

PRELIMINARY STATEMENT

Petitioner filed a request for an expedited due process hearing (Complaint) on April 7, 2026. The School Board forwarded the Complaint to DOAH the following day. This matter was originally assigned to ALJ Jessica Varn (ALJ Varn). The parties held a resolution session on April 13, 2026, but they did not reach an agreement. On April 23, 2026, ALJ Varn held a telephonic pre-hearing conference. The parties agreed to schedule the final hearing to be held on April 30, 2026.

The hearing proceeded as scheduled. Petitioner's [REDACTED] testified on behalf of [REDACTED] son. Petitioner attempted to call an additional witness; however, the witness required a Spanish interpreter, whose assistance was not secured in advance of the hearing. The undersigned agreed to keep the record open to allow Petitioner to depose the witness and submit the transcript in lieu of the witness's testimony. Petitioner's Exhibits 1 through 4 were admitted into evidence. The School Board presented the testimony of [REDACTED], assistant principal; [REDACTED], Exceptional Student Education (ESE) program specialist; and [REDACTED], school psychologist. Respondent's Exhibits 1 through 4 and 10 were admitted into evidence.

At the conclusion of the hearing, the parties were invited to file proposed final orders at any time before the final order deadline. The parties were also informed that Petitioner would have ten days to conduct the deposition. Subsequently, Petitioner informed the undersigned that Petitioner would not proceed with the deposition. The record was closed, and the undersigned issued an Order on Deadline for Final Order on May 13, [REDACTED], indicating the final order deadline was May 28, [REDACTED]. The parties filed proposed final orders, which were considered in drafting this Final Order.

All references to statutory or regulatory provisions are to the provisions in effect during the relevant time period of this case, when the Complaint was filed. 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. This student is in [REDACTED] grade and is eligible for ESE services under the category of Other Health Impaired. He is diagnosed with attention deficit/hyperactivity disorder (ADHD).

2. The student's ADHD has historically presented as inattentiveness, impulsivity, difficulty with task completion, challenges with self-advocating and requesting assistance, and disruptive classroom behavior.

3. Prior to the incident at issue in this matter, the student had no history of major disciplinary incidents. The student's prior behavioral concerns consisted of minor disruptive behaviors in the classroom. He did not have a history involving incidents of physical aggression or violence.

4. On February 23, [REDACTED], a Monday morning before the start of school, two students engaged in a fight in the school bathroom. While the fight was ongoing, the student in this case, along with three other students, joined the altercation. Five students were fighting one student. At some point, four of the students stopped while the student involved in this case and the victim student kept fighting. A bystander eventually broke up the altercation.

5. An investigation of the incident revealed that the fight was preplanned. Additionally, the victim student had threatened the student online back in November and December of [REDACTED], prior to the incident.

6. Following the incident, the student was suspended for ten days, and the conduct was classified as a Level V offense, the most serious category, under the School Board's Code of Student Conduct. Additionally, the school

administration recommended that the student be assigned to an alternative educational setting.

7. On March 2, [REDACTED], the school convened a Manifestation Determination Review (MDR). The team reviewed the student's individualized education plans (IEP), grades, disciplinary history, attendance records, conduct history, evaluations, and information regarding the incident. The student participated in the MDR. He admitted to his involvement in the incident and expressed remorse and regret. The school psychologist, [REDACTED], also participated in the MDR.

8. [REDACTED] reviewed the student's IEPs, psychoeducational evaluations, conduct grades, and disciplinary history in preparation of the MDR meeting. [REDACTED] concluded that the student's ADHD historically presented through attentional deficits, task completion difficulties, and classroom-related behaviors rather than physical aggression or violence. The incident was determined not to be impulsive because the student was aware of the planned fight and deliberately chose to participate.

9. Based on the information reviewed by the MDR team, the conduct was determined not to be caused by, nor to have a direct and substantial relationship to, the student's disability. At the MDR meeting, the parent agreed with the other members of the IEP team.

10. Petitioner presented no persuasive evidence establishing that the behaviors on February 23, [REDACTED], were a manifestation of the student's ADHD or that the behaviors resulted from the School Board's failure to implement the student's IEP.

CONCLUSIONS OF LAW

11. DOAH has jurisdiction over the subject matter of this proceeding and of the parties. *See* § 1003.57(1)(c), Fla. Stat.; Fla. Admin. Code R. 6A-6.03312(7).

12. Petitioner bears the burden of proof with respect to the issue raised herein. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005).

13. In enacting the Individuals with Disabilities Education Act (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). The statute was 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 depends on each 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).

14. Parents and children with disabilities are given substantial procedural safeguards to ensure that the purposes of the IDEA are fully realized. *See Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 205-06 (1982). Among other protections, parents have a right to 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 “with respect to any matter relating to the identification, evaluation, or educational placement of [their] child, or the provision of a free appropriate public education to such child.” 20 U.S.C. § 1415(b)(1), (b)(3), and (b)(6).

15. School districts have certain limitations on their ability to remove disabled children from their educational placement following a behavioral transgression. The IDEA provides that when a school district intends to place a disabled child in an alternative educational setting for more than 10 school

days, it must first determine that the child's behavior was not a manifestation of his disability. 20 U.S.C. § 1415(k)(1)(C). Under the IDEA's implementing regulations, "[o]n the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the local education authority (LEA) must notify the parents of that decision, and provide the parents the procedural safeguards notice described in § 300.504." 34 C.F.R. § 300.530(h).

16. The necessary inquiry is set forth in 34 C.F.R. § 300.530(e):

Manifestation determination.

(1) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine—

(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

(3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.

17. Generally, if the conduct is deemed a manifestation of the child's disability, the student must be returned to the educational placement from which he or she was removed. 34 C.F.R. § 300.530(f)(1). Additionally, if a behavior intervention plan (BIP) was not in place at the time of the misconduct, the school district must conduct a functional behavior assessment (FBA) and implement a BIP for such child. *Id.*

18. If the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability, the school district may apply the relevant disciplinary procedures in the same manner and duration as would be applied to children without disabilities. 34 C.F.R. § 300.530(c).

19. Petitioner failed to establish that the conduct was caused by, or had a direct and substantial relationship to his ADHD; or that the conduct resulted from the school's failure to implement his IEP. Therefore, Petitioner failed to prove that the student's conduct on February 23, 2026, was a manifestation of his ADHD.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's Complaint is denied, in all aspects.

DONE AND ORDERED this 28th day of May, 2026, in Miami, Dade County, Florida.


Case No. 26-1854EDM

SARA M. MARKEN
Administrative Law Judge
DOAH Miami 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 28th day of May, 2026.

COPIES FURNISHED:

William D. Chappell, General Counsel
(eServed)

Gabrielle L. Gonzalez, Esquire
(eServed)

Bryce D. Milton, Educational Program Director
(eServed)

Karla M. Cejas, Esquire
(eServed)

Dr. Jose Dotres, Superintendent
(eServed)

Petitioner
(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).