

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**,

Petitioner,

vs.

Case No. 25-2637E

SARASOTA COUNTY SCHOOL
BOARD,

Respondent.

_____ /

FINAL ORDER

The due process hearing was held live in Sarasota County on October 16 and 17, 2025, and January 15, 2026. Jessica E. Varn, an administrative law judge at the Division of Administrative Hearings (DOAH), presided over the due process hearing.

APPEARANCES

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

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

STATEMENT OF THE ISSUES

(1) Whether the School Board failed to implement Petitioner's behavior intervention plan (BIP) on April 1, [REDACTED];

(2) Whether the School Board failed to implement Petitioner's individualized education plan (IEP) on April 1, [REDACTED];

(3) Whether the School Board failed to provide to Petitioner's parent Petitioner's educational records; and, if so, whether such failure was a denial of a free appropriate public education (FAPE);

(4) Whether Petitioner is eligible for hospital/homebound instruction;

(5) Whether Petitioner is entitled to a manifestation determination for the incident on April 1, [REDACTED];

(6) Whether Petitioner's hospital/homebound IEP is designed to provide a FAPE;

(7) Whether the School Board failed to evaluate Petitioner in all areas of suspected disability; and

(8) What remedies, if any, are appropriate?

PRELIMINARY STATEMENT

Petitioner filed a request for a due process hearing (Complaint) on May 12, 2025. The School Board forwarded the Complaint to DOAH, and Judge Nicole Saunders was assigned to the case.

On June 2, 2025, the School Board notified Judge Saunders that Petitioner was refusing to attend a resolution session because Petitioner's special education advocate and Americans with Disabilities Act (ADA) aide, [REDACTED], had misled Petitioner by claiming that the Complaint required an expedited track, pursuant to Florida Administrative Code Rule 6A-6.03312. The School Board had not, and was not, waiving the resolution session.

On June 11, 2025, the School Board filed a Motion to Dismiss Due Process Complaint, requesting that Judge Saunders dismiss the Complaint because Petitioner had failed to attend the required resolution session. On June 19, 2025, Judge Saunders issued an Order to Show Cause, requiring Petitioner to show cause why the Complaint should not be dismissed for failure to attend a resolution session.

The next day, Petitioner filed a letter which did not address Petitioner's refusal to attend a resolution session. Judge Saunders scheduled a motion hearing for June 27, 2025. During the motion hearing, Petitioner waived the final order deadline and agreed to attend a resolution session. Also on the day of the motion hearing, Petitioner filed a "Qualified Representative Request from [REDACTED]." The request was denied by Judge Saunders on July 14, 2025.

On July 17, 2025, Judge Saunders held a pre-hearing conference. The parties had attended a resolution session and had not reached a resolution. The parties mutually agreed to schedule the due process hearing on August 28 and 29, 2025.

On August 8, 2025, the case was transferred to the undersigned. On August 27, 2025, Petitioner filed a Motion to Cancel Hearing, stating that Petitioner's [REDACTED] was ill and needed to postpone the hearing. On the same day, the undersigned canceled the hearing and asked the parties to file a status report by September 10, 2025.

On September 10, 2025, [REDACTED] filed a letter stating, in part:

Please schedule October 16-17, 2025 for the expedited due process hearing hand delivered on May 9, 2025. [Petitioner's [REDACTED]] is not withdrawing/canceling this hearing. [REDACTED] will not

cancel even if ■ has to risk ■ life to do the hearing on a gurney with ■ oxygen on. (NOTE: if you dismiss as Amy Pitsch is demanding you to do then our 90-day timeline starts for federal court for the case we are putting together now on the issues of this hearing you are refusing to address).

The School Board agreed to the dates offered by Petitioner, and a Notice of Zoom Hearing was issued for October 16 and 17, 2025. On October 1, 2025, ■■■■■■■■■■, on behalf of Petitioner, filed a “Notice of Hearing by Zoom Conference,” stating that Petitioner’s ■■■■■ needed an ADA accommodation, specifically, ■ requested a live hearing. ■■■■■■■■■■ also wrote:

[Petitioner’s ■■■■■] is very ill and the practice in Florida [sic] that a person of knowledge must not be objected to by opposing counsel the school attorney is unethical and a practice to impede parents from invoking their rights to due process. Plus claiming: “Having reviewed the Motion, it appears that ■■■■■ is not qualified to appear in this proceeding.” When I have been doing hearings for over 40 years. I am appealing to federal court this decision.

■■■■■■■■■■ Free special education advocate [Petitioner’s ■■■■■] ADA aide and [Petitioner’s] person of knowledge under IDEA.

On October 3, 2025, an Amended Notice of Hearing was issued, setting this case for a live hearing. The due process hearing was held as scheduled. The undersigned denied ■■■■■■■■■■ request to be recognized as a qualified representative, as ■■■■■ did not meet the requirements in Florida Administrative Code Rule 28-106.106(4). Petitioner did not rest ■■■■■ case until almost the end of the second day of the due process hearing, so the parties agreed to schedule the third and fourth days of hearing for January 15 and 16, 2026.

On November 21, 2025, the undersigned issued an Order to Show Cause, stating, in part:

After the case was transferred, on October 3, 2025, the undersigned issued an Amended Notice of Hearing. Among other things, the Notice contains an issue statement that lists the eight issues identified in the Complaint. The Notice makes clear that “[t]he deadline for requesting an amendment of this issue statement has expired,” as the deadline for requesting any amendment to the issue statement was 5:00 p.m., Eastern Time, on August 21, 2025, pursuant to a prior Notice of Hearing. On October 16 and 17, 2025, the undersigned partially held a due process hearing. During the hearing, [REDACTED] served as the parent’s designated individual with special knowledge or training with respect to the problems of children with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA). Based on the [REDACTED] disabilities, [REDACTED] also served as an aide pursuant to the Americans with Disabilities Act (ADA). Unfortunately, [REDACTED] conducted [REDACTED] in a substantially disruptive manner.

[REDACTED] consistently made misstatements about the IDEA, instructed the parent to ignore the undersigned’s rulings on matters of substantive law and evidentiary rulings, accused the undersigned of lying to the parent as to the scope of the undersigned’s jurisdiction, and accused a School Board witness of lying as [REDACTED] was being questioned by the School Board’s attorney. [REDACTED] instructed the parent to focus on one issue, a threat assessment, for almost the entirety of Petitioner’s case in chief, despite the undersigned repeatedly telling the parent that the undersigned has no jurisdiction to hear that issue. Rather than focus Petitioner’s case on the issues as presented in the Complaint and the Notice of Hearing, [REDACTED] instructed the parent to ignore the undersigned’s rulings.

At the request of the parties, the remainder of the due process hearing has been continued until January 15 and 16, 2026. Because of [REDACTED] disruptive behavior during the portion of the due process hearing held on October 16 and 17, 2025, the undersigned is concerned that [REDACTED] will again disrupt the due process hearing during the portion of the due process hearing scheduled for January 15 and 16, 2026. Thus, the undersigned has deemed it appropriate to issue this Order to Show Cause to allow the parties the opportunity to show cause why [REDACTED] should not be excluded from the rest of the due process hearing and to address two related issues: (1) whether the undersigned has the legal authority to exclude [REDACTED]—a designated special-knowledge-or-training individual pursuant to the IDEA and an aide pursuant to the ADA—from a due process hearing and, if so, (2) whether the undersigned should exercise that legal authority to exclude [REDACTED] from the rest of the due process hearing because of [REDACTED] prior disruptive conduct.

Both parties responded to the Order to Show Cause, and a motion hearing was held on December 16, 2025, to allow further discussion of the Order to Show Cause. On December 17, 2025, the undersigned issued an Order Excluding Petitioner’s Special Education Advocate and Aide from Remainder of Due Process Hearing, excluding [REDACTED] from any further involvement in this case, and reminding Petitioner’s [REDACTED] that [REDACTED] could bring any other individual, but not [REDACTED], as a special education advocate, and any other individual as an ADA aide for the rest of the due process hearing.

On January 15, 2026, the hearing was completed. Petitioner did not appear for the last day of hearing. The Transcript of the due process hearing

memorializes the identity and roles of each witness and the exhibits admitted into the record.

Proposed final orders were due 14 days after the transcript was filed, and the final order deadline was extended to 14 days after the proposed orders were filed. The Transcript was filed on February 3, 2026. Proposed final orders were due on February 17, 2026, and the deadline for this Final Order was extended to March 3, 2026. The School Board filed a Proposed Final Order, which was considered in preparing this Final Order.

The undersigned considered all witness testimony and reviewed every exhibit; but not every witness will be referred to or every document referenced in the Findings of Fact that follow.

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 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. Petitioner was a [REDACTED]-grade student at [REDACTED] School during the [REDACTED]/[REDACTED] school year. He is eligible for exceptional student education (ESE) services under the Other Health Impairment and Specific Learning Disability, and he received the related service of occupational therapy.

2. Petitioner's IEP, in effect from August [REDACTED] through May 2, [REDACTED], contained goals in reading, writing, and social/emotional behavior. The IEP provided accommodations that included 50 percent extra time for tests and assignments, oral presentation, verbal encouragement, frequent breaks, repeating and clarifying directions, flexible settings, and increased

opportunity for movement. He received specially designed instruction weekly consisting of instruction in social and personal skills, direct instruction in reading, direct instruction in writing, as well as 30 minutes of occupational therapy.

3. Petitioner also had a BIP targeting the impeding behavior of classroom disruption. This behavior, as defined by the plan, consisted of calling out, walking around during instruction, break dancing, talking to peers during class, making noises, talking to himself, tapping the desk, and crawling on the floor; these behaviors were observed to occur when Petitioner had been asked to take notes or to complete his work. The plan required staff to prompt Petitioner to ask for help and to praise Petitioner if he requested a break rather than engaging in the target behaviors.

4. At a meeting held with the parent and student on January 13, [REDACTED], staff issued Petitioner a cooldown pass he could use to leave the classroom and access the school counselor or his behavior coach, to provide Petitioner another layer of social-emotional support.

5. During the spring [REDACTED] term, Respondent conducted a psychoeducational evaluation, a language and communication skills evaluation, and an auditory processing evaluation of Petitioner. The auditory processing evaluation was conducted at the request of the student's advocate. These evaluations assessed Petitioner in all areas of suspected or known disability.

6. During art class on April 1, [REDACTED], Petitioner made a threat (a gun gesture) that was reported by fellow students. Petitioner admitted that he made the gesture as an April Fool's joke. School staff conducted a threat assessment of Petitioner, deemed the threat "low and closed," and declined to discipline Petitioner based on the incident.

7. As part of the threat assessment process, the sheriff's department performed a weapons check at Petitioner's home. Petitioner's [REDACTED] was

cooperative during the weapons check. Neither Petitioner nor his [REDACTED] were arrested.

8. During a meeting on April 7, [REDACTED], to conduct the threat assessment related to the gun gesture, Petitioner's [REDACTED] shared that [REDACTED] believed Petitioner had been bullied by students in art class. An Assistant Principal investigated this claim by interviewing the accused students separately and obtaining their written statements. During the investigation, the accused students said that Petitioner had cussed at them; the Assistant Principal did not find evidence that Petitioner had been bullied. Staff provided Petitioner's [REDACTED] with the Hope Scholarship paperwork, but [REDACTED] did not move Petitioner to another school.

9. Petitioner offered no evidence that the teacher in his class was aware of the gun threat at the time it was made. In fact, the evidence indicates that the teacher was not even aware of the gun gesture such that [REDACTED] could have applied any interventions in that moment, rather it was seen and heard by students.

10. Petitioner offered no persuasive evidence establishing that the staff failed to implement Petitioner's BIP on April 1, [REDACTED].

11. Petitioner offered no evidence establishing that staff failed to implement Petitioner's IEP on April 1, [REDACTED].

12. In May [REDACTED], the IEP team reviewed the evaluations that had been completed and found the student eligible for hospital/homebound services. Thus, this issue is not in dispute.

13. Petitioner offered no persuasive evidence that the School Board failed to provide Petitioner's parent educational records.

14. Petitioner offered no evidence establishing that Petitioner was entitled to a manifestation determination for the incident on April 1, [REDACTED].

15. Petitioner offered no evidence establishing that the IEP is not designed to provide FAPE.

16. Petitioner offered no persuasive evidence showing that the School Board failed to evaluate in all areas of suspected eligibility.

CONCLUSIONS OF LAW

17. DOAH has jurisdiction over the parties and the subject matter of this proceeding under sections 1003.57(1)(b) and 1003.5715(5), Florida Statutes, and rule 6A-6.03311(9)(u).

18. The burden of proof is on Petitioner to prove the claim by a preponderance of the evidence. *See Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *Devine v. Indian River Cnty. Sch. Bd.*, 249 F.3d 1289, 1291 (11th Cir. 2001).

19. Congress passed the Individuals with Disabilities Education Act (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).

20. In enacting the IDEA, Congress intended to address inadequate educational services offered to children with disabilities and 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).

21. The School Board, a local educational agency under 20 U.S.C. § 1401(19)(A), receives federal IDEA funds and must comply with certain provisions of that Act. *See* 20 U.S.C. § 1401, *et seq.*

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

205-06 (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).

23. Here, Petitioner has raised seven alleged violations of the IDEA, but provided no persuasive evidence of any of them. Petitioner focused on one issue, the threat assessment conducted after the April 1, [REDACTED], incident, which the undersigned has no authority to hear.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that all requests for relief are DENIED.

DONE AND ORDERED this 2nd day of March, 2026, in Tallahassee, Leon County, Florida.

~~Case No. 25-2637E~~

JESSICA E. VARN
Administrative Law Judge
DOAH Tallahassee Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 2nd day of March, 2026.

COPIES FURNISHED:

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Terry Connor, Superintendent
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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).