STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

**,

Petitioner,

vs. Case No. 25-2969E

MANATEE COUNTY SCHOOL BOARD,

Respondent.
_____/

FINAL ORDER

On September 3 and 4, 2025, Administrative Law Judge (ALJ) Nicole D. Saunders of the Division of Administrative Hearings (DOAH) conducted the final hearing by Zoom conference.

APPEARANCES

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

For Respondent: Molly Lauren Shaddock, Esquire
Sniffen & Spellman, P.A.
605 North Olive Avenue, Second Floor
West Palm Beach, Florida 33401

STATEMENT OF THE ISSUES

Whether Petitioner is entitled to a manifestation determination review based on an incident that occurred on January 10, 2025;

Whether school staff failed to implement Petitioner's positive behavior intervention plan (PBIP) and individualized education plan (IEP) on January 10, 2025;

Whether the School Board denied Petitioner's parent access to Petitioner's educational records;

Whether the School Board denied Petitioner's parent the opportunity to meaningfully participate in Petitioner's education;

Whether the School Board retaliated against Petitioner's parent in violation of Section 504 of the Rehabilitation Act of 1973[1];

Whether the School Board failed to issue prior written notices before taking disciplinary action against Petitioner;

Whether the School Board failed to offer a resolution session before the due process hearing in this case; and lastly,

What relief, if any, is appropriate.

PRELIMINARY STATEMENT

On June 2, 2025, Petitioner's parent filed a request for due process hearing (Complaint)[2] with the School Board, which the School Board forwarded to DOAH the following day. On June 4, 2025, the undersigned issued a Case Management Order, detailing the deadlines and procedures governing the case.

[1] The Rehabilitation Act of 1973, 29 U.S.C. § 795, *et seq.* (Section 504).

[2] Although the parent requested an expedited hearing, the Complaint did not raise any issue relating to a manifestation determination or a decision not made by an ALJ regarding a discipline-related change in placement. *See* Fla. Admin. Code R. 6A-6.03312(7)(a). Accordingly, the Complaint proceeded in accordance with the standard timelines enumerated in Florida Administrative Code Rule 6A-6.03311.

That same day, the School Board filed a Notice of Insufficiency, asserting, among other things, that the Complaint raised claims and sought relief outside of the undersigned's jurisdiction. On June 9, 2025, the undersigned issued an Order on Notice of Insufficiency, finding the Complaint sufficient as to one issue—Petitioner's parent's access to Petitioner's educational records under the Individuals with Disabilities Education Act (IDEA).

On June 20, 2025, the School Board filed a response to the Complaint. Three days later, Petitioner's parent filed a rebuttal to the Notice of Insufficiency, and a Motion for Reconsideration and Reinstatement of the Complaint (collectively, the Motions). On June 24, 2025, the undersigned issued an Order denying both Motions. Later that day, Petitioner's parent filed a Notice of Constitutional Objection and Demand for Due Process Clarification, as well as a Motion for Status of Conference and Clarification of Dismissal.

On June 26, 2025, the School Board filed a Notice of Resolution Outcome, asserting that the parties had convened a resolution session on June 25, 2025, but were unable to resolve the issues raised in the Complaint.

The next day, discovery began. The School Board filed notices of service of interrogatories and its first request for admissions. And on June 30, 2025, Petitioner's parent filed a notice of service of interrogatories on the School Board. Later that day, the undersigned issued a notice, scheduling a telephonic prehearing conference for July 1, 2025. At Petitioner's parent's request, the undersigned converted the telephonic conference to Zoom.

During that conference, Petitioner's parent sought leave to amend the Complaint. The School Board did not object, and the undersigned granted Petitioner such leave until July 22, 2025.

On July 2, 2025, Petitioner's parent filed an Amended Complaint, along with a Motion to Rescind Trespass Order (First Trespass Motion). That same day, the undersigned issued an Amended Case Management Order. On July 14, 2025, the School Board filed a partial motion to dismiss and partial response to the Amended Complaint (Motion to Dismiss). In its Motion to Dismiss, the School Board argued that in the Amended Complaint, Petitioner's parent again sought relief unavailable under the IDEA. Petitioner's parent filed a response to the Motion to Dismiss later that day. On July 16, 2025, the undersigned issued an order denying Petitioner's parent's First Trespass Motion.

Then, on July 23, 2025, Petitioner's parent filed a Notice of Procedural Obstruction and Hostile Conduct against the School Board. That same day, the School Board filed a Notice of Resolution Outcome, asserting that the parties conducted a resolution session on July 22, 2025, but had not resolved the issues raised in the Amended Complaint.

The next day, the undersigned issued a notice, setting a telephonic pre-hearing conference for July 25, 2025. The undersigned also issued a second notice, changing the format of the pre-hearing conference—at Petitioner's parent's request—to Zoom. The Zoom pre-hearing conference proceeded as scheduled, but concluded without setting the case for a final hearing.[3] Later that day, the undersigned ordered the parties to provide several mutually agreeable dates—as well as the preferred format for conducting the final hearing—by no later than July 30, 2025 (Order Requiring Response).

Subsequently, Petitioner's parent filed several more documents—one raising complaints under the First Amendment to the United States

[3] During the pre-hearing conference, Petitioner's parent yelled, used profanity, and resisted the undersigned's efforts to discuss the issues raised in the Amended Complaint.

Constitution, another requesting an unspecified reasonable accommodation and to reschedule the pre-hearing conference, and two asserting judicial misconduct. Petitioner's parent also filed three exhibits. Later that day, Molly Shaddock filed a Notice of Appearance (NOA) on behalf of the School Board. Petitioner's parent then filed a document, acknowledging Ms. Shaddock's NOA.

On July 30, 2025, the parties jointly responded to the Order Requiring Response, selecting September 2 through 5, 2025, as the dates for the final hearing and Zoom as the preferred format. The undersigned then issued a Notice of Hearing by Zoom Conference, setting the final hearing for September 2 through 5, 2025.

Discovery continued. The School Board filed a notice of serving answers to Petitioner's parent's interrogatories; and Petitioner's parent filed a response to the School Board's answers.

Then, on August 6, 2025, the undersigned conducted another pre-hearing conference by Zoom. During the conference, Petitioner's parent, among other things, waived the final order deadline. After that conference, the School Board filed two motions based on Petitioner's parent's alleged failure to respond to its discovery requests. In its Motion to Deem Requests for Admissions Admitted, the School Board argued that the undersigned should deem the requests for admissions admitted based on Petitioner's parent's failure to timely respond (Admissions Motion). In its second motion, the School Board sought an order compelling responses to the interrogatories it had served on Petitioner's parent over a month earlier (Sanctions Motion).

Petitioner's parent objected to both motions on August 7, 2025; and on August 11, 2025, moved to compel production of trespass notices and for the undersigned to rescind such notices (Second Trespass Motion).

On August 13, 2025, the undersigned issued two discovery orders. The first provided Petitioner's parent until August 18, 2025, to respond to the requests for admissions (Admissions Order). The second granted Petitioner's parent until August 20, 2025, to respond to the School Board's interrogatories (Order to Compel).

Petitioner's parent failed to comply with the Admissions Order. Thus, on August 19, 2025, the undersigned issued an Order Deeming Requests for Admission Admitted. That same day, Petitioner's parent moved to withdraw those admissions (Motion to Withdraw). Then, on August 21, 2025, the undersigned issued two more orders—one denying Petitioner's Motion to Withdraw and another denying Petitioner's Second Trespass Motion.

Later that day, the School Board filed a motion for sanctions, and Petitioner's parent filed renewed motions to compel production of trespass notices and to withdraw the deemed admissions. On August 25, 2025, the undersigned issued orders denying all of the parties' motions.

Because of a scheduling conflict, the undersigned, with the parties' consent, reset the final hearing to September 3 through 5, 2025, and issued an Amended Notice of Hearing by Zoom Conference. Then, on August 26, 2025, the School Board timely filed its Statement of Undisputed Facts and all of its exhibits.

The next day, Petitioner's parent filed a Motion for Leave to File Late Witness List and Request for Issuance of Subpoenas (First Motion for Leave).

The School Board responded, objecting to the First Motion for Leave (Response); and Petitioner's parent replied to the Response. Later that day, Petitioner's parent also filed his own Statement of Undisputed Facts.

On August 28, 2025, Petitioner's parent filed several exhibits; witness and exhibits lists; and a motion to allow late filing of exhibits (Second Motion for Leave). The School Board responded to the Second Motion for Leave and Petitioner replied to that response. Later that day, the undersigned issued an Order, granting Petitioner's Second Motion for Leave in part. Petitioner's parent then filed three subpoenas to the School Board's witnesses, none of which were properly issued or served.

The hearing proceeded as scheduled. Petitioner's parent testified on Petitioner's behalf and called [redacted], [redacted], and [redacted]. The undersigned admitted Petitioner's Exhibits 1 through 3 into evidence. During the final hearing, Petitioner's parent moved to continue the case because of a meeting with a state agency (Continuance Motion); the School Board opposed the Continuance Motion; and the undersigned denied the Continuance Motion, but—based on Petitioner's parent's assertion as to the estimated length of the meeting—granted Petitioner's parent a two-hour break to conduct the meeting.

Petitioner's parent returned to the hearing at the end of [redacted] meeting and the hearing proceeded. At the end of Petitioner's case, the School Board moved for a final order of dismissal (Dismissal Motion). The undersigned reserved ruling on the Dismissal Motion.

In its case, the School Board recalled [redacted] and Petitioner's parent. The undersigned admitted School Board Exhibits A, B, C, D, E, F, G, J, K, L, M, O, and P into evidence.

At the close of evidence, the parties agreed to submit proposed final orders by no later than 14 days after the Transcript was filed with DOAH; and the undersigned agreed to issue this Final Order no later than 20 days after the filing of the Transcript.

The Transcript was filed on September 18, 2025. The parties' proposed final orders were due on October 2, 2025, and this Final Order is due on October 8, 2025. The School Board timely filed a Proposed Final Order, which the undersigned considered in drafting this Final Order.

Unless otherwise indicated, rule and statutory references are to the versions in effect when Petitioner filed the Amended Complaint. For stylistic convenience, this Final Order uses female pronouns when referring to Petitioner. These pronouns are neither intended, nor should be interpreted, as a reference to Petitioner's actual gender.

FINDINGS OF FACT

1. Petitioner is a [redacted]-year-old student who lives within the boundaries of the school district. She is eligible for special education and related services under the eligibility category of Specific Learning Disabled (SLD). She currently has an active IEP.

2. During the [redacted] school year, Petitioner was an [redacted]-grade student at [redacted] School, a public school owned and operated by the School Board.

3. At times, Petitioner has experienced behavioral challenges. As a result, the School Board conducted a functional behavioral assessment (FBA) on Petitioner; and on or about February 16, [redacted], drafted a PBIP. The FBA analyzed Petitioner's target behaviors, such as physical aggression, defiance, and verbal aggression, and identified the antecedents to these behaviors. It

also described the consequences and functions of those behaviors—including gaining peer attention and avoiding an activity.

4. The PBIP laid out behavioral and educational interventions. It also included reinforcements and de-escalation strategies, such as building relationships, providing choices, using proximity control, and utilizing social skills. As school staff testified, the PBIP did not include a crisis plan as Petitioner's maladaptive behaviors rarely required the use of crisis procedures.

5. On January 10, [redacted], an incident occurred between Petitioner and [redacted], which gave rise to the crux of this case. It began during an assembly at Petitioner's school and ended with Petitioner's arrest. In the disciplinary referral, [redacted] described the incident this way:

> During the [redacted] grade assembly, [Petitioner] was at a table with students who would not quiet down. I walked over and asked them to stop talking. [Petitioner] briefly argued back, but then stopped. After a stipulation of the field trip was given[,] many students began talking, including [Petitioner]. I again walked to [her] table and asked [her] to stop. [She] became defiant and belligerent. I then asked [her] to leave the cafeteria with me. I performed a Walk with Me PCM movement to direct [her] in the area I wanted [her] to go. [She] began to scream and continue[d] to be belligerent with me. [She] then stopped[,] turned around [,] and pushed me in my chest. This was witnessed by the entire [redacted] grade class.

6. As [redacted] credibly testified, the Walk with Me PCM movement is a district-approved professional crisis management technique. During the incident, [redacted] touched Petitioner's backpack when escorting her out of the cafeteria. School surveillance cameras captured footage of the incident. That footage corresponds with [redacted] account. On January 30, [redacted], and May 28, [redacted], Petitioner's parent came onto the School Board's property, inspected, and reviewed a video of the January 10, [redacted], incident. As

[redacted] testified, before the January 10, [redacted], incident, [redacted] spent significant time building a relationship with Petitioner. Additionally, during the incident, [redacted] utilized at least two techniques from Petitioner's PBIP—proximity control and utilizing social skills. [redacted] also removed Petitioner from her peers, removing the reinforcement of peer attention.

7. While law enforcement arrested Petitioner because of the January 10, [redacted], incident, the School Board did not recommend her for placement in an interim alternative educational setting or for expulsion. In fact, by the end of the [redacted] school year, the Petitioner had only received seven days of out-of-school suspension. Moreover, as part of the criminal case, the School Board, on June 16, [redacted], provided Petitioner's public defender with copies of the two videos of the January 10, [redacted], incident. Those videos are in the possession of Petitioner's public defender.

8. Because the School Board considered assigning Petitioner to an alternative educational placement, Petitioner's IEP team convened a manifestation determination review meeting on January 15, [redacted]. Both of Petitioner's parents attended. During that meeting, the IEP team reviewed Petitioner's assessments and evaluation reports, medical, educational, and cumulative records. Petitioner's parents also offered their input. At the end of that review, the school-based members of the IEP team found that while the January 10, [redacted], incident did not result from the failure to implement Petitioner's PBIP, it was a manifestation of her disability. Petitioner's parent disagreed, arguing that staff failed to implement Petitioner's PBIP.

9. On February 10, [redacted], because of the manifestation determination review, Petitioner's IEP team modified her FBA. Petitioner's parent actively participated in that meeting, advocating that the IEP team consider adding an eligibility category of emotional behavioral disability to Petitioner's IEP. On March 5, [redacted], the IEP team convened another meeting to review Petitioner's FBA and PBIP. At that meeting, the IEP team discussed Petitioner's academic progress and behavioral challenges. The team also

noted that Petitioner had responded positively to the interventions in her PBIP. At that meeting, Petitioner's parent expressed satisfaction with the data collection schedule in the PBIP and even recommended additional behavioral interventions.

10. During the [redacted] school year, law enforcement issued trespass orders against Petitioner's parent for violating the School Board's Civility Policy.[4] The orders barred Petitioner's parent from going to the School Board's district offices, not Petitioner's school. Moreover, despite these orders, the evidence presented at the hearing shows that Petitioner's parent has actively participated in Petitioner's education—appearing virtually at the manifestation determination review meeting on January 15, [redacted]; and at IEP meetings on February 10, [redacted], and March 5, [redacted]. During these meetings, he offered input into Petitioner's education and expressed satisfaction with the School Board's behavioral data collection methods for Petitioner.

11. At the final hearing, Petitioner's parent argued that school staff failed to follow Petitioner's PBIP on January 10, [redacted], which led to an escalation in Petitioner's behavior. [redacted] also asserted that the trespasses issued against [redacted] impaired [redacted] ability to meaningfully participate in Petitioner's education. That said, based on the evidence presented at the hearing, Petitioner failed to prove the allegations in the Amended Complaint.

CONCLUSIONS OF LAW

12. DOAH has jurisdiction over the subject matter of this proceeding as well as the parties. *See* § 1003.57(1)(c), Fla. Stat.; Fla. Admin. Code R. 6A-6.0331(9)(u).

13. As the party seeking relief, Petitioner bears the burden of proving each issue raised in the Amended Complaint. *See Schaffer v. Weast*, 546 U.S.

[4] That policy, School Board Civility Policy 1380, requires, among other things, that parents treat School Board employees and facilities with courtesy and respect; and refrain from "unacceptable [and] disruptive behavior."

49, 62 (2005); *Devine v. Indian River Cnty. Sch. Bd.*, 249 F.3d 1289, 1291 (11th Cir. 2001).

14. 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).

15. In enacting the IDEA, Congress intended to address inadequate educational services offered to children with disabilities and to combat the exclusion of such children from the public education system. *See* 20 U.S.C. § 1400(c)(2)(A)-(B). To achieve these aims, Congress provides funding to participating state and local educational agencies and requires such agencies to comply with the IDEA's procedural and substantive requirements. *Doe v. Ala. State Dep't of Educ.*, 915 F.2d 651, 654 (11th Cir. 1990).

16. 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*.

17. The IDEA provides parents and children with disabilities with substantial procedural safeguards. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 20506 (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).

18. 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).

19. Petitioner's parent raises six issues in his Amended Complaint. First, [redacted] asserts that based on the January 10, [redacted], incident, Petitioner was entitled to a manifestation determination review. [redacted] is mistaken.

20. Under 34 C.F.R. § 300.530(b)(1):

> School personnel […] may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).

See also Fla. Admin. Code. R. 6A-6.03312(1)(a).

21. Title 34 C.F.R. § 300.536 expands on section 300.530(b)(1) by explaining that:

> (a) For purposes of removals of a child with a disability from the child's current educational placement under §§ 300.530 through 300.535, a change of placement occurs if—
> (1) The removal is for more than 10 consecutive school days; or
> (2) The child has been subjected to a series of removals that constitute a pattern—
> (i) Because the series of removals total more than 10 school days in a school year;

> (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
> (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

34 C.F.R. § 300.536(a).

22. Finally, whether a pattern of removals constitutes a change of placement is a "case-by-case" determination and is subject to review through due process and judicial hearings. *See* 34 C.F.R. § 300.536(a)-(b). Taken together, for a child with a disability to be entitled to a manifestation determination, she must prove either that the School Board suspended her from school for more than ten school days within a single school year or that she faced a series of removals during a single school year that amounted to more than ten school days.

23. Here, Petitioner received only five days of out-of-school suspension because of the January 10, [redacted], incident. Thus, such suspensions did not constitute a disciplinary change in placement. Then, on January 15, [redacted], when determining whether to assign Petitioner to an interim alternative educational setting, her IEP team convened a manifestation determination review. At that meeting, the team determined that her conduct was a manifestation of her disability and, therefore, declined to change Petitioner's placement. The School Board was not required to conduct a manifestation determination review before initially suspending Petitioner for five days. And before the School Board potentially recommended Petitioner for a change of placement, it conducted a manifestation determination review and found that her behavior stemmed from her disability. Therefore, this claim is denied.

24. Second, Petitioner's parent asserts that the School Board failed to follow Petitioner's PBIP and IEP on January 10, [redacted]. [redacted] bases this

argument mainly on [redacted] admission that [redacted] utilized a specific technique—the Walk with Me PCM movement—to escort Petitioner out of the cafeteria on January 10, [redacted].

25. 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.

26. 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.*

27. 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.

28. As a threshold matter, Petitioner's parent presented no evidence that the School Board failed to implement Petitioner's IEP. As to the PBIP, [redacted] failure-to-implement argument hinges on the assertion that [redacted] inappropriately employed the Walk with Me PCM technique by placing [redacted] hand on Petitioner's backpack before escorting her out of the cafeteria. This argument fails. As [redacted] testified—and video footage supports—[redacted] utilized several strategies from Petitioner's PBIP during the January 10, [redacted], incident, including relationship building, proximity control, and social skills. [redacted] also reduced reinforcement of Petitioner's behavior by removing her from the cafeteria. Moreover, Petitioner's parent supplied no legal authority establishing that utilizing a district-approved technique not expressly outlined in Petitioner's PBIP constitutes a material implementation failure. *See L.J.*, 927 F.3d at 1211. Thus, this claim fails.

29. Petitioner's parent next argues that the School Board denied [redacted] access to Petitioner's educational records. This claim fails for two primary reasons. First, Petitioner's parent failed to establish that the surveillance videos constitute educational records at all. *See* 34 C.F.R. § 300.611(b) (IDEA regulation adopting the definition of education records under 34 C.F.R. part 99 (the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA); *see also Owasso Indep. Sch. Dist. No. I-011 v. Falvo*, 534 U.S. 426, 434-435 (defining education records under FERPA as institutional records kept by a single custodian, such as a registrar). Second, even if the videos are educational records, Petitioner's parent accessed them on January 15 and

May 28, [redacted]. And, as of June [redacted], Petitioner's public defender has the videos in her possession. Therefore, this claim is denied.

30. Next, Petitioner's parent asserts that the School Board denied [redacted] the opportunity to meaningfully participate in Petitioner's education. As background, Congress has established procedural safeguards to ensure that parents have meaningful input into all decisions impacting their child's education. *See Honig v. Doe*, 484 U.S. 305, 312 (1988). The Eleventh Circuit addressed the issue of predetermination for the first time in *R.L., S.L., individually and on behalf of O.L. v. Miami Dade Cnty. Sch. Bd.*, 757 F.3d 1173 (11th Cir. 2014).

31. In that case, the Eleventh Circuit held that "Predetermination occurs when the state makes educational decisions too early in the planning process, in a way that deprives the parents of a meaningful opportunity to fully participate as equal members of the IEP team." 757 F.3d at 1188. This prohibition arises out of the IDEA's implementing regulation, which "maintains that a child's placement 'must be based on the IEP.'" *Id.* (citing 34 C.F.R. § 300.116(b)). Thus, "the state cannot come into an IEP meeting with closed minds, having already decided material aspects of the child's education program without parent input." 757 F.3d at 1188. *See N.L. v. Knox Cnty. Schs.*, 315 F.3d 688, 694-95 (6th Cir. 2003) (finding no predetermination where school district representatives "recognized that they were to come to the meeting with suggestions and open minds, not a required course of action").

32. However, "'[P]redetermination is not synonymous with preparation,' which the IDEA allows." *M.V. v. Conroe Indep. Sch. Dist.*, CV H-18-401, 2019 WL 193923, at *5 (S.D. Tex. Jan. 15, 2019). Therefore, school-based members of the IEP team may have preformed opinions on what is appropriate for a child's education so long as such opinions do not "obstruct the parents' participation in the planning process." *R.L.*, 757 F.3d at 1188.

33. As the Court explained, to avoid a finding of predetermination, there must be evidence that the School Board was receptive and responsive at all stages to the parents' position, even if it ultimately rejected it. *Id.* at 57. The inquiry into whether predetermination occurred is inherently fact-intensive, but should identify those cases where parental participation is meaningful and those cases where it is a mere formality. *Id.* at 1189.

34. In this case, Petitioner's parent argues that the trespass orders issued against [redacted] precluded [redacted] from meaningfully participating in Petitioner's education. This claim fails for three reasons. First, Petitioner's parent was never trespassed from Petitioner's school, only the School Board's district offices. Second, as the record reflects, despite the trespass orders, Petitioner's parent actively participated in Petitioner's education—[redacted] attended the manifestation determination meeting on January 15, [redacted]; and the IEP meetings on February 10, [redacted], and March 5, [redacted]. In fact, during the March 5, [redacted], meeting, Petitioner's parent stated that [redacted] agreed with the School Board's methods for collecting Petitioner's behavioral data. In short, the record clearly establishes that Petitioner's parent actively participated in Petitioner's education, regardless of the existence of trespass orders.

35. Petitioner's parent next asserts that the School Board retaliated against [redacted] by trespassing [redacted] from School Board property, in violation of Section 504. To establish a prima facie case under Section 504, Petitioner must prove that she: (1) had an actual or perceived disability; (2) qualified for participation in the subject program; (3) was discriminated against only because of her disability; and (4) the relevant program is receiving federal financial assistance. *Moore v. Chilton Cnty. Bd. of Educ.*, 936 F. Supp. 2d 1300, 1313 (M.D. Ala. 2013)(citing *L.M.P. v. Sch. Bd. of Broward Cnty.*, 516 F. Supp. 2d 1294, 1301 (S.D. Fla. 2007)); *see also J.P.M. v. Palm Beach Cnty. Sch. Bd.*, 916 F. Supp. 2d 1314, 1320 (S.D. Fla. 2013).

36. Though unclear, Petitioner's parent appears to base [redacted] Section 504 claim on the trespass orders issued against [redacted]. [redacted] presented no evidence

that the School Board's actions discriminated against Petitioner. Therefore, this claim fails.

37. As [redacted] next claim, Petitioner's parent argues that the School Board failed to issue prior written notices before taking disciplinary action against Petitioner. Title 34 C.F.R § 300.503 lays out the circumstances in which a school district must issue prior written notices. That section provides:

> (a) Notice. Written notice … must be given to the parents of a child with a disability a reasonable time before the public agency—
>
> (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
>
> (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

38. Based on the arguments presented at hearing, Petitioner's parent appears to base this claim on the fact that the School Board did not issue prior written notices before police arrested Petitioner. But because that action was not a proposal—or refusal—to initiate or change the identification, evaluation, or educational placement of Petitioner or the provision of FAPE to Petitioner, no prior written notice was required. And as explained above, Petitioner's suspensions did not constitute a change in placement. As a result, this claim also fails.

39. Finally, Petitioner's parent asserts that the School Board failed to offer a resolution session before the due process hearing. But as the record shows, the parties engaged in resolution sessions on June 25 and July 22, [redacted]. So, this claim is denied.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner failed to satisfy her burden of proof. All requests for relief are DENIED.

DONE AND ORDERED this 8th day of October, 2025, in Jacksonville, Duval County, Florida.

NICOLE D. SAUNDERS
Administrative Law Judge
DOAH Jacksonville Office

Division of Administrative Hearings
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Filed with the Clerk of the
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This 8th day of October, 2025.

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(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).