STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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Petitioner,

vs. Case No. 25-1917E

MIAMI-DADE COUNTY SCHOOL BOARD,

Respondent.
_______________________________________/

FINAL ORDER

By agreement of the parties, the due process hearing in this case was held on August 21, 2025, by Zoom conference. Jessica E. Varn, an Administrative Law Judge with the Division of Administrative Hearings (DOAH), presided over the hearing.

APPEARANCES

For Petitioner: Petitioner's Parent, pro se
(Address of record)

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

STATEMENT OF THE ISSUES

Whether Petitioner requires a one-to-one paraprofessional to receive a free and appropriate public education (FAPE);

Whether Petitioner's December 2024 individualized education plan (IEP) is designed to provide FAPE;

Whether the School Board failed to implement Petitioner's December 2024 IEP;

Whether the School Board denied Petitioner's private registered behavior technician and behavior analyst the ability to provide services on campus during the school day; and, if so, whether such failure is a denial of FAPE; and

What remedies, if any, are appropriate?

PRELIMINARY STATEMENT

Petitioner filed a due process complaint (Complaint) with the School Board on or about March 31, 2025. The case was originally assigned to Judge Nicole Saunders. Petitioner amended the Complaint on May 5, 2025; and the School Board filed its Response on May 15, 2025. The parties participated in a pre-hearing conference on May 28, 2025; when they agreed to extend the final order deadline, attend an Alternative Dispute Resolution conference, and hold the due process hearing on July 15, 2025.

On June 25, 2025, the School Board filed an unopposed motion to continue the due process hearing, to provide for additional time to attempt to settle the issues. Judge Saunders granted the request for a continuance and asked the parties to file a status report by July 18, 2025. The parties attended the settlement conference on July 15, 2025, and successfully settled one issue regarding art therapy.

The parties participated in a second pre-hearing conference on August 1, 2025; during which they agreed to schedule the due process hearing on August 21, 2025. On August 14, 2025, Petitioner filed a "Motion: To Request an Extension of Records, and Postponement in the Final Hearing." Judge

Saunders denied the request in an Order Denying Continuance of Final Hearing on the same day. Four days later, Petitioner filed a "Motion to Recuse Administrative Law Judge Nicole Saunders From Case/Hault Final Hearing." On August 20, 2025, Judge Saunders recused herself, and the case was transferred to the undersigned.

The next day, the due process hearing occurred as scheduled. Petitioner called the student's private behavior technician, , to testify. The School Board presented the testimony of Executive Director of Dispute Resolution for the Exceptional Student Education (ESE) Department; and , an ESE teacher. The undersigned took Official Recognition of the Final Order of Dismissal and the Complaint filed in DOAH Case No. 25-0171E. Petitioner's Exhibits 2, 3, 6, and 7 were admitted into evidence. School Board Exhibits 5 through 7, 22, and 26 through 28 were also admitted. School Board Exhibit 16 was admitted as a Joint Exhibit.

At the conclusion of the hearing, the parties agreed to file proposed final orders 30 days after the Transcript was filed with DOAH. The final order deadline was extended to 10 days after the proposed final orders were due. The Transcript was filed on September 24, 2025. The deadline for the proposed orders was October 24, 2025. The deadline for this Final Order was November 3, 2025. The School Board filed a timely proposed order, which was considered in preparation of this Final Order.

Unless otherwise indicated, all rule and statutory references are to the version in effect at the time of the alleged violations. For stylistic convenience, the undersigned will use male pronouns in this Final Order when referring to Petitioner. The male pronouns are neither intended, nor should be interpreted, as a reference to Petitioner's actual gender.

FINDINGS OF FACT

1. The student is a ████ grader, who, by all accounts, is a nice, active boy who tends to be rambunctious and needs constant redirection while in school. He is eligible for ESE services under the Intellectual Disability (IND) and Autism Spectrum Disorder (ASD) categories. His Intelligence Quotient (IQ) is 58; therefore, he qualifies for the access points curriculum, which is commonly referred to as a modified curriculum, and he's placed in an ESE classroom during the entire school day.

2. At the beginning of the ████ school year, while the student was in ████ grade, ████, a private behavior technician, began to work with the student in school. ████ also worked in the school setting with the student during second grade, from 9:00 a.m. to 1:00 p.m.

3. In the Fall of ████, during ████ grade, the School Board conducted a comprehensive reevaluation. At that time, the student's eligibility was Specific Learning Disability (SLD), and his placement was in the general education classroom.

4. The student's IEP team met in December ████, to consider all aspects of the reevaluation. Based on the student's IQ, and his educational and behavioral needs, the student's eligibility category changed from SLD to IND and ASD, and his placement moved to the more restrictive ESE classroom. He was also moved from a standard curriculum to a modified curriculum. At that point, the student's mother agreed with the entire IEP, but objected to the school location assigned to the student.

5. In January ████, Petitioner filed a Complaint, DOAH Case No. 25-0171E, alleging that the December IEP should have placed the student with a 1:1 teacher and a 1:1 paraprofessional, which is a more restrictive environment than the ESE classroom. Judge Saunders conducted the due process hearing on March 11, 2025. That same day, ████ issued a Final Order of Dismissal, stating:

> At the hearing, Petitioner's parent presented sworn testimony on Petitioner's behalf, but neither called witnesses nor introduced any exhibits. During [redacted] testimony, Petitioner's parent testified that while [redacted] agrees with Petitioner's current eligibility categories, education on a modified curriculum, and individualized education plan ("IEP") placement in a separate classroom, [redacted] believes [he] requires door-to-door transportation, a one-to-one paraprofessional, and a one-to-one teacher—a highly restrictive environment.
>
> However, during cross-examination, Petitioner's parent admitted that Petitioner has yet to enter the separate classroom prescribed in [his] IEP. Petitioner's parent then rested [redacted] case.
>
> At that time, the School Board moved for a final summary order as Petitioner had failed to meet the burden of proof as to the issues outlined in the request for due process hearing ("Motion"). Specifically, the School Board asserted that Petitioner's parent failed to prove Petitioner requires a more restrictive placement to receive a free appropriate public education ("FAPE"). The undersigned agrees. It is, therefore,
>
> ORDERED that the Motion is GRANTED. The request for due process hearing is dismissed with prejudice; and this cause before the Division of Administrative Hearings is closed.

6. [redacted] was the student's ESE teacher in the ESE classroom during second grade, after his placement was changed from the general education classroom and he was placed on a modified curriculum. [redacted] found the student to be highly distractible, so [redacted] knew [redacted] had to keep him engaged, and [redacted] often redirected him. In [redacted] classroom, there was also a full-time paraprofessional assisting the students. [redacted] disagreed with the suggestion that he needed a more restrictive environment with a 1:1 teacher or a 1:1 paraprofessional. [redacted] reported that the student made

progress on the modified curriculum, and that ███ found him to be a sweet boy who was eager to learn.

7. Petitioner presented no persuasive evidence establishing that the student's December ████ IEP was inadequate in any aspect, or that the School Board failed to implement the IEP. Petitioner also failed, once again, to establish that the student needs a 1:1 paraprofessional, which is a more restrictive environment. Lastly, Petitioner presented no evidence that the School Board prevented the student's private behavior technician, ████████, from serving the student in school.

CONCLUSIONS OF LAW

8. DOAH has jurisdiction over the subject matter of this proceeding and the parties pursuant to sections 1003.57(1)(b) and 1003.5715(5), Florida Statutes, and Florida Administrative Code Rule 6A-6.03311(9)(u).

9. Petitioner bears the burden of proof with respect to each of the claims raised in the Complaint. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005).

10. In enacting the IDEA, Congress sought to "ensure that all children with disabilities have available to them a free appropriate public education [FAPE] that emphasized 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. v. Jefferson Cnty. Bd. of Educ.*, 701 F.3d 691, 694 (11th Cir. 2012).

11. Congress 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, which is contingent on the 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).

12. The School Board, a local education agency under 20 U.S.C. § 1401(19)(A), receives federal IDEA funds and is, thus, required to comply with certain provisions of that Act. *See* 20 U.S.C. § 1401, *et seq*.

13. 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).

14. 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.C. v. Muscogee Cnty. Dist.*, 668 F.3d 1258, 1270 (11th Cir. 2012). Instead, the school board denies a student FAPE only when the 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).

15. Moreover, to satisfy the IDEA's substantive requirements, local school districts must provide all eligible students with FAPE, which is:

> [s]pecial 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 section 1414(d) of this title.

See 20 U.S.C. § 1401(9).

16. The IDEA defines "special education" as "specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including[,] instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings … ." 20 U.S.C. § 1401(29).

17. The components of FAPE are recorded in an IEP, which 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 *Rowley*, 458 U.S. at 181).

18. At a minimum, an IEP must identify the child's present levels of academic achievement and functional performance; establish measurable annual goals; address the services and accommodations to be provided to the child, and whether the child will attend mainstream classes; and, specify the measurement tools and periodic reports to be used to evaluate the child's progress. *See* 20 U.S.C. § 1414(d)(1)(A)(i); 34 C.F.R. § 300.320.

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. Second, it must be determined whether the IEP developed under the IDEA is reasonably calculated to enable the child to receive educational benefits. *Id.*, at 206-07.

20. 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." 137 S. Ct. at 999.

21. 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 child's disability. *See* 20 U.S.C. § 1414(d)(1)(A)(i)(II); *see also Alex R. v. Forrestville Valley Cmty. 12 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).

22. Here, Petitioner presented no evidence establishing that the IEP was not designed to provide FAPE to the student. Petitioner also did not establish that the student needs a 1:1 paraprofessional.

23. Petitioner also alleged that the December 2024 IEP was not implemented. The Eleventh Circuit addressed the issue of implementation for the first time in *L.J. v. School Board*, 927 F.3d 1203 (11th Cir. 2019). In that case, the court outlined the standard for claimants to prevail in a "failure-to implement case." *Id.* The court concluded that "a material deviation from the plan violates the [IDEA]." *L.J.*, 927 F.3d at 1206. The *L.J.* court expanded upon this conclusion as follows:

> Confronting this issue for the first time ourselves, we concluded that to prevail in a failure-to implement case, a plaintiff must demonstrate that the school has materially failed to implement a child's IEP. And to do that, the plaintiff must prove more than a minor or technical gap between the plan and reality; de minimis shortfalls are not enough. A material implementation failure occurs only when a school has failed to implement substantial or significant provisions of a child's IEP.

Id. at 1211.

24. The court provided a few principles to guide the analysis. *Id.* at 1214. First, the court said that the focus in implementation cases should be on the proportion of services mandated to those provided, viewed in the context of the goal and importance of the specific service withheld. Thus, the task is to compare the services that are delivered to the services described in the IEP itself. In turn, "courts must consider implementation failures quantitatively and qualitatively to determine how much was withheld and how important the withheld services were in view of the IEP as a whole." *Id.*

25. Additionally, the *L.J.* court noted that the analysis must consider implementation as a whole:

> We also note that courts should consider implementation as a whole in light of the IEP's overall goals. That means that reviewing courts must consider the cumulative impact of multiple implementation failures when those failures, though minor in isolation, conspire to amount to something more. In an implementation case, the question is not whether the school has materially failed to implement an individual provision in isolation, but rather whether the school has materially failed to implement the IEP as a whole.

Id. at 1212.

26. Here, Petitioner presented no evidence that the December [redacted] IEP was not implemented. Thus, this claim also fails.

27. Lastly, Petitioner claims that the School Board denied Petitioner's private registered behavior technician and behavior analyst the ability to provide services on campus during the school day. The evidence established the contrary—[redacted] was present during the school day during the [redacted] school year and has not been denied access to the school.

ORDER

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

DONE AND ORDERED this 29th day of October, 2025, in Tallahassee, Leon County, Florida.

Case No. 25-1917E

JESSICA E. VARN
Administrative Law Judge
DOAH Tallahassee 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 29th day of October, 2025.

COPIES FURNISHED:

Amanda W. Gay, Esquire
(eServed)

Gabrielle L. Gonzalez, Esquire
(eServed)

Karla M. Cejas, Esquire
(eServed)

William D. Chappell, General Counsel
(eServed)

Bryce D. Milton, Educational Program Director
(eServed)

Petitioner
(eServed)

Dr. Jose Dotres, Superintendent
(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).