

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**,

Petitioner,

vs.

Case No. 26-1238E

MIAMI-DADE COUNTY SCHOOL
BOARD,

Respondent.

_____ /

FINAL ORDER

This case came before Administrative Law Judge (ALJ) Sara Marken of the Division of Administrative Hearings (DOAH) for final hearing via Zoom conference on May 11, 2026.

APPEARANCES

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

For Respondent: Gabrielle L. Gonzalez, Esquire
 Miami-Dade County School Board
 1450 Northeast Second Avenue, Suite 430
 Miami, Florida 33132

STATEMENT OF THE ISSUE

Whether the student's proposed educational placement provides the student with a free and appropriate public education (FAPE).

PRELIMINARY STATEMENT

Petitioner filed a request for a due process hearing (Complaint) with the Miami-Dade County School Board (School Board) on March 5, 2026, and the School Board forwarded the Complaint to DOAH the following day. The

undersigned issued a Case Management Order on March 6, 2026, and Respondent filed a Response on March 16, 2026. The parties agreed to attend a pre-hearing conference on April 7, 2026. At the conference, the parties agreed to schedule the final hearing for May 11 and 12, 2026, via Zoom conference.

The undersigned conducted the final hearing on May 11, 2026. Petitioner presented the testimony of [REDACTED], teacher; [REDACTED], teacher; [REDACTED], teacher; and Petitioner's parent. Respondent presented the testimony of [REDACTED], school psychologist. The undersigned admitted Petitioner's Exhibits 1 through 3, and Respondent's Exhibits 3 and 5 into evidence.

At the conclusion of the due process hearing, the parties agreed to file proposed final orders thirty days after the transcript was filed with DOAH, and that the undersigned would issue the final order thirty days after the proposed final orders were filed. The Transcript of the due process hearing was filed on July 13, 2026. Accordingly, the proposed final orders were due by August 12, 2026, and this Final Order is due by September 11, 2026. Respondent timely filed a Proposed Final Order, which the undersigned considered in drafting this Final Order.

Unless otherwise indicated, all rule and statutory references are to the versions in effect during the relevant time period. For stylistic convenience, the undersigned will use female pronouns in this Final Order when referring to Petitioner. The female pronouns are neither intended nor should be interpreted as a reference to Petitioner's actual gender.

FINDINGS OF FACT

1. At the time of the due process hearing, the student was in [REDACTED] grade at [REDACTED] ([REDACTED]). She is eligible for exceptional student education (ESE) services under the categories of Autism Spectrum Disorder (ASD) and Other Health Impaired (OHI). The student has medical diagnoses of Attention-Deficit/Hyperactivity Disorder (ADHD), developmental disorder of speech and language, unspecified behavioral and emotional disorders, and [REDACTED] and movement disorder.

2. The student exhibits maladaptive behaviors that interfere with her ability to access instruction. She has difficulty initiating and remaining focused on academic tasks, requires frequent prompting and redirection, and often becomes emotionally dysregulated. Her tantrums include screaming and crying and can last up to one hour. When dysregulated, the student may engage in physical behaviors toward others, such as hitting or scratching, and self-injurious behaviors.

3. The student attended [REDACTED] and [REDACTED] at [REDACTED] ([REDACTED]). During [REDACTED], she attended an ESE inclusion classroom of [REDACTED] students, [REDACTED] of whom were ESE students. A teacher and paraprofessional supported the class. The small-group setting allowed staff to provide significant support and redirect the student effectively. With this level of adult support, the student made progress and did not engage in self-injurious behaviors.

4. The student began [REDACTED] grade at [REDACTED] in a general education classroom with [REDACTED] other students. [REDACTED] taught the class, and a paraprofessional rotated in and out of the classroom. An ESE teacher also provided support in the classroom.

5. The student required substantial adult support to access instruction. [REDACTED] frequently provided one-to-one assistance, and the student often sat next to [REDACTED] during instruction. Despite this support, the student had significant difficulty remaining on task.

6. The student experienced moments of emotional dysregulation, initially once or twice a week, and that increased significantly over time. During these episodes, the student screamed and cried and sometimes became physically aggressive toward others or engaged in self-injurious behaviors. At times, the student's parent was called to pick up the student from school.

7. The student's behavioral episodes also disrupted the learning environment. When the student became dysregulated, another adult removed her from the classroom and walked with her until she calmed down, allowing [REDACTED] to continue instructing the other students. The student's behavior did not improve during her time in [REDACTED] classroom.

8. The student transferred to [REDACTED] in November [REDACTED]. She continued to receive instruction in a general education classroom, but the level of support available at [REDACTED] differed from the support available at [REDACTED]. At [REDACTED], the student had access to a paraprofessional and ESE teacher support, allowing for frequent individualized assistance, prompting, and redirection. At [REDACTED], the student was in a larger general education classroom of approximately [REDACTED] students, with more limited ESE support.

9. Following the transfer, the student continued to exhibit maladaptive behaviors and experienced greater difficulty remaining engaged in instruction. She frequently became emotionally dysregulated, engaged in physical behaviors toward others and self-injurious behaviors, and required adult intervention to calm and redirect her. Her behavioral episodes also disrupted classroom instruction and became more frequent as the school year progressed.

10. The individualized education plan (IEP) team convened to review the re-evaluation completed by [REDACTED], the school psychologist, and to consider the student's educational needs. [REDACTED] re-evaluation identified significant behavioral concerns, including hyperactivity, aggression, attention difficulties, depression, and social withdrawal. [REDACTED] classroom observations

further reflected that the student was frequently off task and disengaged from instruction and that she engaged in behavioral outbursts and self-injurious behaviors. Based on the re-evaluation results and the student's continued behavioral challenges, the school-based members of the IEP team agreed that the student would benefit from a smaller setting with greater ESE support and determined that a self-contained classroom was appropriate.

11. The student's parent disagreed with the proposed placement. The parent maintained that additional behavioral interventions and supports would allow the student to access her education in the general education setting.

12. The better evidence established that the student required a smaller, more structured educational setting with greater ESE support and that the proposed self-contained placement was appropriate to meet the student's educational and behavioral needs.

CONCLUSIONS OF LAW

13. 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).

14. 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).

15. 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).

16. 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).

17. 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).

18. 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).

19. 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).

20. In this case, the relevant IEP was not introduced into evidence, and Petitioner did not establish that the IEP was not reasonably calculated to enable the student to make appropriate educational progress. Rather, Petitioner challenges only the proposed placement. Thus, the remaining question is whether the proposed placement satisfies the IDEA's least restrictive environment (LRE) requirement.

21. The IDEA provides directives on students' placements or education environments in the school system. Specifically, 20 U.S.C. § 1412(a)(5)(A) provides, as follows:

Least restrictive environment.

(A) In general. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs 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.

22. With the LRE directive, “Congress created a statutory preference for educating [disabled] children with [nondisabled] children.” *Greer v. Rome City Sch. Dist.*, 950 F.2d 688, 695 (11th Cir. 1991). “By creating a statutory preference for mainstreaming, Congress also created a tension between two provisions of the [IDEA], school districts must both seek to mainstream [disabled] children and, at the same time, must tailor each child’s educational placement and program to his special needs.” *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036, 1044 (5th Cir. 1989).

23. In *Daniel*, the fifth circuit set forth a two-part test for determining compliance with the mainstreaming requirement:

First, we ask whether education in the regular classroom, with the use of supplemental aids and services, can be achieved satisfactorily for a given child. *See* § 1412(5)(B). If it cannot and the school intends to provide special education or to remove the child from regular education, we ask, second, whether the school has mainstreamed the child to the maximum extent appropriate.

Daniel, 874 F.2d at 1048.

24. In *Greer*, the eleventh circuit adopted the *Daniel* two-part inquiry. In determining the first step, whether a school district can satisfactorily educate a student in the regular classroom, several factors are to be considered: (1) a comparison of the educational benefits the student would receive in a regular classroom, supplemented by aids and services, with the benefits he will receive in a self-contained special education environment; (2) what effect the presence of the student in a regular classroom would have on the education of other students in that classroom; and (3) the cost of the supplemental aids and services that will be necessary to achieve a satisfactory education for the student in a regular classroom. *Greer*, 950 F.2d at 697.

25. The preponderance of the evidence demonstrates that the student's maladaptive behaviors impeded her ability to access instruction in the general education classroom and, at times, disrupted the learning environment of her peers. Although the level of support differed between [REDACTED] and [REDACTED], the student continued to experience significant difficulties in both settings. Notably, even at [REDACTED], where the student received more intensive adult support, including frequent one-to-one assistance, ESE support, prompting, and redirection, she frequently remained off task and her maladaptive behaviors persisted and increased in frequency. The IEP team, therefore, reasonably concluded that the student required a smaller educational setting with an ESE-certified teacher and increased specialized instruction to address her academic and behavioral needs.

26. Additionally, deference should be paid to the educators involved in education and administration of the school system. *A.K. v. Gwinnett Cnty. Sch. Dist.*, 556 Fed. Appx. 790, 792 (11th Cir. 2014) ("In determining whether the IEP is substantively adequate, we 'pay great deference to the educators who develop the IEP.'") (quoting *Todd D. v. Andrews*, 933 F.2d 1576, 1581 (11th Cir. 1991)). As noted in *Daniel*, "[the undersigned's] task is not to

second-guess state and local policy decisions; rather, it is the narrow one of determining whether state and local officials have complied with the [IDEA].” *Daniel*, 874 F.2d at 1048. The credible testimony of School Board staff established that a general education setting, even with additional supports and services, cannot meet the student’s educational needs.

27. Based on the foregoing, Petitioner failed to establish by a preponderance of the evidence that the student’s proposed placement denied the student FAPE.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner failed to satisfy her burden of proof related to the claim asserted in Petitioner’s Complaint. The requested relief is DENIED.

DONE AND ORDERED this 9th day of September, 2026, in Miami, Dade County, Florida.


Case No. 26-1238E

SARA M. MARKEN
Administrative Law Judge
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Filed with the Clerk of the
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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).