

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

PASCO COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 26-0530E

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Respondent.

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FINAL ORDER

The due process hearing was held on April 9, 2026, via Zoom conference. Administrative Law Judge Jessica Varn, of the Division of Administrative Hearings (DOAH), presided over the hearing.

APPEARANCES

For Petitioner: Amy J. Pitsch, Esquire  
Sniffen & Harmon, P.A.  
123 North Monroe Street  
Tallahassee, Florida 32301

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

STATEMENT OF THE ISSUE

Whether the School Board's psycho-educational reevaluation of the student was appropriate.

PRELIMINARY STATEMENT

On January 28, 2026, the School Board filed a request for a due process hearing (Complaint), seeking to establish that a psycho-educational reevaluation of the student, completed in January [REDACTED], was appropriate.

The student's parent had requested an independent educational evaluation (IEE). As a result, the School Board denied the request and requested a due process hearing.

On February 11, 2026, Respondent filed a "Notice of Insufficiency and Procedural Clarifications," which was denied in an Order on Notice of Insufficiency issued on February 13, 2026. On February 24, 2026, the parties participated in a pre-hearing conference, and they agreed to schedule the hearing on April 9, 2026. The hearing was held as scheduled.

The School Board offered the testimony of [REDACTED], a school psychologist; [REDACTED], Compliance Director; and [REDACTED], Executive Director of Exceptional Student Education (ESE) Services. Respondent testified on her own behalf and offered the testimony of her [REDACTED]; [REDACTED], Senior Supervisor of Student Services; [REDACTED], a school nurse; [REDACTED], Principal; [REDACTED], Social Worker; and [REDACTED]. School Board Exhibits A, D through H, M, and N and Respondent Exhibit 187 were admitted into the record.

At the end of the due process hearing, the parties agreed to file proposed final orders seven days after the transcript was filed and agreed to extend the final order deadline to seven days after the proposed orders were filed. The Transcript was filed on April 22, 2026. Proposed final orders were due on April 29, 2026. The final order deadline was extended to May 6, 2026. Both parties timely filed proposed final orders, which were considered.

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 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. The Findings of Fact that follow do not mention every witness or refer to every exhibit admitted, though the undersigned considered all testimony and reviewed every admitted exhibit.

### FINDINGS OF FACT

1. The student is a [REDACTED] in [REDACTED] and is eligible for ESE services under the categories of Other Health Impaired (OHI) and Specific Learning Disability (SLD). She currently ranks [REDACTED] in her class out of [REDACTED] students.

2. In February [REDACTED], the student's individualized education plan (IEP) team suspected that the student might also be eligible under the SLD category, and the parent agreed. The team sought reevaluation of the student's academic achievement, intellectual/cognitive functioning, Response to Intervention (RTI) data, math calculation, and social development or emotional/behavioral functioning.

3. [REDACTED] conducted [REDACTED] evaluation of the student across two days, on January 31 and March 7, [REDACTED], in her native language. [REDACTED] selected tests to avoid being discriminatory on a racial or cultural basis. [REDACTED] testified that the student performed well, was engaged, took breaks when needed, and [REDACTED] believed the evaluation results were a valid estimate of the student's functioning.

4. [REDACTED] reviewed multi-tiered system of supports (MTSS) data and noted that the student has a history of average and above-average performance in her courses and on statewide assessments.

5. [REDACTED] performed three tests, the first being the Kaufman Assessment Battery for Children, which assesses the cognitive functioning of children ages three to 18. [REDACTED] chose this assessment because it is culturally sensitive and had not been used to assess the student in past rounds of testing. The student's IQ was [REDACTED], in the average range. Across the Kaufman

Assessment Battery for Children subtests, she scored in the average and above average ranges.

6. ██████ next performed the Kaufman Test of Educational Achievement, which assesses the reading, writing, and math skills of individuals ages four to 25. On the reading and writing composites, the student's scores were average, █████ and █████ respectively.

7. On the math composite, the student's scores reflected a weakness. In the math concepts and applications subtest, which is described as word problems, the student scored a █████, which is below average. On the math computation subtest, she scored an █████, also below average. These scores collectively yielded a below average math achievement score of █████. She struggled with money, time telling, adding fractions, solving algebraic equations, and multiplying decimals.

8. Lastly, ██████ administered the Behavioral Assessment Systems for Children, 3rd Edition (BASC), a rating scale completed by teachers and the student's parents. Although ██████ provided the rating scale to the student's █████, █████ never returned the form to ██████. The rating scales were completed by three teachers, two general education and one ESE teacher. The BASC assesses social emotional functioning across many domains. None of the teachers suggested that the student had areas of concern in any social or emotional domains.

9. In summarizing █████ findings, ██████ stated that the student's math performance in school does not match her achievement testing results. The student outperforms her standardized achievement results in her classwork, because she has learned to compensate for her deficits. In class, she can use calculators, math fact sheets, and other tools to assist her. These are not tools available during a standardized achievement assessment.

10. Next, the IEP team convened and reviewed the reevaluation performed by ██████. They found the student eligible under the SLD

category, in addition to her OHI eligibility, based on her math achievement scores.

### CONCLUSIONS OF LAW

11. 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).

12. 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).

13. 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.

14. Florida law, specifically rule 6A-6.03311(6), provides similarly:

(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.

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(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.

15. 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.

16. At issue here is whether Petitioner's psycho-educational reevaluation was appropriate. Reevaluation requirements are set forth in rule 6A-6.0331(7):

(7) Reevaluation Requirements.

(a) A school district must ensure that a reevaluation of each student with a disability is conducted in accordance with rules 6A-6.03011-.0361, F.A.C., if the school district determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation or if the student's parent or teacher requests a reevaluation.

(b) A reevaluation may occur not more than once a year, unless the parent and the school district agree otherwise and must occur at least once every three (3) years, unless the parent and the school district agree that a reevaluation is unnecessary.

(c) Each school district must obtain informed parental consent prior to conducting any reevaluation of a student with a disability.

17. Following rule 6A-6.0331(7), the School Board conducted the psycho-educational reevaluation, based on a suspicion that the student might be eligible under the SLD category. The parent provided consent.

18. The Department of Education has promulgated additional requirements for reevaluations. Rule 6A-6.0331(8), entitled "Additional requirements for evaluations and reevaluations," provides:

As part of . . . any reevaluation, the IEP Team and other qualified professionals, as appropriate, must take the following actions:

(a) Review existing evaluation data on the student, including:

1. Evaluations and information provided by the student's parents;
2. Current classroom-based, local, or State assessments and classroom-based observations; and,

3. Observations by teachers and related services providers.

(b) Identify, on the basis of that review and input from the student's parents, what additional data, if any, are needed to determine the following:

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2. The educational needs of the student;

3. The present levels of academic achievement and related developmental needs of the student;

4. Whether the student needs special education and related services or, in the case of a reevaluation of the student, whether the student continues to need special education and related services; and,

5. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general curriculum.

(c) The group conducting this review may do so without a meeting.

(d) The school district shall administer tests and other evaluation measures as may be needed to produce the data that is to be reviewed under this section.

19. To satisfy its burden of proof, the School Board must also establish that the assessment 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.

20. The School Board presented sufficient evidence to establish that the IEP team determined that new data, in the form of a psycho-educational reevaluation, was necessary to determine whether the student's current needs were being met and whether she met the criteria for SLD eligibility.

21. The School Board presented sufficient evidence to establish that [REDACTED] was knowledgeable and qualified to administer the psycho-educational reevaluation.

22. [REDACTED] conducted the evaluation in the student's customary environment and in her native language. The evaluation included observations of the student, research-based assessments, and a thorough records review. The evaluation provided relevant information to determine the student's needs. Ultimately, the IEP team, based on [REDACTED] report, found the student eligible under the SLD educational category.

23. The School Board met its burden of establishing that the psycho-educational reevaluation was appropriate and in compliance with the IDEA and Florida law.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the School Board's psycho-educational reevaluation was appropriate, and the parent is not entitled to an IEE at public expense.

DONE AND ORDERED this 1st day of May, 2026, in Tallahassee, Leon County, Florida.

  
Case No. 26-0530E

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JESSICA E. VARN  
Administrative Law Judge  
DOAH Tallahassee Office

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Filed with the Clerk of the  
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this 1st day of May, 2026.

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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).