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Petitioner,

VS.

Case No. 26-1278E

PALM BEACH COUNTY SCHOOL
BOARD,

Respondent,

and

[REDACTED],

Intervenor.

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 26, 2026.

APPEARANCES

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

For Respondent: Laura E. Pincus, Esquire
School Board of Palm Beach County, Florida
3318 Forest Hill Boulevard, Suite C-331
West Palm Beach, Florida 33406

For Intervenor: John P. Leombruno, Esquire
Arnold Law Firm, LLC
3840 Crown Point Road, Suite B
Jacksonville, Florida 32257

STATEMENT OF THE ISSUES

Whether the student's individualized education plan (IEP) enables the student to make progress in light of his circumstances;

Whether the student's IEP appropriately considered the use of positive behavioral interventions and supports, and other strategies, to address behavior; and

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 due process hearing (Complaint) with the Palm Beach County School Board (School Board) on March 6, 2026, and the School Board forwarded the Complaint to DOAH on March 9, 2026. The undersigned issued a Case Management Order on March 10, 2026. On March 24, 2026, Respondent filed a Response to the Complaint, and Mr. Leombruno filed a notice of appearance on behalf of Intervenor, [REDACTED]. The parties mutually agreed to attend a pre-hearing conference on April 6, 2026. The undersigned issued a Notice of Hearing by Zoom Conference on April 8, 2026, and scheduled the final hearing for May 26 through 28, 2026.

The undersigned conducted the final hearing on May 26, 2026. Petitioner presented the testimony of [REDACTED], Board-Certified Behavior Analyst (BCBA), and Petitioner's parent. Respondent presented the testimony of [REDACTED], teacher; [REDACTED], Principal; [REDACTED], psychologist; and [REDACTED], South Regional Exceptional Student Education (ESE) Coordinator. The undersigned admitted Petitioner's Exhibits 1 and 2 and Respondent's Exhibits 1, 2, 4, 7, and 10 into evidence.

At the conclusion of the due process hearing, the parties agreed to file proposed final orders no later than ten business days after the transcript was filed, and that the undersigned would issue the Final Order ten business days after the proposed final orders were filed. The Transcript of the due process hearing was filed on June 10, 2026. Accordingly, the proposed final orders were due by June 24, 2026, and this Final Order is due by July 13, 2026, because of the extended Fourth of July holiday. Both parties timely filed proposed final orders, and the undersigned considered each in drafting this Final Order.

Unless otherwise indicated, all rule and statutory references refer to the version in effect at the time of the alleged violations. For stylistic convenience, the undersigned uses male pronouns in this Final Order when referring to Petitioner. The male pronouns neither intend, nor should anyone interpret them, as a reference to Petitioner's actual gender.

FINDINGS OF FACT

1. At the time of the due process hearing, the student was a [REDACTED] student at [REDACTED]. He is eligible for ESE services in the category of Language Impaired (LI).

2. [REDACTED] is a [REDACTED] through [REDACTED] school. The school offers some ESE services, but it does not have a separate ESE classroom. [REDACTED] staff described its service delivery model as an 80/20 model, under which students receiving ESE services spent no more than 20% of their instructional time outside the general education classroom.

3. The student began [REDACTED] at [REDACTED] on August 10, [REDACTED]. He enrolled with an IEP that had been developed while he attended [REDACTED], before he withdrew from the public school system. By the time he enrolled at [REDACTED], the IEP was no longer current, and the IEP team convened on September 16, [REDACTED], to develop a new IEP.

4. From the student's enrollment through the September IEP meeting, the student exhibited behavioral concerns that impeded his education. These included aggression, tantrums, off-task behavior, difficulty maintaining attention, impulsivity, refusal to participate in classroom activities, difficulty transitioning between activities, and disruptive classroom behaviors.

5. During the IEP meeting, the team continued the student's eligibility under the LI category and developed new annual goals. The team discussed the student's language, academic, and behavioral needs, including maladaptive behaviors that interfered with his ability to function successfully in the classroom. To address the student's behavioral needs, the IEP added behavioral interventions targeting the student's ability to remain in designated areas and follow one-step directions, as well as support facilitation to improve his independent functioning and social skills. The IEP also included 90 minutes of language therapy per week.

6. Despite the services and interventions included in the September IEP meeting, the student continued to exhibit maladaptive behaviors. The student's behavior led to several disciplinary referrals, including one that resulted in a one-day out-of-school suspension.

7. The school held a Manifestation Determination Review (MDR) meeting on November 13, [REDACTED]. The MDR team reviewed the multiple disciplinary referrals and considered whether the conduct resulted from his language disability. The parent maintained that the conduct resulted from the student's language impairment. [REDACTED] expressed that [REDACTED] was working toward obtaining a Registered Behavior Technician (RBT) to assist the student at school. The school-based team disagreed with the parent and concluded that the conduct was not a manifestation of the student's disability.

8. The following month, the school convened a reevaluation meeting to consider additional assessments based on the student's continued behavioral concerns. During the meeting, the school sought the parent's consent to evaluate the student for Emotional/Behavioral Disability (EBD) and

Autism Spectrum Disorder (ASD), as well as to conduct a Functional Behavioral Assessment (FBA). The parent requested an opportunity to review the evaluation documents before providing consent and ultimately did not provide written consent for the proposed evaluations.

9. At the meeting, the parent expressed [REDACTED] willingness to consent only to the FBA. Still, school personnel explained that the School Board was required to evaluate the student in all areas of suspected disability and, therefore, could not proceed with only part of the proposed evaluations. School personnel subsequently attempted to obtain the parent's written consent on multiple occasions via email, telephone, and in person, but the parent never provided it.

10. On March 2, [REDACTED], the school convened an IEP meeting. Before the meeting, [REDACTED], an ESE resource teacher, and other members of the IEP team conducted classroom observations of the student. [REDACTED] observed that the student struggled to follow directions, initiate academic tasks, remain on task, and stay in his assigned area. [REDACTED] further observed that he repeatedly called out during instruction and frequently wandered throughout the classroom. The remaining observers reported substantially similar behaviors.

11. During the IEP meeting, the team reviewed the student's present levels of academic achievement and functional performance based on classroom observations, Response to Intervention (RtI) data, academic progress, and behavioral data. The team discussed the student's needs and developed annual goals addressing his academic, social, communication, and independent functioning skills. The team also reviewed and revised the student's accommodations on his IEP.

12. The IEP team further discussed the student's continued behavioral difficulties in the general education classroom. Based on the student's ongoing need for behavioral and academic support, the team determined that the student required increased ESE services and a smaller, more supportive

educational setting. Under the proposed IEP, the student would receive the majority of his instruction in an ESE classroom.

13. The IEP team therefore recommended placement at [REDACTED], a School Board-operated school capable of implementing the March 2, [REDACTED], IEP. The parent participated in the meeting virtually and agreed with the student's present levels of performance, annual goals, accommodations, and proposed services. However, after the team recommended changing the student's placement from [REDACTED] to [REDACTED], the parent objected to the proposed placement. The parent expressed concern about removing the student from [REDACTED], where he had established relationships with his peers and teachers, and declined to consent to the proposed change in placement.

14. The better evidence did not establish that the student's March [REDACTED] was inappropriate, that the IEP failed to consider positive behavioral supports and interventions, or that the proposed placement at [REDACTED] denied the student FAPE.

CONCLUSIONS OF LAW

15. 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).

16. 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).

17. 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).

18. 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).

19. 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).

20. 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).

21. 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).

22. In *Endrew F.*, the Supreme Court held that “[t]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” *Endrew F.*, 137 S. Ct. at 999. As discussed in *Endrew F.*, “[t]he ‘reasonably calculated’ qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials,” and that “[a]ny review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal.” *Id.*

23. Most importantly, the IDEA provides that an IEP must be individualized to the student and include measurable annual goals and services designed to meet each of the educational needs that result from the student’s disability. 20 U.S.C. § 1414(d)(1)(A)(i)(II); *Alex R. v. Forrestville*

Valley Cmty. Unit Sch. Dist. #221, 375 F.3d 603, 613 (7th Cir. 2004) (explaining that an IEP must respond to all significant facets of the student's disability, both academic and behavioral); *CJN v. Minneapolis Pub. Schs.*, 323 F.3d 630, 642 (8th Cir. 2003) ("We believe, as the district court did, that the student's IEP must be responsive to the student's specific disabilities.").

24. In this case, the March [REDACTED] IEP included all of the required components— present levels of academic achievement performance, measurable annual goals, specially designed instruction, related services, and a placement determination. The evidence further established that the IEP appropriately increased the student's behavioral supports in response to his continued difficulties in the general education setting. Accordingly, the March [REDACTED] IEP was reasonably calculated to allow the student to make progress in light of his circumstances.

25. Petitioner also alleges that the March [REDACTED] IEP failed to appropriately consider the use of positive behavioral interventions, supports, and other strategies to address the student's behavior. The IDEA provides that, "[i]n the case of a child whose behavior impedes the child's learning or that of others, [the IEP must] consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior." 34 C.F.R. § 300.324. It is undisputed that the student's behavior impeded his learning. To address those needs, the IEP team recommended a more supportive educational setting that offered increased ESE services, additional behavioral interventions and supports, and a smaller classroom environment.

26. Finally, Petitioner alleges that the proposed placement does not provide the student with a FAPE. Because the undersigned has already concluded that the March [REDACTED] IEP is reasonably calculated to provide the student with FAPE, and because it is undisputed that [REDACTED] [REDACTED] can implement the IEP as written, the remaining issue is whether the proposed placement satisfies the IDEA's least restrictive environment (LRE) requirement.

27. 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.

28. 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).

29. 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.

30. 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.

31. The preponderance of the evidence demonstrates that the student's maladaptive behaviors impeded his ability to access instruction in the general education classroom and disrupted the learning environment of his peers. Despite the implementation of behavioral interventions, support facilitation, and accommodations, the student continued to struggle with aggression, tantrums, impulsivity, off-task behavior, refusal to participate in classroom activities, and difficulty following directions and remaining in his assigned area. The March [REDACTED] IEP team, therefore, reasonably concluded that the student required a smaller educational setting with an ESE-certified teacher and increased specialized instruction to address his academic and behavioral needs. Accordingly, the School Board determined that the student could not be satisfactorily educated in the general education classroom with supplementary aids and services alone.

32. 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 the student’s IEP cannot be implemented at [REDACTED].

33. Based on the foregoing, Petitioner failed to establish by a preponderance of the evidence that the March [REDACTED] IEP was not reasonably calculated to enable the student to make progress appropriate in light of his circumstances, that the IEP failed to consider the use of positive behavioral interventions and supports to address the student’s behavior, or that the proposed placement at [REDACTED] denied the student a FAPE.

ORDER

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

DONE AND ORDERED this 13th day of July, 2026, in Miami, Dade County, Florida.


Case No. 26-1278E

SARA M. MARKEN
Administrative Law Judge
DOAH Miami Office

Division of Administrative Hearings
2001 Drayton Drive
Tallahassee, Florida 32311
(850) 488-9675
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 13th day of July, 2026.

COPIES FURNISHED:

David Chappell, General Counsel
(eServed)

Laura E. Pincus, Esquire
(eServed)

Bryce D. Milton, Educational Program Director
(eServed)

John P. Leombruno, Esquire
(eServed)

Michael J. Burke, Superintendent
(eServed)

Petitioner
(eServed)

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).