



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 20170-25

AGENCY DKT. NO. 2026-40039

M.R. ON BEHALF OF Y.R.,

Petitioner,

v.

PASSAIC CITY BOARD OF EDUCATION,

Respondent.

M.R., petitioner, pro se

Yaacov Brisman, Esq., for respondent

Record Closed: March 3, 2026

Decided: March 16, 2026

BEFORE **KELLY J. KIRK**, ALJ:

STATEMENT OF THE CASE

Petitioner, M.R. (Mom) on behalf of Y.R., filed for due process against the Passaic City Board of Education (Board or District), seeking a one-to-one aide.

PROCEDURAL HISTORY

On or about November 19, 2025, Mom filed a Request for Expedited Due Process Hearing¹ (Petition) against the Board, alleging that Y.R. requires one-to-one support and requesting a one-to-one aide². The matter was transmitted by the New Jersey Department of Education (Department), Office of Special Education, to the Office of Administrative Law (OAL), where it was filed on December 19, 2025.

The hearing was scheduled for February 3, 2026, and the parties appeared, but neither party had exchanged any discovery, so the hearing was rescheduled for March 3, 2026. The hearing was held on March 3, 2026, on which date the record closed.

FACTUAL DISCUSSION

Findings of Fact

Alexis Battaglia and Alexandra Costa testified on behalf of respondent. M.R. testified on behalf of petitioner.

Having had an opportunity to consider the evidence and to observe the witnesses and make credibility determinations based on the witnesses' testimony, I **FIND** the following **FACTS** in this case:

Y.R., born in December 2019, was determined eligible for special education and related services under the classification "autism." Y.R.'s program for the 2024–2025 school year had been the self-contained preschool disabled classroom with the following related services: individual speech therapy twice weekly for thirty minutes; group speech therapy once weekly for thirty minutes; occupational therapy twice weekly for thirty minutes; and integrated in-class behavioral support intervention once weekly for 120 minutes. (R-A.) An individualized education program (IEP) meeting was held on June 2,

¹ As noted on the Request for Expedited Due Process Hearing, "***Expedited due process hearings are for disciplinary matters. N.J.A.C. 6A:14-2.7(m)," but this Petition does not involve a disciplinary matter.

² "Aide" is herein used interchangeably with "paraprofessional."

2025, and the Individualized Education Program—Amendment, dated June 2, 2025 (June 2025 IEP), reflects Y.R.’s program for the 2025–2026 school year as the general education classroom with in-class support for language arts/English, math, science, social studies/history and “social emotional,” and the following related services: individual speech therapy twice weekly for thirty minutes; group speech therapy once weekly for thirty minutes; group physical therapy once weekly for thirty minutes; individual occupational therapy twice weekly for thirty minutes; and integrated in-class behavioral support intervention once weekly for 120 minutes. (R-A.) Extended School Year (ESY) services were determined to not be required. (R-A.) In pertinent part, the 2025 reports and evaluations reflected in the June 2025 IEP Present Levels of Academic Achievement and Functional Performance (FLAAP) include the following comments: “[Y.R.] demonstrated the ability to transition with minimal support”; “transitioned willingly with the evaluator to the evaluation area”; “he may present behavioral challenges, particularly during transitions or when his routine is disrupted,” [which] “behaviors can include refusal, verbal outbursts or difficulty following direction”; “[w]hile generally cooperative, [Y.R.] struggles during transitions or when routines are altered,” [which] “moments can trigger behavioral responses such as refusal, avoidance, or minor disruptions. . . he is learning to manage these challenges more effectively”; “demonstrates difficulty transitioning between activities throughout the day, often requiring additional support, verbal warnings, and a visual schedule,” . . . “frequently engages in parallel rather than cooperative play and may struggle to initiate or sustain interaction with classmates during group activities,” and “may avoid participation in structured partner or small-group tasks or require adult facilitation to remain engaged”; “he may still resist changes and occasionally have outbursts when frustrated,” [which] “episodes are less frequent and shorter in duration”; “continues to struggle with transitions and emotional regulation”; and “[w]hen frustrated, he may exhibit tantrum behaviors”; and “gets easily distracted and has trouble functioning if there is a lot of noise around.” (R-A.)

Y.R.’s current general education classroom is comprised of eighteen students, one general education teacher, one special education teacher, and two paraprofessionals. A third paraprofessional is present in the classroom as a one-to-one aide for another student. Teachers and paraprofessionals all receive professional development.

Teachers may request additional support for a student as needed. There has been no teacher request for a one-to-one aide for Y.R.

Alexandra Costa is a licensed social worker and has been Y.R.'s case manager since September 2025. Alexis Battaglia holds a bachelor's degree in psychology and a master's degree in special education and is a board-certified behavior analyst (BCBA). She has worked in education for thirty-two years as a paraprofessional, teacher, and consultant. Battaglia observed Y.R. on February 28, 2026, for ninety minutes. She supervises and is in direct contact with Raymond Loihle, a BCBA. There is a BCBA in Y.R.'s classroom for two hours per week. Loihle prepared consult logs and recommendations for Y.R.

Due to some maladaptive behaviors, it was determined during the 2025–2026 school year that Y.R. required a behavior intervention plan (BIP). Mom signed the consent on September 29, 2025. An evaluation of Y.R. was conducted on October 20, 2025, by BCBA Dana Hayek, and a Behavior Treatment Plan (or BIP) was prepared. (R-G.) The BIP reflects two targeted behaviors for reduction—aggressions and non-compliance. (R-G.) The BIP also reflects that his “behaviors of concern are occurring most often due to skill deficits.” (R-G.) The target behaviors for acquisition are reflected as: direction following; work completion; on task; appropriate social interactions; hands to himself; manding; and functional communication training. (R-G.) The proactive recommendations in the BIP are reflected as follows: modification of work; supervision; visual rules; pairing with peers; checking for understanding; setting up for success; frequent check-ins; reinforcement; redirection; reducing downtime; providing structure throughout the day; and bridge activities. (R-G.) The skill acquisition recommendations are reflected as: skill acquisition; functional communication training/manding; attending; appropriate social interactions; and directions following. (R-G.) If Y.R. engages in any of the target behaviors for reduction, based upon the function of the behavior, the reactive procedure from staff would be response blocking. (R-G.) The BIP reflects that all staff would rotate to work with Y.R., all students would be rotated when paired with Y.R., and that data would be collected long-term to ensure that behaviors of concern were extinguished or low prior to attempting to face parts of the BIP. (R-G.) The objective is to fade out behavior analysis services. (R-G.) The BIP reflects that antecedent—

behavior—consequence (ABC) data “should continue to be collected on all behaviors of concern in the absence of the BCBA,” and staff should collect data in real time as behaviors are occurring, and “[a]ll new behaviors of concern that should be evaluated or function and eventual change should also be logged by staff.” (R-G.)

The Consult Log and Recommendations, dated December 11, 2025 (December 2025 Log), reflects, in pertinent part: “Aggression towards peer during lunch reported; Per staff, a student requested an alternative placement due to Y.R. ‘bothering her.’” (R-B.) Y.R. was observed for lunch/cafeteria, classroom, hallway/transitions and a speech therapy session. (R-B.) During that time, aggression was recorded as 0% and noncompliance as 14.29%. (R-B.) The December 2025 Log states:

It is important to note that [Y.R.] joined his class on the carpet for ELA and remained seated [with direct support provided by Ms. Angelo]; [Y.R.] immediately stood up and began running around the classroom as soon as she left the area to assist another student; [Y.R.] returned to his assigned area with direct support [gestural prompting/differential reinforcement] provided by myself.

During ELA, [Y.R.] walked away from the group without requesting a break, requiring direct staff support (i.e. redirection, review of token economy/“Spiderman chart,” and choice of reinforcer to work for). Noncompliance and/or “off-task” behaviors significantly increased when [Y.R.] was not provided direct staff support.

[R-B.]

The Consult Log and Recommendations, dated January 6, 2026 (January 6, 2026, Log), reflect that Y.R. was observed for classroom, transitions and cafeteria. (R-C.) During that time, aggression was recorded as 0% and noncompliance as 1.8%. (R-C.) The Consult Log and Recommendations, dated January 20, 2026 (January 20, 2026, Log), reflects that Y.R. was observed for small/large group instruction and transitions (science/math/lunch/ELA). (R-D.) During that time, aggression was recorded as 0% and noncompliance as 4.76%. (R-D.) The January 20, 2026, Log also reflects “significant behavioral increases reported during afternoon,” and “aggression [kicking] towards staff reported outside of session/direct observation.” (R-D.)

A letter ostensibly from M&S Psychotherapy & Consulting, dated January 20, 2026, states that Y.R.'s current diagnoses include attention deficit hyperactivity disorder (ADHD), combined type, and autism spectrum disorder (ASD), and that he is on medication for the ADHD. (P-1.) A letter ostensibly from the New Jersey Division of Child Protection and Permanency (DCPP), dated February 12, 2026, addressed to the child study team (CST), requests that the CST "conduct a review and evaluation and assist with [Y.R.] with addition of a dedicated one-to-one aide" to "provide consistent behavioral redirection, assist with transitions, reinforce task completion and support emotional regulation," which would "likely improve [Y.R.'s] ability to remain engaged, reduce classroom disruptions, and enhance his overall performance." (P-2.)

Testimony

Alexis Battaglia

Battaglia conducted a comprehensive review of Y.R.'s records, interviewed all staff who interact with Y.R., and observed Y.R. for more than seven hours. Y.R.'s increase in maladaptive behaviors at the start of the 2025–2026 school year was not unexpected because he transitioned from the preschool disabled classroom to the general education kindergarten classroom, which is a drastic change from center-based, play-oriented "work" to classroom academic instruction. Such a transition is always difficult. Every week, either she or a BCBA she supervises observes Y.R., and the BCBA provides active feedback and training to the staff. There have been no incidents of violence because there are no reports. Although the logs reflect an increase in noncompliance in January 2026, his noncompliance is still significantly below the norm and not a troubling increase. The staff members in the classroom are able to implement the BIP without a one-to-one aide. Everyone exhibits some off-task behavior—no one is at one hundred percent every single day. The logs reflect behavioral progress. She observed Y.R. for ninety minutes on February 28, 2026, and any maladaptive behavior was handled perfectly by the staff and would not require a one-to-one aide. A one-to-one aide would create dependence and impede progress.

Alexandra Costa

She receives weekly progress reports and data, and she monitors the efficacy of the BIP based upon those weekly progress reports and data. If there are concerns about Y.R., the BCBA may request a meeting, but no meeting has been requested. There was an incident prior to the implementation of the BIP where she was present, and Y.R. threw a shoe, but there have been no further behavioral incidents like that since the BIP was implemented. There have been no violent episodes since January. His current level of support is sufficient to meet his needs. No staff has advised that he requires a one-to-one aide. She observes the classroom once or twice every two weeks. Y.R. is making academic and behavioral progress.

M.R.

There are eighteen students in the classroom, and the teacher does not have the time or the patience required for Y.R. Y.R. cannot deal with his emotions, and he hits and throws things. The teacher loses patience and yells at Y.R. The District needs to update his records to reflect that he also has ADHD, not just autism. He gets distracted and requires help with his behavior and one-to-one support to help him get back on track. The letters from M&S Psychotherapy and DCPD prove that he needs one-on-one support and someone with patience to deal with his behavior. There have been behavioral incidents reported to her by the school that were not mentioned by the District's witnesses and are not documented in the District's exhibits.

LEGAL ANALYSIS AND CONCLUSIONS

The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400–1482, ensures that all children with disabilities have available to them a free, appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living, and ensures that the rights of children with disabilities and parents of such children are protected. 20 U.S.C. § 1400(d)(1)(A), (B); N.J.A.C. 6A:14-1.1. Under the IDEA, a “child with a disability” means a child with intellectual disabilities, hearing

impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, and who, by reason thereof, needs special education and related services. 20 U.S.C. § 1401(3)(A).

States qualifying for federal funds under the IDEA must ensure all children with disabilities the right to a free “appropriate public education.” 20 U.S.C. § 1412(a)(1); Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176 (1982). Each district board of education is responsible for providing a system of FAPE. N.J.A.C. 6A:14-1.1(d). A FAPE means special education 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); Rowley, 458 U.S. 176 (1982).

An IEP is a written statement for each child with a disability that is developed, reviewed, and revised in accordance with 20 U.S.C. § 1414(d), 20 U.S.C. § 1401(14), and 20 U.S.C. § 1412(a)(4). When a student is determined to be eligible for special education, an IEP must be developed to establish the rationale for the student’s educational placement and to serve as a basis for program implementation. N.J.A.C. 6A:14-1.3, -3.7. FAPE requires that the education offered to the child must be sufficient to “confer some educational benefit upon the handicapped child,” but it does not require that the school district maximize the potential of disabled students commensurate with the opportunity provided to non-disabled students. Rowley, 458 U.S. at 200. Hence, a satisfactory IEP must provide “significant learning” and confer “meaningful benefit.” T.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 577–78 (3d Cir. 2000) (citation omitted).

The Supreme Court discussed Rowley in Endrew F. v. Douglas County School District RE-1, 580 U.S. 386 (2017), noting that Rowley did not “establish any one test for determining the adequacy of educational benefits,” and concluding that the “adequacy of a given IEP turns on the unique circumstances of the child for whom it was created.” Id. at 394, 404. Endrew F. warns against courts substituting their own notions of sound

education policy for those of school authorities and notes that deference is based upon the application of expertise and the exercise of judgment by those authorities. Id. at 404. However, the school authorities are expected to offer “a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances.” Ibid.

Additionally, in accordance with the IDEA, children with disabilities are to be educated in the least restrictive environment (LRE). 20 U.S.C. § 1412(a)(5); N.J.A.C. 6A:14-1.1(b)(5). To that end, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are to be educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment should occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 20 U.S.C. § 1412(a)(5)(A); N.J.A.C. 6A:14-4.2. The Third Circuit has interpreted this to require that a disabled child be placed in the LRE that will provide the child with a “meaningful educational benefit.” T.R., 205 F.3d at 578.

Petitioner argues that because of Y.R.’s diagnoses of autism and ADHD, he requires a one-to-one aide to keep him on task. Conversely, the District argues that Y.R. is making appropriate progress and there is no need for a one-to-one aide, and that a one-to-one aide would be more restrictive and impede Y.R.’s progress. Although the testimony of the District’s witnesses was generally credible and consistent, Battaglia’s testimony that there were no incidents of aggression since the BIP was implemented is partially contradicted by the January 20, 2026, Log, which reflects that an incident of aggression (kicking) was reported, and supports Mom’s testimony that there may have been incidents reported to her that did not appear in the District’s exhibits or that were not testified to by the District’s witnesses. That said, the record, even including Mom’s testimony, reflects that any such behavioral incidents have significantly decreased and are infrequent since the implementation of the BIP. The maladaptive behaviors noted in PLAAFP—which occurred during the 2024–2025 school year—did not appear extreme or even atypical for a student with an autism classification. Further, although the District’s witnesses testified that Y.R. exhibited maladaptive behaviors earlier in the 2025–2026

school year, which was not entirely unexpected given the transition from a preschool disabled classroom to the general education classroom, the record reflects that such behaviors have significantly decreased since a BIP was implemented. The consult logs reflect that Y.R. and staff are regularly observed by a BCBA, and training included “functional communication training,” “escape extinction/differential reinforcement,” “providing choice,” “Premack Principle,” “modeled pairing,” “differential reinforcement procedures,” “reinforcement/schedules of reinforcement,” and “motivating operations.” The consult logs also reflect numerous instances where interventions were observed to have been successfully implemented by staff and where Y.R. was observed to have responded appropriately to interventions and was able to transition and participate without maladaptive behaviors.

The law requires that Y.R. be educated in the least restrictive environment that will provide him with a “meaningful educational benefit,” and where he will make appropriate progress in light of his circumstances. There was no dispute that Y.R. is making progress academically. Though there were frequent maladaptive behaviors earlier in the school year, after the BIP was implemented, there were minimal incidences of aggression, and none were observed by the BCBA, as well as a significant decrease in noncompliance. Accordingly, it is evident that Y.R. has made progress behaviorally as well. While Y.R. may still sometimes exhibit some maladaptive behaviors, so too do typical peers, and his maladaptive behaviors are short in duration, and he is able to be redirected successfully.

Y.R. is in a class of eighteen students with two special education teachers, as well as two paraprofessionals. The letter from DCPD requests a one-to-one aide to “provide consistent behavioral redirection, assist with transitions, reinforce task completion and support emotional regulation,” which would “likely improve [Y.R.’s] ability to remain engaged, reduce classroom disruptions, and enhance his overall performance”—but the record, including the BCBA logs and observations, reflects that the teachers and paraprofessionals in the classroom are providing redirection, assisting with transitions, reinforcing task completion and supporting his emotional regulation, and that it has resulted in reduced disruption and progress in Y.R.’s ability to remain engaged and overall performance. The staff has been documented to have successfully implemented the BIP and addressed any maladaptive behaviors. There has been no request by his teachers

for a one-to-one aide. There is no evidence that Y.R.'s behaviors warrant assignment of a one-to-one aide or that the absence of a one-to-one aide has deprived Y.R. of a FAPE. To the contrary, the credible testimony of the BCBA was that a one-to-one aide would be more restrictive and detrimental to Y.R.'s progress.

Based upon the testimony and documentary evidence, I **CONCLUDE** that Y.R. has made meaningful educational and behavioral progress during the 2025–2026 school year. I further **CONCLUDE** that the District's IEP was appropriate and provided him with a FAPE in the least restrictive environment. As such, there is no basis for a one-to-one aide at this time.

ORDER

It is hereby **ORDERED** that the relief sought by petitioner is **DENIED** and the Petition is **DISMISSED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2025) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.516 (2024). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education.



March 16, 2026

DATE

KELLY KIRK, ALJ

Date Received at Agency

March 16, 2026

Date Mailed to Parties:

March 16, 2026

APPENDIX

Witnesses

For petitioner:

Y.R.

For respondent:

Alexis Battaglia

Alexandra Costa

Exhibits

For petitioner:

P-1 M&S Psychotherapy & Consulting Letter, dated January 20, 2026

P-2 Division of Child Protection & Permanency Letter, dated February 12, 2026

For respondent:

R-A June 2, 2025, IEP

R-B Consult Log and Recommendations, dated December 11, 2025

R-C Consult Log and Recommendations, dated January 7, 2026

R-D Consult Log and Recommendations, dated January 20, 2026

R-E (Not in Evidence)

R-F (Not in Evidence)

R-G Behavioral Treatment Plan