STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

PALM BEACH COUNTY SCHOOL BOARD,

Petitioner,

vs. Case No. 25-4010E

**,

Respondent.
_____/

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 August 19, 2025.

APPEARANCES

For Petitioner: Laura E. Pincus, Esquire
Palm Beach County School Board
3318 Forest Hill Boulevard, Suite C-331
West Palm Beach, Florida 33406

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

STATEMENT OF THE ISSUE

Whether the student's continued placement at an exceptional student education ("ESE") center/special day school remains the least restrictive environment ("LRE") within the meaning of the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400, *et seq.*

PRELIMINARY STATEMENT

Petitioner filed a request for a due process hearing with DOAH on July 23, 2025. A Case Management Order was issued on July 24, 2025. On August 8, 2025, the undersigned conducted a telephonic scheduling conference with the parties. During that conference, the parties agreed to set the hearing for August 19, 2025.

The final hearing occurred as scheduled. Petitioner presented the testimony of the following witnesses: [redacted], ESE coordinator; [redacted], SEDNET project manager; [redacted], student advocate specialist; [redacted], a family counselor; and [redacted], a program planner. Petitioner's Exhibits 1, 5, and 6 were admitted into evidence. Respondent testified and presented the testimony of the student's parent.

At the conclusion of the hearing, the parties agreed to file the proposed final orders within five business days after the Transcript was filed, and the final order would be issued by September 8, 2025. The Transcript was filed on August 22, 2025. Accordingly, the proposed final orders were due on August 28, 2025. Petitioner filed its Proposed Final Order on August 27, 2025, which the undersigned considered in drafting this Final Order.

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

FINDINGS OF FACT

1. The student is an [redacted] student. She is eligible for ESE services in the categories of Other Health Impairment (OHI) and Speech Impairment (SI). She has also been diagnosed with disruptive mood dysregulation, bipolar disorder, conduct disorder, schizoaffective disorder, and attention-deficit/hyperactivity disorder.

2. The student is prone to elopements, physical aggression, and self-injurious behavior. On one occasion, she left the [redacted] School ([redacted]) campus and made her way beyond the perimeter fence toward Interstate 95, requiring staff intervention to prevent her from entering traffic. In another incident, she ran into the street and was struck by a car, sustaining injuries. The student has been hospitalized under the Baker Act on several occasions and has spent time in a residential treatment facility.

3. The student's attendance has been chronically poor, accumulating over 200 absences since middle school. She struggles to stay focused and complete academic tasks. She requires maximum assistance to complete most assignments, and constant supervision for her safety.

4. The student began high school at a charter school and then transferred to [redacted]. At [redacted], she exhibited significant behavioral issues and had difficulty accessing her education. The student's parent provided consent and enrolled her in [redacted] School ([redacted]) in October [redacted].

5. [redacted] is an ESE center school for students with emotional and behavioral disabilities. The school currently serves 70 students and employs approximately 93 staff members, resulting in a low student-to-staff ratio. [redacted] school classes at [redacted] typically contain five to six students.

6. Students at [redacted] receive weekly individual counseling sessions of 50 minutes and weekly group counseling sessions of 30 minutes. In addition, on-call therapists are available throughout the day to provide immediate therapeutic support as needed.

7. In contrast, [redacted] School, the student's zoned school, enrolls approximately 2,500 to 3,000 students. The campus has an open layout that allows students to move independently between buildings. The school maintains a program for students with emotional and behavioral disabilities, in which participating students attend general education classes and receive additional support from an ESE teacher through a daily social skills class.

8. In April [redacted], the student's parent withdrew consent for placement at [redacted].

9. Based on the foregoing, the student requires the highly structured and therapeutic environment provided at [redacted] to access her education. A comprehensive [redacted] school campus cannot replicate the smaller setting, intensive counseling supports, continuous supervision, and availability of on-call therapeutic and psychiatric services available at [redacted].

10. Thus, the preponderance of the evidence demonstrates that placement at an ESE center school mainstreams the student to the maximum extent appropriate, and, as such, placement at [redacted] is approved.

CONCLUSIONS OF LAW

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

12. 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).

13. The IDEA provides directives on students' placements or education environments in the school system. Specifically, 20 U.S.C. § 1412(a)(5)(A) provides, as follows:

> Least restrictive environment.
>
> (A) In general. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

14. With the LRE directive, "Congress created a statutory preference for educating [disabled] children with [nondisabled] children." *Greer v. Rome City Sch. Dist.*, 950 F.2d 688, 695 (11th Cir. 1991). "By creating a statutory preference for mainstreaming, Congress also created a tension between two provisions of the [IDEA], school districts must both seek to mainstream [disabled] children and, at the same time, must tailor each child's educational placement and program to his special needs." *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036, 1044 (5th Cir. 1989).

15. In *Daniel*, the fifth circuit set forth a two-part test for determining compliance with the mainstreaming requirement:

> First, we ask whether education in the regular classroom, with the use of supplemental aids and services, can be achieved satisfactorily for a given child. *See* § 1412(5)(B). If it cannot and the school intends to provide special education or to remove the child from regular education, we ask, second, whether the school has mainstreamed the child to the maximum extent appropriate.

Daniel, 874 F.2d at 1048.

16. In *Greer*, the eleventh circuit adopted the *Daniel* two-part inquiry. In determining the first step, whether a school district can satisfactorily educate a student in the regular classroom, several factors are to be considered: (1) a

comparison of the educational benefits the student would receive in a regular classroom, supplemented by aids and services, with the benefits she will receive in a self-contained special education environment; (2) what effect the presence of the student in a regular classroom would have on the education of other students in that classroom; and (3) the cost of the supplemental aids and services that will be necessary to achieve a satisfactory education for the student in a regular classroom. *Greer*, 950 F.2d at 697.

17. The preponderance of the evidence demonstrates that the student cannot be satisfactorily educated on a comprehensive [redacted] school campus, even with supplementary aids and services. The student requires therapeutic supports, continuous supervision, and a secure structure, which are available only at [redacted].

18. Additionally, deference should be paid to the educators involved in education and administration of the school system. *A.K. v. Gwinnett Cnty. Sch. Dist.*, 556 Fed. Appx. 790, 792 (11th Cir. 2014) ("In determining whether the IEP is substantively adequate, we 'pay great deference to the educators who develop the IEP.'") (quoting *Todd D. v. Andrews*, 933 F.2d 1576, 1581 (11th Cir. 1991)). As noted in *Daniel*, "[the undersigned's] task is not to second-guess state and local policy decisions; rather, it is the narrow one of determining whether state and local officials have complied with the [IDEA]." *Daniel,* 874 F.2d at 1048. The credible testimony of District staff established that the student's IEP cannot be implemented at a traditional [redacted] school.

19. It is undisputed that the student is not accessing her academic education at the current placement and requires additional supports and services not available in her home-zoned school. The evidence clearly shows that the student's behavioral and safety needs warrant placement at an ESE center school.

20. Placement at [redacted] mainstreams the student to the maximum extent appropriate and complies with the IDEA's LRE mandate. *See Orange Cnty. Sch. Bd. v.* **, Case No. 20-4487E, at *14 (Fla. DOAH Jan. 19, 2021)

(finding that the student's continuous disruptive and aggressive behavior warranted placement at the special day school).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the student's continued placement at an ESE center school is approved.

DONE AND ORDERED this 5th day of September, 2025, in Miami, Dade County, Florida.

SARA M. MARKEN
Administrative Law Judge
DOAH Miami Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 5th day of September, 2025.

COPIES FURNISHED:

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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).