

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**,

Petitioner,

vs.

Case No. 25-5486E

ST. LUCIE 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 April 15 and 16, 2026.

APPEARANCES

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

For Respondent: Amy J. Pitsch, Esquire
 Sniffen & Harmon, P.A.
 123 North Monroe Street
 Tallahassee, Florida 32301

STATEMENT OF THE ISSUES

Whether the St. Lucie County School Board (School Board) violated
Petitioner's "stay-put" placement; and

Whether the School Board failed to provide comparable services after
Petitioner transferred with an out-of-state individualized education plan.

PRELIMINARY STATEMENT

Petitioner filed a request for due process hearing (Complaint) with the School Board on October 13, 2025. The School Board forwarded the Complaint to DOAH on October 15, 2025. The undersigned issued a Case Management Order on October 17, 2025, and on October 23, 2025, Respondent filed a response to the Complaint. On October 27, 2025, Respondent filed a Motion for Extension of Time to Conduct a Resolution Session (Motion). The undersigned granted the Motion the following day. On November 7, 2025, Respondent filed a status report indicating that Petitioner had failed to participate in the resolution session.

On November 12, 2025, the undersigned issued an Order Requiring Response ordering the parties to confer and hold a resolution session no later than November 19, 2025. The parties did not hold the resolution session as instructed. On December 10, 2025, the undersigned issued an Order to Show Cause ordering Petitioner to show in writing why this matter should not be dismissed. Following the undersigned's Order to Show Cause, Petitioner filed a motion alleging that the parent had been misled by an advocate and prevented from timely responding. The undersigned then afforded Petitioner one final opportunity to confer with Respondent and participate in a resolution session before dismissal of the case. The parties participated in a Resolution Session on January 15, 2026, and indicated that they had not resolved the issues raised in the Complaint.

The undersigned held a pre-hearing conference on January 22, 2026. At the conference, the parties agreed to schedule this matter for final hearing on March 12 and 13, 2026. Subsequently, Petitioner filed a Motion to Compel Disclosure of Last Known Address of Former Employee for Purposes of Service (of Subpoena) and a Motion to Compel Identification of District Personnel and Production of Complete Video Footage. Respondent filed

responses to both motions and filed a Motion to Reschedule Due Process Hearing or, in the Alternative, to Permit Respondent to Present Testimony of Board Witness via Deposition. The undersigned held a motion hearing via Zoom conference on February 27, 2026. On March 4, 2026, the undersigned issued an Order on Discovery ordering Respondent to provide the video footage within 30 days. On the same day, the undersigned granted Respondent's request and rescheduled the final hearing for April 15 and 16, 2026.

On March 11, 2026, Respondent filed an Opposed Motion for Protective Order. Petitioner filed a response on March 13, 2026. The undersigned held a motion hearing via Zoom conference on March 30, 2026. The undersigned granted Respondent's Opposed Motion for Protective Order, in part, after the parties agreed to review the videos together and permit Petitioner to take notes. On April 3, 2026, Petitioner filed a Motion for Court Awareness and Limited Relief requesting that the School Board update its educational records to allow Petitioner to access scholarship funds from the Family Empowerment Scholarship. On April 9, 2026, the undersigned issued an Order denying Petitioner's Motion because the undersigned lacks authority over the administration of the scholarship program and lacks authority to order the School Board to update its educational records. On April 7, 2026, Petitioner filed a Notice Regarding Video Review and Observations seeking to compel the production of additional video footage. On April 9, 2026, the undersigned denied the request after determining that Respondent had already produced all retained footage and that no additional responsive footage existed.

The hearing proceeded as scheduled, with a Hebrew interpreter assisting Petitioner's parent. Petitioner's parent testified on behalf of Petitioner. Petitioner's Exhibits 1 through 7 were admitted into evidence. Respondent

presented the testimony of [REDACTED], Principal; [REDACTED], Exceptional Student Education (ESE) specialist; [REDACTED], paraprofessional; [REDACTED], speech-language pathologist; and [REDACTED], Executive Director of ESE and Student Services.

Respondent's Exhibits A through H, J through K, and N were admitted into evidence. At the conclusion of Petitioner's case, Respondent moved to dismiss Petitioner's claim regarding an alleged violation of the student's "stay-put" placement, arguing that Petitioner had presented no evidence on the issue. After hearing arguments from both parties and finding no evidence supporting the claim, the undersigned granted the motion and dismissed the "stay-put" issue, and allowed the hearing to proceed solely on the issue of whether Respondent failed to provide comparable services.

At the end of the due process hearing, the parties agreed to file proposed final orders 14 days after the Transcript was filed, and the undersigned would issue the Final Order 14 days after the proposed final orders were filed. The Transcript of the due process hearing was filed on May 1, 2026. Accordingly, the proposed final orders were due on May 15, 2026, and the Final Order is due on May 29, 2026. Respondent timely filed a Proposed Final Order, and Petitioner filed a Response to Respondent's Proposed Final Order on May 18, 2026. Respondent's timely filed Proposed Final Order was considered in the drafting of this Final Order.

Unless otherwise indicated, all rule and statutory references are to the versions in effect at the time the School Board performed the reevaluations at issue. For stylistic convenience, the undersigned uses male pronouns when referring to the student. The male pronouns are neither intended nor should be interpreted as a reference to the student's actual gender.

FINDINGS OF FACT

1. The student is in [REDACTED] grade and is eligible for ESE services under the category of Autism Spectrum Disorder (ASD). At the time of the due process hearing, the student was homeschooled.

2. The student transferred from Virginia, where he attended [REDACTED] [REDACTED], to Florida in August [REDACTED]. He began at [REDACTED] [REDACTED] on August 13, [REDACTED]. Before the student started at [REDACTED], his parent contacted the ESE department to notify the School Board that the student had an individualized education plan (IEP).

3. On the student's first day of school, the student arrived early with his parent, and they provided a copy of his IEP. The school Principal and the ESE specialist reviewed the IEP and contacted [REDACTED], the ESE Director, for support.

4. The student's Virginia IEP provided for 1,350 weekly minutes of specialized instruction within the general education setting. Those minutes accounted for the majority of the student's school day; however, the IEP did not contain curriculum or academic learning goals.

5. In an effort to clarify how the services identified in the Virginia IEP were implemented, [REDACTED], the ESE Director, contacted [REDACTED], the ESE coordinator at [REDACTED] in Virginia. [REDACTED] explained that an ESE-certified teacher did not provide specialized instruction in the student's core academic classes. Instead, various ESE paraprofessionals supported the student through a "beehive model," in which paraprofessionals rotated into the general education classroom throughout the school day to provide behavioral support. The Virginia IEP also provided speech and language therapy and behavioral supports.

6. At [REDACTED], Respondent placed the student in a general education classroom and assigned the student a full-time one-to-one paraprofessional, [REDACTED], to provide support throughout the school day. The

paraprofessional remained with the student throughout the school day, and another adult staff member provided support when [REDACTED] was unavailable due to lunch or scheduled breaks.

7. [REDACTED] and [REDACTED], both ESE-certified teachers, provided specially designed instruction for the student in the core academic areas. In addition, Speech-Language Pathologist [REDACTED] provided speech and language therapy to the student both within the classroom and, on a limited basis, in the therapy room to collect baseline data and provide instruction.

8. School staff also implemented multiple behavioral and classroom supports to address the student's needs. Classroom staff used visual schedules, behavioral expectations, "First/Then" strategies, verbal redirection, walks, sensory breaks, and preferred activities to support the student's behavioral regulation and classroom participation. When the student became dysregulated or disruptive to the learning environment, staff utilized the reflection room as a calm-down and regulation space. Adults supervised the reflection room at all times and used it to assist the student with de-escalation and self-regulation.

9. The student exhibited significant behavioral dysregulation throughout the school day, including screaming, refusing academic tasks, throwing instructional materials, scratching peers, disrupting classroom instruction, and becoming easily overstimulated within the general education environment. The student frequently struggled to remain engaged in classroom activities, had difficulty remaining seated and transitioning between activities, and often preferred to draw or engage in other preferred activities rather than participate in academic instruction. The student's behaviors consistently interfered with classroom instruction and the student's ability to access the general education curriculum.

10. [REDACTED] held two IEP meetings during the fall of [REDACTED], one on September 2, [REDACTED], and another on October 7, [REDACTED]. During both meetings,

the IEP team discussed changing the student's educational placement due to concerns regarding the student's ability to access instruction and function successfully within the general education environment. The team discussed the student's behavioral dysregulation, difficulty with transitions, and inability to engage consistently in academic instruction.

11. During both meetings, the IEP team recommended placement in a varying exceptionalities (VE) classroom, which would provide a smaller student-to-teacher ratio, fewer transitions, and a less stimulating environment. The parent disagreed with the proposed change in placement and requested that the student remain in the general education setting. During the October 7, [REDACTED], meeting, the Parent agreed to visit a school with a VE classroom, and the team planned to reconvene thereafter to continue discussing placement and services. However, Petitioner, through his parent, filed the due process complaint before the IEP team reconvened.

12. The student attended [REDACTED] for 18 days between August 13, [REDACTED], and October 14, [REDACTED], when the parent withdrew the student.

13. The greater weight of the evidence did not establish that the School Board failed to provide comparable services after Petitioner transferred to [REDACTED].

CONCLUSIONS OF LAW

14. 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).

15. 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).

16. Congress passed the 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).

17. 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).

18. 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).

19. In *Rowley*, the Supreme Court held that a two-part inquiry must be undertaken in determining whether a local school system has provided a student with FAPE. First, it is necessary to examine whether the school district has complied with the IDEA’s procedural requirements. *Rowley*, 458 U.S. at 206-07. A procedural error does not automatically result in a denial of

FAPE. See *G.J. v. Muscogee Cnty. Dist.*, 668 F.3d 1258, 1270 (11th Cir. 2012). Instead, the school board denies a student FAPE only when a procedural flaw impedes the student's right to FAPE, significantly infringes on the parents' opportunity to participate in the decision-making process, or causes an actual deprivation of educational benefits. *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 525-26 (2007).

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. When a student with an IEP transfers to a new school district from out of state, the new school must provide comparable services.

IEPs for children who transfer from another State.

If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency—

(1) Conducts an evaluation pursuant to §§ 300.304 through 300.306 (if determined to be necessary by the new public agency); and

(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§ 300.320 through 300.324.

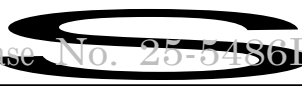
§ 300.323(f), Fla. Stat.; *See also*, Fla. Admin. Code R. 6A-6.0334(3).

22. In this case, the evidence established that [REDACTED] provided the student with all of the services outlined in his Virginia IEP. Specifically, [REDACTED] placed the student in a general education classroom, assigned the student a full-time one-to-one paraprofessional, provided specially designed instruction in the core academic areas, and delivered speech and language therapy services. [REDACTED] also implemented behavioral and classroom supports, including visual schedules, behavioral expectations, “First/Then” strategies, and sensory breaks. Accordingly, the preponderance of the evidence established that Respondent provided services comparable to those identified in the student’s Virginia IEP.

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 claim asserted in Petitioner’s Complaint. All requests for relief are DENIED.

DONE AND ORDERED this 28th day of May, 2026, in Miami, Dade County, Florida.


Case No. 25-5486E

SARA M. MARKEN
Administrative Law Judge
DOAH Miami Office

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Filed with the Clerk of the
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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).