network for autism behavior support teams, traveling around the state training teachers on various aspects of autism. She has also worked for the Kansas City Public Schools as a school psychiatrist and is currently in private practice.

Dr. Craben was asked to provide a definition for some of the terminology that would likely be utilized throughout the hearing. Dr. Craben defined the following technical terms:

Dysregulated: Usually means that a child is overwhelmed or unable to process the information being given to them. It could be a lot of different things, but it's usually just overwhelming difficulty responding in situations. If a child is being dysregulated, being able to stop and think through the process—what should I do next? Often times they are not able to do that when they are dysregulated, and so the choices are to either shut down or react or act out. And so that would be if they choose to act out or react to a situation or not think it through. If a kid is dysregulated, then they are impulsive and automatically react without thinking, using aggression to lash out to get away.

Perseveration: getting stuck on a topic or thought or something in your head that you can't move past.

Triggers: are things that often cause the behavior.

Transition: stopping an activity and moving on to something else, whether you are finished or not.

Executive Function: planning, your organizational skills go into play. Being able to break things down into smaller tasks or being able to take information in and process it.

Dr. Craben believes that ADHD and autism overlap quite a bit. So, hyperfixations are often associated with ADHD and Autism, as well as being over-dysregulated. So, with Autism, you typically have difficulty reading social cues, seeing others' perspectives, developing friendships, and having back-and-forth conversations.

With ADHD, Dr. Craben suggests that oftentimes there is difficulty with attention, difficulty staying on task, difficulty sitting, difficulty engaging in non-preferred activities, impulsivity, overreacting to situations, and difficulty controlling oneself when over-stimulated.

She testified that with emotional dysregulation, sometimes there are noticeable triggers, but sometimes you can't always see what triggered the event because it could be something internal. But oftentimes, it's something you can notice. With respect to dysregulation, Dr. Craben suggests that an example would be if a child is dysregulated, being able to stop and think through the process. What should I do next? Oftentimes, they are not able to do that when they are dysregulated, and so the choices are to either shut down, react, or act out. So that would be if they choose to act out or react to the situation and not think it through. If a kid

is dysregulated and they are impulsive, they could automatically react without thinking. And so, then they may aggress or lash out to get away.

Dr. Craben further stated that most of the time, typical children do not have a need for a sensory object. Sensory objects could be many things. It could be like a fidget, like something in their hand that has a certain feel or touch. It could be headphones to block out noise. A form of self-regulation might be trying to get away from something that is overstimulating. Typically, you see a child dysregulated and more upset—they could lash out or try to get away. Dr. Craben feels that a dysregulated child with ADHD and/or Autism would likely do the same things.

In her review of the incident or disciplinary report relating to -----, Dr. Craben feels that the majority of the ones that she reviewed presented difficulty for him transitioning from an activity off of recess or going from one place to the other, as well as being fixed or stuck on an object and not wanting to give it up. And there were also quite a few power struggles as well.

She states that the record indicates that -----, hyper-fixates on objects, not wanting to let go of the object, and has difficulties in stopping an activity and transitioning to the next. -----, is also seeking sensory relief as far as wanting to get inside a locker.

Dr. Craben reviewed Exhibit 111, a draft of a Proposed IEP dated September 26, 2025. She was asked to review the function behavior assessment and whether she thought they might track common traits or deficits of people with autism and/or ADHD. She gave her response to the following categories:

- Persistence: Does not give up when working at a goal – likely autism.
- Crying, yelling, physical aggression: Either ADHD and/or autism.
- Fixation on sensory items: More likely an autistic trait.
- Fixated on an item: Will engage in refusal behaviors when asked to give it up – could be both autism and/or ADHD.
- Difficulty in transitions: Autism
- Difficulties focusing: ADHD
- Distractibility: ADHD

Dr. Craben believes that after review of -----'s behaviors, they show the hallmark traits of someone with ADHD and Autism. She further indicates that incidents of -----, eloping from staff may be attempts at self-regulation, and that holding on to an item that brings comfort may be a form of self-regulation. When asked if -----, was already dysregulated and timers proved to be stressful, would -----, be expected to escalate if timers continued to be set? Dr. Craben replied that it would be quite possible.

Dr. Craben was asked to provide a summary of the October 2 incident report, and Dr. Craben responded: Okay, so, the kid was going to music, and in music, he went straight to the calming spot, which shows dysregulation. In the calming spot, he began accessing items from the

recycling bin and playing with a plastic bottle.

He joined the class for a little bit and then went back, I believe, to the spot. When it was time to transition out of the music class, he wanted to take the bottle with him. The music teacher said no, and that's when the refusal started.

She called for help to have him transition. There were timers offered, different things offered, but they wanted to take the bottle from him. Then he started walking towards "C" hall, which, to me, from what I read, he was pacing.

He was walking down C hall, maybe sounds like he was trying to regulate himself, and then ended up at the lockers, where he started taking them apart, I guess, nuts and bolts from the lockers. I believe he tried to sit in his locker at one point and was told not to. He tried to shut himself in the locker to get away, and then more timers were used, and it escalated from there.

He went back to the locker, tried to close it again, and there was, again, trying to get him to the office, and scooted behind another cabinet, and then accessed items in the cabinet, and tried to push it over, and then there was an officer involved.

When asked about the number of staff members that may have been present during the incident, Dr. Craben responded: Typically, in my experience, the more people, the more escalated the child gets. Okay?

In attempting to close himself into the locker, Dr. Craben believes that ----- started off dysregulated and then escalated. When presented with -----'s difficulty in regulating when he is mad, sad, or presented with non-preferred tasks, appears in the form of physical aggression, hitting, spitting, biting, head butting, crying, elopement, property destruction and unsafe behaviors such as climbing, shutting himself in a locker, and missing large portions of classroom instruction when he is dysregulated—whether she saw these difficulties to be typical or common with a child of ADHD or Autism--Dr. Craben responded, "Yes." Despite the lack of a personal evaluation of -----, Dr. Craben recommends targeting transitions, hyper-fixations, and sensory needs.

Dr. Craben reviewed the Air Capital report (Exh. 128) and was asked her overall opinion and the thoroughness of the report or the methods of the report. She responded that it was an "okay" report. Still, to make it better would be to include another session with ----- She acknowledged the report diagnosed ----- with Autism Spectrum Disorder Level 1, without language and cognitive impairment, and ADHD combined presentation.

In cross-examination, Dr. Craben acknowledged that she had only reviewed medical and educational records and had never met -----, nor evaluated him or talked to any school staff.

Despite the lack of personal evaluation or the opportunity to speak with school staff, the Hearing Officer finds Dr. Craben's testimony to be very credible.

B. Ana Regalado, LMSW, Testimony:

Ms. Regalado testified that she is a licensed social worker and works as a mental health therapist with a specialty in trauma, anxiety and depression. She has served as -----.'s therapist since April of this year due to his behaviors and transitions within the family (divorce). Ms. Regalado uses crafts, games, activities, worksheets and cognitive behavioral therapy that focuses on the thinking part and also behavior therapy. A lot of her therapy is observation as a way to get clients to feel safe and open up. She has diagnosed ----- with anxiety disorder and ADHD. She is aware of -----.'s Autism Level 1 diagnosis and has no reason to doubt the diagnosis. With respect to her ADHD diagnosis, it is based on -----.'s hyperactivity, impulsiveness, distractibility, going from one task to another, and having trouble focusing.

Ms. Regalado believes that Autism has manifested much more since ----- was put on ADHD medication, seeing an increase in hyper-fixation. In terms of stressors at school, some of his stressors are timers, tone of voice, and that sometimes the principal gets involved and makes him nervous. She believes that the presence of the principal during stressful situations may be a trigger. She has personally observed that when ----- believes she is taking something away, he becomes anxious. His general impression of school is that he likes it.

With respect to Autism, Ms. Regalado has discussed with -----.'s mother about getting him in to ABA (Applied Behavior Analysis) therapy. She describes ----- as funny. He can be quiet, but then can also be quite talkative. Very, very creative. She describes his size to be pretty average for his age, maybe on the shorter side.

C. -----.'s Testimony:

----- describes ----- as very creative and a really sweet boy. His siblings are an older 10-year old and a 4-year old.

----- states that when the family resided in Haysville, she got ----- into the Parents of Teachers Program who tested him. They identified ----- with a speech delay, and he was placed in speech services. ----- was attending pre-K at that time and had some behavioral issues, including aggression.

----- is a teacher in the Wichita school system and has worked with kids with autism.

She describes that -----.'s current behavior has improved overall since he has been medicated for ADHD, which began in January 2025. -----.'s psychiatrist, Dr. Mentnall believes that ADHD masks a lot of the autism because it kind of looks like chaos. Now that ----- is medicated, ----- has seen more autistic characteristics.

When describing the use of timers and home, ----- states that she does not use timers when ----- is upset or dysregulated.

----- believes that when she came to the school following the October 2, 2025, incident, that -

-----, when left alone and with no timers or verbal cues, was simply playing with items on the floor and assisted ----- to pick up items from the cabinet. Mom has recommended to the school that when he becomes hyper-fixated on items, the school provide a “parking lot” at an assigned location where he knows he can take the item home at the end of the day.

----- states that -----’s therapist has recommended longer timers and minimal verbal prompting: short, frequent timers of 2-5 minutes and repeated prompts tend to increase his anxiety. She recommends a break card or return to class visual are more effective and respectful of his processing needs. She believes -----’s triggers include loud environments, timers, and unexpected changes in demands during emotional dysregulation.

----- relates that she told the District on April 8, 2025, there was a suspected autism diagnosis and that she would be going through the process of getting the diagnosis or testing started. She received the Air Capital evaluation report on September 23, 2025. No one at the District has suggested a different psycho-educational evaluation.

----- states that she attended the IEP meeting on September 26, 2025, and had been given a draft IEP. She asked for additional time to review it because she was seeing some things that she was uncertain about. A new IEP meeting has been scheduled for November 4, 2025, as the original date conflicted with the expedited due process hearing dates.

----- described the behavior data collection draft found in the IEP by stating the following: “Therefore, when comparing the data from the spring of 2025 to the data collected at the beginning of the school year, an inversion of trends is shown. Positive peer interaction rose from 1.4% of the time to 67.68% of the time. Assignment completion rose from 15.2% to 76.27% of the time. Disrupted behavior fell from 72.6% to 14.44% of the time. Physical aggression fell from 12.8% of the time to 5.16% of the time. Verbal aggression fell from 10.2% of the time to 1.2% of the time. Not following directions or instructions, improved to 81.2%. Following directions and instructions: 18.8% of the time fell to 30.36% of the time. Following directions, instructions, 69.64% of the time. While there is a marked decrease in the frequency of these behaviors, what we have noted is an increased duration and intensity associated with these behaviors.”

----- notes that she rarely sees behaviors at home. They have a bright card at home and I show it to him and he goes to safe seat in his room and he has a designed sensory box that he calms himself down with—and then we process what happened when he is calm and we work on the skills that he is lacking.

----- stated that she believes ----- was improperly restrained last year and injured by the school principal, Mr. Addis. ----- made a complaint to DCF alleging physical and emotional abuse against Mr. Addis and some unknown person. She alleges that Mr. Addis put ----- in a MAP [Managing Aggressive Behavior] hold at which time ----- bit the principal. She has also complained about this event to the District and to OCR. DCF has responded that the report

was found to be unsubstantiated. (Exh. 125)

----- acknowledges that additional accommodations were added to the IEP in April 2025, including a quiet, separate location for assessment; strategic seating; alternative seating; close to the teacher; restated; repeated directions; check for understanding several times during academics or when directions are given; and defined workspace with limited access to distractions. Supplies are to be kept in a separate location. Breaks when needed.

Accommodations also included visual schedule, break schedule, visual and token chart. The visual schedule would assist ----- in knowing what comes next within the school day.

However, the Team believes that ----- would benefit from a break schedule that provides two scheduled breaks per day. The token chart would be utilized within the general education/special education classroom, where ----- will be required to earn five tokens after completing five tasks in order to receive a preferred item or activity. Therefore, 40 minutes were added 5 times per week for special education services for breaks.

----- was asked if she was okay with -----'s aunt restraining him. ----- replied that she did not want anyone restraining -----.

D. Joel Addis, Building Principal, Testimony:

Mr. Addis testified that he began working for Derby Public Schools in February of 2022. His career started as a para in the mixed-abilities classroom at the Derby 6th Grade Center. He remained there until 2005 and then served as a substitute teacher. He later became a special education teacher and held that position for 15 years, teaching kindergarten through 5th grade. As a special education teacher, Mr. Addis worked with students with a wide range of diagnoses and labels that placed them into special education services. Quite a few students were diagnosed with autism, some students—mostly students with learning disabilities, other impairments, some intellectual disabilities, and some emotional disturbances.

Mr. Addis holds a Bachelor's Degree in Elementary Education from Wichita State University, with a Minor in Psychology. He has a Master's in Adaptive Special Education from Wichita State University. He holds licensure for K-12 Adaptive or High-Incident Special Education, Elementary Certified K-6, and for Building Administrator.

Mr. Addis stated that he did not have interactions with ----- until March, 2025. Toward the end of March, -----'s behavior intensified, and ----- and Mr. Addis were interacting daily until May of the last school and the beginning of this school year until the beginning of October.

Mr. Addis described an incident with ----- in April of 2025, stating: "So ----- had been disruptive in the classroom environment and staff were called to assist. ----- did not respond to staff redirection to exit the classroom. A chair was brought just to give ----- the option. An attempt was made to guide him to the chair, at which point he became physically aggressive and punched me several times. I stepped away to call mom and inform her that she was going

to need to come to get -----. When I returned, ----- had three staff members who were standing as ----- was scooting towards them and pushing against them.

Mr. Addis stated that at one point, he (-----) was, if I recall correctly, hitting his head against the wall, and at that point I sat behind him and I put my arm around him. I did not have contact with him, at which point he bit me on the forearm. I applied a restraint technique to attempt to get him to release the bite by applying pressure.

----- began to move around pretty aggressively. He did not attempt to release the bite without releasing his jaw. And so I did have a second staff member step in to help to attempt to release the bite just by having hands kind of on -----'s jaw and my arm.

At that point, ----- did release the bite. We noticed there was blood in his mouth. We picked him up and moved him to the nurses' office to provide medical care, and he remained there until mom came to pick him up."

Mr. Addis acknowledged that he applied a restraint technique, a CPI technique, that did not align with MAB (Managing Aggressive Behavior) technique. The District previously used CPI but now favors MAB restraints.

As a result of the altercation, Mr. Addis testified that he became aware several days later that a complaint had been filed and investigated by the Assistant Director of Social Services. It was determined that the hold utilized was not aligned with MAB and corrective action was taken involving retraining on May 5, 2025.

Mr. Addis became aware of a DCF Complaint in September of 2025. He received notification in October that the Complaint was found to be unsubstantiated. (Exh. 125). There was also an additional complaint filed with Dr. Gresham involving an allegation of lack of trauma-informed care.

Mr. Addis testified extensively about his series of instances of disruptive behavior by -----, beginning August 21, 2025, through October 2, 2025. Mr. Addis was physically present in the majority of the August 2025 disruptive instances and personally submitted a series of incident reports.

Mr. Addis further testified that during these incidents, it appeared to him that ----- typically appears to be calm and intentional. He was able to have a conversation with those present and communicate verbally what was happening. He stated: "When I see -----'s behaviors, I see ----- again being intentional, his actions, smiling and laughing at others. You know, there are different points throughout these incidents where he is able to stop his behavior with verbal prompts and redirection immediately."

Note: the Student Disciplinary Reports have been attached to this decision as Hearing Officer's Exhibit "A." The Hearing Officer notes that the majority of these reports center around -----'s fixation with found objects, including but not limited to the following:

- August 21, 2025 – beads, large stick and tar on the ground
- August 22, 2025 – plastic cup and fork
- August 27, 2025 – mitigation cup and putty
- August 28, 2025 – eraser and cup
- August 29, 2025 – chewing on sleeve and cup
- September 5, 2025 – fork
- September 9, 2025 – rocks
- September 10, 2025 – fork, cup and boxes
- September 16, 2025 – sand
- September 17, 2025 – scraping the metal end of his glasses
- September 18, 2025 – unopened container of milk
- September 23, 2025 – bent toy resembling a gun
- October 2, 2025 – rocks, recycling material, plastic bottle

The Hearing Officer finds that in each of these reported incidents, it appears that ----- was overwhelmed and had difficulty responding to situations after getting stuck on a topic or a thought that he was unable to move past. This is likely a direct result of -----'s disability, whether it be ADHD or Autism.

E. Other Relevant Documents Reviewed During Hearing:

1. Air Capital Counseling & Assessment LLC, Psychological Evaluation.

This report establishes a diagnosis for ----- of Attention-Deficit/Hyperactivity Disorder, combined presentation, ADHD, and Autism Spectrum Disorder, Level 1, without language impairment, without intellectual impairment (ASD).

The report makes several recommendations for 1) Psychotherapy and behavioral support (and family support), lifestyle and wellness, academic support and school accommodations, seeds framework, and ongoing monitoring. (Exh. 128)

2. Letter dated October 14, 2025, from Dr. Camilo-Palacio, Ascension Medical Group, Via Cristi, Derby Pediatrics.

This letter indicates that ----- has been diagnosed with Autism, ADHD, ODD and Aggressive Behavior. (Exh. 119.)

3. IEP Draft dated September 26, 2025.

The Draft IEP, on page 5, identifies impact of exceptionality on progress in general education curriculum, as follows:

"-----'s exceptionality of OHI (due to ADHD diagnosis) and his recently reported clinical Autism Level 1 diagnosis—related behaviors impact his socialemotional performance and his ability to make consistent progress within the general education classroom. Difficulty with

attention, impulse control, and self-regulation can lead to challenges in following classroom routines, participating appropriately in group activities, and maintaining positive peer interactions. These behaviors may result in missed instructional time and reduced access to learning opportunities, which can affect academic progress and social-emotional growth. ----- . 's difficulties in regulating when he is mad, sad, or presented with a non-preferred task, appear in the form of physical aggression (hitting, kicking, spitting, biting, head-butting), crying, elopement, property destruction, and unsafe behaviors (climbing, shutting himself in a locker). Due to the length of these behaviors, ----- . misses large portions of classroom instruction when he is dysregulated." (Exh. 112.)

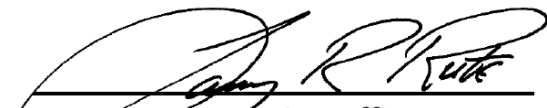
Having carefully reviewed the testimony and exhibits provided over two (2) days of hearing, the Hearing Officer finds that the conduct in question was indeed caused by or have a direct and substantial relationship to -----.'s disability. The weight of the evidence strongly suggests that -----.'s hyper-fixation on preferred objects, and the fear that the object may be taken away, result incidents of strong emotional dysregulation. -----.'s response to this fear likely causes him to become more upset and lash out or try to get away. The Hearing Officer does not find, when faced with such a situation, that ----- . acts with intentionality, his reactions are impulsive.

Further, the Hearing Officer does not find that the conduct in question is a result of the school's failure to implement the January IEP and its later accomodations.

IT IS SO ORDERED.

October 31, 2025

Date


Larry Rute, Hearing Officer

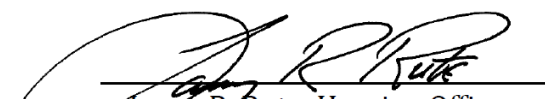
Certificate of Service

I, Larry R. Rute, do hereby certify that I have provided a true and correct copy of the above and foregoing Hearing Officer's Decision upon the following parties:

Ms. Elizabeth A. Hueben
Disability Rights Center of Kansas
214 SW 6th Avenue, Suite 100
Topeka, KS 66603
liz@drckansas.org

Ms. Sarah J. Loquist
The Law Office of Sarah J. Loquist PA
1317 SW Pembroke Lane
Topeka, KS 66604
sarah@loquist.com

by e-mailing a copy to all parties, this 31th day of October, 2025.


Larry R. Rute, Hearing Officer