

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

MIAMI-DADE COUNTY SCHOOL
BOARD,

Petitioner,

vs.

Case No. 25-4851E

**,

*AMENDED AS TO ORDER
SECTION ONLY

Respondent.

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AMENDED 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 December 18, 2025.

APPEARANCES

For Petitioner: Gabrielle L. Gonzalez, Esquire
Miami-Dade County School Board
Suite 430
1450 Northeast Second Avenue
Miami, Florida 33132

For Respondent: Roberto Cruz, Esquire
Southern Legal Counsel, Inc.
1229 Northwest Twelfth Avenue
Gainesville, Florida 32601

STATEMENT OF THE ISSUE

Whether the School Board's occupational therapy (OT) evaluation was appropriate.

PRELIMINARY STATEMENT

The School Board filed a request for a due process hearing (Complaint) on September 8, 2025. On October 1, 2025, the undersigned held a pre-hearing conference, and the parties agreed to schedule the due process hearing on December 18, 2025. On December 11, 2025, Petitioner filed a Notice of Partial Settlement and Request to Revise Notice of Hearing Issues (Notice)—Petitioner’s initial Complaint related to an OT evaluation and a speech and language evaluation. Petitioner’s Notice indicated that the parties settled the issue regarding the speech and language evaluation. On December 11, 2026, the undersigned issued an Amended Notice of Hearing and held the final hearing as scheduled.

The School Board presented testimony from the following witnesses: [REDACTED], department chair of Occupational and Physical Therapy, and [REDACTED], occupational therapist. Respondent presented testimony of the student’s parent and [REDACTED], speech-language pathologist (SLP). Petitioner’s Exhibits 1 through 5 were admitted into evidence. Respondent’s Exhibits 1, 2, 10, 11A, and 12 were admitted into evidence.

At the end of the due process hearing, the parties agreed to file proposed final orders 20 days after the transcript was filed, and the final order would be issued 20 days after the proposed final orders were filed. The Transcript was filed on January 26, 2026. Accordingly, proposed final orders were due on February 17, 2026, and the Final Order is due on March 9, 2026. Both parties timely filed proposed final orders, which were considered in the drafting of this Final Order.

Unless otherwise indicated, all rule and statutory references are to the versions in effect at the time the School Board performed the reevaluations at issue. For stylistic convenience, the undersigned uses male pronouns when

referring to the student. The male pronouns are neither intended, nor should be interpreted, as a reference to the student's actual gender.

FINDINGS OF FACT

1. The student is a [REDACTED] grader who is eligible for exceptional student education (ESE) under the category of Autism Spectrum Disorder (ASD).

2. The student previously attended school in Georgia before transferring in the fall of [REDACTED]. The School Board convened a transfer Individualized Education Plan (IEP) meeting on September 14, [REDACTED]. As required, the School Board sought consent to evaluate the student to determine eligibility for ESE in Florida.

3. On November 9, [REDACTED], the student's parent provided consent for an initial evaluation. During the same meeting, the parent expressed concerns about the student's difficulty processing sensory information, difficulty initiating tasks, and his ability to remain on task. The parent then signed consent for an OT evaluation.

4. [REDACTED] chairs the School Board's Department of Occupational and Physical Therapy. [REDACTED] holds bachelor's, master's, and doctoral degrees in occupational therapy and has over 40 years of experience as a school-based occupational therapist.

5. [REDACTED] testified regarding the components and requirements of school-based OT evaluations. The evaluation aims to examine how the student functions in the school environment. OT evaluations typically include skilled observations, teacher interviews, and assessment of performance skills. The evaluator assesses how the student performs in areas such as fine motor, gross motor, visual-motor, visual-perception, daily living, and sensory processing skills. A comprehensive evaluation relies on multiple data points. These can include school records, teacher interviews, direct one-to-one assessment with the student, and observations across different school settings.

6. The evaluator does not need to use standardized tools in an OT evaluation, unless the therapist requires additional data in a specific area of concern.

7. ██████████ conducted the OT evaluation in this case. ██████████ has worked as a licensed occupational therapist since ██████. ██████ initially understood that the student needed an evaluation because of concerns about sensory disconnection and difficulty processing sensory information.

8. After speaking to his teachers, ██████████ then understood that task initiation and completion were the student's main concerns. ██████ reviewed the student's educational records, including his IEP from Georgia, which showed he had met his OT goals for handwriting and cutting shapes.

9. ██████ observed the student twice in various settings, including his classroom, physical education class, and the OT room. During these observations, the student was friendly and engaged. ██████ assessed his fine motor skills and visual motor skills through worksheets and activities.

10. ██████████ assessed the student's musculoskeletal system. The student demonstrated functional muscle strength. He maintained an upright posture while completing school tasks, navigated the school stairs, and carried school items such as his book bag and lunch. Similarly, ██████ found no concerns about his fine motor skills or visual motor skills. The student demonstrated functional fine motor skills and visual motor skills for school tasks, including writing, copying, and cutting. The only concern involved the student's desire to rush through tasks so he could return to his preferred physical education class.

11. Additionally, the student demonstrated adequate visual perceptual skills. ██████████ found no concerns regarding his self-help skills, such as toileting and feeding. His social and behavioral skills also appeared appropriate. ██████████ observed the student socializing with classmates during class and while heading towards lunch.

12. The student generally demonstrated appropriate sensory processing.

██████████ made the following findings regarding his sensory processing:

Sensory Processing: Level of arousal/Attending skills: alert but may vary in levels of attention.

Auditory Processing/Direction Following: Follows 1-2 step verbal directions. No reports of auditory sensitivity such as not tolerating alarms at school.

Observed awareness of clock ticking during assessment but was able to return to task.

Proprioceptive system: Functional pencil pressure.

Proper posture, no observed leaning on desk. Good body awareness of position with vision occluded.

Vestibular system: Remains seated in his chair without seeking movements.

Self-regulation/Emotional Control: No reports of aggressive behaviors. May be upset or rushes through a task if taken out of a preferred setting/activity. Tactile: No reports of tactile aversions in school such as glue.

13. ██████████ evaluation showed that the student's attention varied at times, and he had difficulty staying on task. In the classroom, he needed verbal reminders to initiate and remain on task. During the evaluation, he needed cues to refrain from rushing through activities, and reminders to flip pages to continue the tasks.

14. In ██████████ professional opinion, ██████████ credibly testified that ██████████ assessments and observations provided sufficient information to determine the student's needs, and ██████████ did not need to perform any further assessments. ██████████ possesses the proper training and knowledge to administer the evaluation. ██████████ conducted the evaluation in the student's native language and in a manner most likely to yield accurate information on his functional abilities. The results are a valid measure of the student's abilities.

15. ██████████ completed the evaluation on February 1, ██████████. The IEP team discussed the results at a meeting on April 8, ██████████. Based on the

evaluation, the IEP team determined the student needed 30 minutes of OT services per month to improve his task initiation and completion skills.

16. Respondent's parent disagreed with the OT evaluation and requested an independent educational evaluation (IEE) at the School Board's expense.

17. The parent disagreed because the School Board's evaluation did not include a standardized sensory assessment, such as the Sensory Processing Measure (SPM). The SPM is a recognized tool for assessing sensory needs in a school setting and relies on questionnaires completed by teachers and/or parents. In certain cases, the assessment yields unreliable results because individuals completing the questionnaires may exaggerate or minimize their responses, or interpret the student's behavior differently. ██████████ concluded that ██████████ evaluation remained comprehensive without the SPM, and the undersigned agrees.

18. In sum, the greater weight of the evidence demonstrated that the occupational therapy evaluation was appropriate.

CONCLUSIONS OF LAW

19. 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).

20. 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).

21. 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.

22. Florida law, specifically rule 6A-6.03311(6), provides similarly, as follows:

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.

* * *

(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.

23. 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.

24. To satisfy its burden of proof, the School Board must establish that the assessments 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.

25. Based on the above findings of fact, the School Board proved that its OT evaluation complied with rule 6A-6.0331(5) and the IDEA. A trained, knowledgeable professional conducted the evaluation and gathered reliable, comprehensive information about the student's educational needs.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's OT evaluation was appropriate and the student is not entitled to an IEE at public expense.

DONE AND ORDERED this 6th day of March, 2026, in Miami, Dade County, Florida.


Case No. 25-4851E

SARA M. MARKEN
Administrative Law Judge
DOAH Miami Office

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Filed with the Clerk of the
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this 6th day of March, 2026.

COPIES FURNISHED:

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Dr. Jose Dotres, Superintendent (eServed)	Respondent (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).