

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

MANATEE COUNTY SCHOOL
BOARD,

Petitioner,

vs.

Case No. 25-2489E

**,

Respondent.

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FINAL ORDER

This case came before Administrative Law Judge (ALJ) Sara Marken of the Division of Administrative Hearings (DOAH) for final hearing held by Zoom conference on July 11, 2025.

APPEARANCES

For Petitioner: Amy D. Envall, Esquire
Sniffen & Spellman, P.A.
123 North Monroe Street
Tallahassee, Florida 32301

For Respondent: (No appearance)

STATEMENT OF THE ISSUES

Whether the psychoeducational evaluation conducted by the Manatee County School Board (School Board) was appropriate; and

Whether the speech and language evaluation conducted by the School Board was appropriate.¹

¹ The remaining issues outlined in the Notice of Hearing by Zoom Conference were abandoned by the School Board at the outset of the final hearing.

PRELIMINARY STATEMENT

The School Board filed a request for a due process hearing on May 6, 2025. A pre-hearing conference was held on May 29, 2025, during which the parties agreed to schedule the hearing for July 11, 2025. The hearing was held as scheduled.

The School Board presented the testimony of the following witnesses: [REDACTED], school psychologist; [REDACTED], school social worker; [REDACTED], speech and language pathologist; and [REDACTED], associate director of Exceptional Student Education (ESE). Petitioner's Exhibits 1 through 3 were admitted into evidence. Neither the student nor the student's mother appeared.

At the end of the hearing, the School Board agreed to file the proposed final order within ten days after the transcript was filed, and the final order would be issued within ten days after the proposed order was filed. The Transcript was filed on July 25, 2025. Accordingly, the proposed final order was due on August 4, 2025, and the final order deadline was August 14, 2025. The School Board filed its Proposed Final Order on August 4, 2025, which 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 when the School Board performed the reevaluations at issue. For stylistic convenience, the undersigned uses male pronouns when referring to the student. These pronouns are neither intended nor should be interpreted as a reference to the student's actual gender.

FINDINGS OF FACT

1. The student is a [REDACTED] grader who is eligible for ESE under the categories of Developmental Delay (DD) and Speech Impairment (SI).
2. During the fall of [REDACTED], the student's mother requested a reevaluation to evaluate the student's eligibility under Autism Spectrum Disorder (ASD) and Language Impairment (LI) categories. The student's mother sought to add his medical diagnosis of ASD as an eligibility category in his individualized education plan (IEP). At this meeting, the teacher conveyed that [REDACTED] did not have any concerns as the student was performing at the appropriate level for his age and grade level.
3. [REDACTED] conducted the student's psychoeducational reevaluation. [REDACTED] administered the Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V); Woodcock-Johnson IV Test of Achievement (WJ-IV-Ach); Adaptive Behavior Assessment System, Third Edition (ABAS-III); and the Autism Spectrum Rating Scales (ASRS).
4. On both days of testing, the student was cooperative and appeared to put forth his best effort. During testing, the student did not exhibit any autistic-like behavior characteristics.
5. The WISC-V is an individually comprehensive test to assess the intelligence of children. It compares the student's ability with that of their peers. The student's overall score, referred to as the Full-Scale IQ, was a 96, which falls within the average range. The Full-Scale IQ is comprised of the Verbal Comprehension Index and Fluid Reasoning Index. The student scored 89 on the Verbal Comprehension Index, which fell one point below average, and 100 on the Fluid Reasoning Index, which fell in the average range.
6. The WJ-IV-Ach is an individually administered test, which measures a wide range of academic skills in reading, mathematics, and written and oral language. The student's mother expressed a concern about reading.

██████████ administered the reading assessment. His overall score was an 84, which fell in the low average range.

7. The ASRS is used to quantify observations of student behavior that are associated with ASD. ██████████ provided the student's teacher with a rating form that consists of 71 questions. Each question falls under one of three indexes: social/communication, unusual behaviors, or self-regulation. The score of each index will range from average to very elevated. The student scored slightly elevated in social/communication, elevated in unusual behaviors, and average in self-regulation. ██████████ concluded that the student is exhibiting behaviors characteristic of ASD.

8. The ABAS-III is also a rating scale assessment that measures the student's adaptive skills in the areas of communication, functional academics, self-direction, leisure, social, community use, school living, health and safety, and self-care. Based on the teacher's ratings, the student's overall score was a 94, which falls in the average range compared to his same-age peers.

9. ██████████ credibly testified that ██████████ administered the tests according to the instructions, in the student's native language, in the form most likely to yield accurate information on the student's knowledge and academic, developmental, and functional abilities. The collected results are a valid measure of the student's abilities. The greater weight of the evidence shows that ██████████ conducted the test appropriately, and the test results are valid and reliable.

10. ██████████, the school social worker, observed the student in the classroom. Previously, the student's mother had reported a range of behavioral concerns, including difficulty with changes in routine, overstimulation, needing frequent prompting, echolalia, fixations on object parts, and sensory sensitivities such as overreacting to loud noises. ██████████ also described behaviors like hand clapping and noted that the student is very active and dependent on a teddy bear and blanket at home.

11. In contrast, [REDACTED] classroom observation revealed a student who adapted easily to changes, followed directions with minimal prompting, and transitioned smoothly throughout the day—including during a lively Halloween parade. [REDACTED] observed no signs of echolalia, fixations, or sensory distress. The student remained calm and attentive, sat quietly during downtimes, and participated appropriately in class activities. While [REDACTED] did see occasional hand clapping, it was minimal and not disruptive.

12. [REDACTED] administered the ABAS-III to the student's mother. Based on the mother's ratings, the student's overall score was a 56, which falls in the extremely low range. This result was a stark contrast to the teacher's ratings and was inconsistent with the other data.

13. [REDACTED] also administered the ASRS to the student's mother. The student scored very elevated in social/communication, very elevated in unusual behaviors, and elevated in self-regulation. [REDACTED] concluded that the parent's ratings indicated high levels of behaviors characteristic of autism and very low adaptive functioning. However, these ratings were inconsistent with [REDACTED] classroom observation and with reports from the student's teacher, both of which reflected appropriate functioning in the school environment.

14. This was the second time in approximately three years that the mother had requested an evaluation for ASD. In both instances, the school team's observations did not support eligibility under ASD criteria.

15. [REDACTED] credibly testified that [REDACTED] administered the assessments according to the instructions, in the student's native language, in the form most likely to yield accurate information on the student's knowledge and academic, developmental, and functional abilities. The collected results are a valid measure of the student's abilities. The greater weight of the evidence shows that [REDACTED] conducted the test appropriately, and the test results are valid and reliable.

16. ██████ conducted the student's speech-language reevaluation. ██████ administered two standardized comprehensive language assessments, the Clinical Evaluation of Language Fundamentals, Fifth Edition (CELF-5), and the Comprehensive Assessment of Spoken Language, Second Edition (CASL-2).

17. On the CELF-5, the student's performance was mainly within the average range, with only a few areas slightly below. His Core Language Score of 85 fell at the low end of average, while both receptive and expressive language scores were also within the average range. Scores for language content and structure were each 84, just one point below average, but still well above the threshold that would typically indicate a language impairment. ██████ emphasized that the CELF-5 is a rigorous measure and that the student's results demonstrated functional language skills consistent with same-age peers.

18. On the CASL-2, the student scored in the average range in nearly all areas, with only one subtest—antonyms—slightly below average by one point. All other subtests, including vocabulary, sentence expression, grammatical understanding, and inference, were within the average range. The pragmatic profile, completed collaboratively by ██████, the ESE resource teacher, and the classroom teacher, yielded an average score, indicating appropriate verbal and nonverbal social communication skills across settings.

19. ██████ also conducted a classroom observation, during which the student followed directions, waited his turn, participated appropriately in group activities, made eye contact, and engaged with peers and the teacher. Based on the evaluation results, classroom performance, and lack of academic impact—his grades and standardized test scores were at or above grade level—the IEP team, excluding the parent, concluded the student was not eligible for language services.

20. ██████ credibly testified that ██████ evaluated the student in his native language, according to the instructions, in the form most likely to yield accurate information on the student's knowledge and academic, developmental, and functional skills. The greater weight of the evidence shows that ██████ conducted the test appropriately, and the test results are valid and reliable.

21. On March 27 and April 10, ██████, the IEP team met to review the results of the reevaluation. The school-based team agreed that while the student may exhibit some behaviors characteristic of ASD, they do not negatively impact his performance at school. The school-based team concluded that the student was not eligible under the ASD eligibility category. The student's mother disagreed with the evaluations and requested independent educational evaluations (IEEs).

22. In sum, the greater weight of the evidence demonstrated that the psychoeducational evaluation and the speech and language evaluations were appropriate.

CONCLUSIONS OF LAW

23. DOAH has jurisdiction over the subject matter of this proceeding and the parties pursuant to sections 1003.57(1)(b) and 120.57(1), Florida Statutes, and Florida Administrative Code Rule 6A-6.03311(9)(u).

24. The Florida K-20 Education Code's imposition of the requirement that exceptional students receive special education and related services is necessary for the State of Florida to be eligible to receive federal funding under the Individuals with Disabilities Education Act (IDEA), which mandates, among other things, that participating states ensure, with limited exceptions, that a "free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21." 20 U.S.C. § 1412(a)(1)(A); *Phillip C. v. Jefferson Cnty. Bd. of Educ.*, 701 F.3d 691, 694 (11th Cir. 2012).

25. Under the IDEA and its implementing regulations, certain circumstances entitle a parent of a child with a disability to obtain an IEE of the child at public expense. Title 34 C.F.R. § 300.502(b) outlines the circumstances under which a parent has a right to an IEE at public expense:

Parent right to evaluation at public expense.

(1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—

(i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§ 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

(5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

26. Florida law, specifically rule 6A-6.03311(6), provides similarly, as follows:

(a) A parent of a student with a disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.

* * *

(g) If a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay either:

(1) Ensure that an independent educational evaluation is provided at public expense; or

(2) Initiate a due process hearing under this rule to show that its evaluation is appropriate or that the evaluation obtained by the parent did not meet the school district's criteria. If the school district initiates a hearing and the final decision from the hearing is that the district's evaluation is appropriate, then the parent still has a right to an independent educational evaluation, but not at public expense.

(h) If a parent requests an independent educational evaluation, the school district may ask the parent to give a reason why he or she objects to the school district's evaluation. However, the explanation by the parent may not be required and the school district may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the school district's evaluation.

(i) A parent is entitled to only one (1) independent educational evaluation at public expense each time the school district conducts an evaluation with which the parent disagrees.

27. Under the IDEA and corresponding Florida regulations, a school board is not automatically required to provide a publicly funded IEE upon a parent's request. When a parent makes such a request, the school board may initiate a due process hearing to prove, by a preponderance of the evidence, that its evaluation is appropriate. *T.P. v. Bryan Cnty. Sch. Dist.*, 792 F.3d 1284, 1287 n.5 (11th Cir. 2015). If the school board satisfies this burden and proves the appropriateness of its evaluation, it is not required to fund the requested IEE.

28. To satisfy its burden of proof, the School Board must establish that the assessments at issue complied with rule 6A-6.0331(5), which sets forth the elements of an appropriate evaluation. Rule 6A-6.0331(5) provides:

(5) Evaluation procedures.

(a) In conducting an evaluation, the school district:

1. Must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student within a data-based problem solving process, including information about the student's response to evidence-based interventions as applicable, and information provided by the parent. This evaluation data may assist in determining whether the student is eligible for ESE and the content of the student's individual educational plan (IEP) or educational plan (EP), including information related to enabling the student with a disability to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), or for a gifted student's needs beyond the general curriculum;

2. Must not use any single measure or assessment as the sole criterion for determining whether a student is eligible for ESE and for determining an appropriate educational program for the student; and,

3. Must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(b) Each school district must ensure that assessments and other evaluation materials and procedures used to assess a student are:

1. Selected and administered so as not to be discriminatory on a racial or cultural basis;

2. Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;

3. Used for the purposes for which the assessments or measures are valid and reliable; and,

4. Administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.

(c) Assessments and other evaluation materials and procedures shall include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(d) Assessments shall be selected and administered so as to best ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test

purports to measure, rather than reflecting the student's sensory, manual, or speaking skills, unless those are the factors the test purports to measure.

(e) The school district shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

(f) A student shall be assessed in all areas related to a suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(g) An evaluation shall be sufficiently comprehensive to identify all of a student's ESE needs, whether or not commonly linked to the suspected disability.

29. Based on the Findings of Fact outlined above, the School Board has proven that its psychoeducational evaluation and its speech and language evaluation complied with rule 6A-6.0331(5) and the IDEA. Trained and knowledgeable professionals conducted the evaluations, selecting, administering, and interpreting various valid instruments according to standardized procedures, which yielded reliable and comprehensive information about the student's educational needs.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's psychoeducational evaluation and speech and language evaluation were appropriate and the student is not entitled to IEEs at public expense.

DONE AND ORDERED this 13th day of August, 2025, in Miami, Dade County, Florida.

~~Case No. 25-2489E~~

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).