

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**,

Petitioner,

vs.

Case No. 26-2085E

HILLSBOROUGH COUNTY SCHOOL
BOARD,

Respondent.

_____ /

FINAL ORDER

The due process hearing was held by Zoom conference on July 15 and 16, 2026. Administrative Law Judge Jessica E. Varn, from the Division of Administrative Hearings (DOAH), presided over the hearing.

APPEARANCES

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

For Respondent: LaKisha M. Kinsey-Sallis, Esquire
 Emily Selig, Esquire
 Fisher & Phillips, LLP
 401 East Jackson Street, Suite 3100
 Tampa, Florida 33602

STATEMENT OF THE ISSUES

Whether the School Board failed to provide the student a free and appropriate public education (FAPE), from February 2026 to April 21, 2026, because it failed to implement the student's individualized education plan (IEP).

Whether the School Board failed to provide the student with a FAPE by failing to provide comparable services when the student transferred into a school in the school district, in February 2026.

Whether the School Board denied the student a FAPE by failing to provide an appropriate placement for the student from February 2026 to April 21, 2026.

Whether the School Board failed to provide services needed by the student to access a FAPE, from February 2026 to April 21, 2026.

Whether the School Board failed to issue a Prior Written Notice (PWN) when altering the student's placement.

What remedy, if any, is appropriate.

PRELIMINARY STATEMENT

Petitioner filed the request for a due process hearing (Complaint) on April 21, 2026. The School Board promptly referred the Complaint to DOAH. On May 1, 2026, the School Board responded to the Complaint.

A pre-hearing conference was scheduled for May 20, 2026 but Petitioner requested that the pre-hearing conference be rescheduled because of Petitioner's medical issues. On June 3, 2026, the parties attended the pre-hearing conference and agreed to schedule the due process hearing on July 1 and 2, 2026.

The Governor of Florida closed all state offices on July 2, 2026. As a result, the parties were asked to select a different set of mutually agreeable dates for the due process hearing.

On June 23, 2026, the parties attended a telephone conference where they agreed to reschedule the due process hearing for July 15 and 16, 2026. The due process hearing was held as scheduled. Petitioner testified on [REDACTED] son's behalf and Petitioner's Exhibits A through N, Q, R, and V were admitted. The School Board presented the testimony of [REDACTED], an audiologist; [REDACTED], Supervisor of Sensory Programs and Related Services; and [REDACTED], Staffing Coordinator. School Board Exhibits 4, 5, 9, 15, 17 through 21, 23 through 27, and 29 through 32 were admitted.

At the end of the due process hearing, the parties agreed to file proposed final orders 15 days after the transcript was filed and the final order deadline was 15 days after proposed final orders were filed. The Transcript was filed on August 5, 2026. Thus, the deadline for proposed final orders was August 20, 2026; and the final order deadline is September 4, 2026. The School Board filed a Proposed Final Order which was considered when drafting this Final Order.

Unless otherwise indicated, all rule and statutory references are to the versions in effect during the relevant period. 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, during the relevant period, was in [REDACTED] and eligible for exceptional student education (ESE) services under the categories of development delay (DD), Deaf/Hard of Hearing (DHH), and Language Impairment (LI).

2. Sometime during the [REDACTED] school year, the student was enrolled in a public school in [REDACTED] County, Florida. [REDACTED] County School District [REDACTED] developed an IEP for the student in January [REDACTED].

3. Before attending a [REDACTED] school, the student attended the [REDACTED]. [REDACTED] wrote the IEP to mirror the [REDACTED] IEP, providing the same services and goals, and adding a social/emotional goal to his IEP, to address off-task behavior. A Communication Plan was also developed by [REDACTED].

4. The [REDACTED] IEP also incorporated language therapy, 30 minutes, two times per week; instruction in reading comprehension, 15 minutes, two times per week; instruction in writing, 10 minutes, three times per week; instruction in math computation, 10 minutes, four times per week; and instruction in social skills, 5 minutes, five times per week. The [REDACTED] IEP also included the related services of occupational therapy, 30 minutes, one time per week; audiology, annually; and transportation, twice a day, daily. The IEP also provided for hearing assistive technology.

5. The [REDACTED] IEP placed the student in the general education classroom less than 40% of the day.

6. The [REDACTED] Communication Plan described the student's language, for both receptive and expressive language. For both, he used spoken language and functional sign language. The student's primary method to access and use language was identified as "auditory—oral methods" for both receptive and expressive language; signed-supported speech spoken in both English and sign (receptive); gestures and home signs (expressive); assistive technology; and a communication device (receptive and expressive). The Communication Plan identified other factors that influenced the student's language and communication development; specifically, that he had repetitive behaviors like tapping that pulled his attention away from instruction and required multiple reminders to attend to the teacher. His eye contact was limited during instruction time which made it difficult for him to

acquire language skills both visually and auditorily. The Communication Plan encouraged the use of visuals, signs, and spoken language to increase his communication skills.

7. The Communication Plan also listed supports and accommodations. The student used personally owned hearing aids, a school-provided sound-field system, daily hearing checks by school staff to monitor the amplification support, preferential seating, and visual alerts and alarms. All instruction in the classroom was both verbal and sign. The student responded to the teacher's voice commands, and he received most of his instruction visually through pictures, gesturing, and voice commands.

8. In late January [REDACTED], the student transferred to a public school in [REDACTED] County. The School Board reviewed the student's IEP and Communication Plan and let the parent know that the School Board could implement both as written.

9. Unsatisfied with the School Board's response, the student's [REDACTED] asked the School Board to, in writing, provide: confirmation that placement decisions were paused during an IEP review period; a description of DHH-specific programs, classroom environments, and service models available within [REDACTED] County; an explanation of how any proposed placement would provide direct, consistent communication access throughout the school day; and identification of American Sign Language-fluent staff and DHH-trained personnel associated with any proposed placement.

10. At least three School Board staff members tried to talk to the student's [REDACTED] by phone, to ensure [REDACTED] that the [REDACTED] IEP would be implemented as written, but the student's [REDACTED] refused to talk to any of them and insisted that [REDACTED] wanted all of [REDACTED] questions answered in writing.

11. Next, the School Board prepared a draft IEP that was essentially identical to the [REDACTED] IEP. The School Board also reached out to the parent for an IEP meeting, to address [REDACTED] concerns. Unfortunately, the student's

██████ refused to confirm a meeting date, because █████ wanted all of █████ questions answered in writing before █████ would meet with the team.

12. In an effort to try to address the █████ concerns, █████ sent the █████ an email on February 9, █████, stating that the School Board was required to provide comparable services as outlined on the █████ IEP. █████ also stated that the School Board was agreeable to meet to transfer the █████ services to a █████ IEP form and that, once the student enrolled and began to attend school, his IEP team would collect additional data and schedule an IEP meeting to address any of his new needs as they arose.

13. The ESE Specialist at the █████ school where the student would attend emailed the student's █████ on March 2, █████, reiterating that the school could and would implement the █████ IEP. █████ also proposed a multi-meeting approach to answer the █████ extensive list of questions. Again, the █████ refused to send █████ son to school and █████ restated █████ lengthy list of questions that needed to be answered in writing. All of these questions were, in fact, answered by the █████ IEP, which the School Board was prepared to implement as written.

14. At the request of the student's █████, a state-facilitated IEP team meeting was scheduled in April █████, but it was never held. Rather than meeting with the IEP team, the student's █████ filed █████ Complaint. Up until the date of the hearing, the student never attended a single day of school in █████ County.

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. When a student transfers from one county to another, Florida Administrative Code Rule 6A-6.0334(1) requires the receiving school district to provide FAPE, including services comparable to those described in the student’s IEP from the previous Florida school district. The new school district may adopt the student’s IEP from the previous school district, or develop, adopt and implement a new IEP that provides the student a FAPE. *See Fla. Admin. Code R. 6A-6.0334(1)*; 34 C.F.R. § 300.32.

25. In this case, Petitioner failed to present any persuasive evidence that the School Board was proposing an IEP that failed to provide comparable services; or that the IEP failed to provide an appropriate placement for the student; or that the School Board failed to provide the student proper services enabling him to access a FAPE.

26. The evidence did establish that the School Board was prepared to provide comparable services and implement the transfer IEP, as required.

27. Petitioner also claims that the School Board violated IDEA procedures by failing to issue a PWN. This claim also fails, as there was never a need for a PWN. And even if there had been a need for a PWN, since the student never attended a day of school in the school district, his access to a FAPE was never denied.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's Complaint is dismissed and all requests for relief are DENIED.

DONE AND ORDERED this 28th day of August, 2026, in Tallahassee, Leon County, Florida.


Case No. 26-2085E

JESSICA E. VARN
Administrative Law Judge
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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).