STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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Petitioner,

vs. Case No. 25-5366E

PINELLAS COUNTY SCHOOL BOARD,

Respondent.
_____/

FINAL ORDER

The due process hearing was held, by agreement of the parties, via Zoom conferencing on March 24, 2026. Jessica E. Varn, an Administrative Law Judge with the Division of Administrative Hearings (DOAH), presided over the hearing.

APPEARANCES

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

For Respondent: Terry Joseph Harmon, Esquire
Sniffen & Harmon, P.A.
123 North Monroe Street
Tallahassee, Florida 32301

STATEMENT OF THE ISSUE

Whether the School Board's recommended placement for the student is the lease restrictive environment (LRE).

PRELIMINARY STATEMENT

Petitioner filed a request for a due process hearing (Complaint) on or about October 3, 2025. The School Board promptly referred the Complaint to DOAH. On October 30, 2025, Petitioner filed an Amended Complaint.

After consultation with the parties, the undersigned scheduled a pre-hearing conference for November 5, 2025. The parties agreed to have the case assigned to an alternative dispute resolution (ADR) judge. The ADR session was held on December 8, 2025; but the parties reached an impasse.

On December 12, 2025, Petitioner filed an Amended Complaint. The parties attended a resolution session on February 3, 2026, and were unable to reach a settlement.

The parties attended a second pre-hearing conference on February 6, 2026, wherein they agreed to schedule the due process hearing on March 25 and 26, 2026, via Zoom conferencing. Petitioner next requested that the hearing dates be rescheduled for March 24 and 25, 2026, which was granted.

The due process hearing was held as scheduled. Petitioner presented the testimony of [redacted], the student's neighbor; [redacted], the student's Sunday School Teacher; [redacted], the student's Aunt; and the student's [redacted]. Petitioner's Exhibits A through P were admitted into the record.

After Petitioner rested, the School Board moved to dismiss the Complaint for failure to meet the burden of proof. The Motion was granted, at the hearing, and this Final Order memorializes the decision.

All of the witnesses' testimony was considered and all exhibits were reviewed, although they may not be referred to in the Findings of Fact below.

Unless otherwise indicated, all rule and statutory references are to the versions in effect during the relevant period. For stylistic convenience, the undersigned uses female pronouns when referring to the student. The female 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]-year-old, [redacted] student, who is eligible for exceptional student education (ESE) services under the eligibility category of Autism Spectrum Disorder (ASD). She also receives related services in occupational and language therapy.

2. In [redacted], and at the beginning [redacted], the student spent a majority of the school day in a general education setting. The student's maladaptive behaviors have been assessed with a functional behavior assessment, and a behavioral intervention plan has been developed for her. At the end of the [redacted] year, the individualized education plan (IEP) team recommended that the student attend Extended Year Services (ESY), but the family declined.

3. Petitioner presented no evidence establishing the proposed placement, or the alleged inappropriateness of the proposed placement. Because Petitioner failed to meet her burden of proof the Complaint was dismissed.

CONCLUSIONS OF LAW

4. 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 Florida Administrative Code Rule 6A-6.03311(9)(u).

5. 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).

6. 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).

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

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

9. 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 a free and appropriate public education (FAPE). *See* 20 U.S.C. § 1415(b)(1), (b)(3), & (b)(6).

10. In the Complaint, Petitioner asserts that the School Board failed to provide the student with an appropriate location, or placement, in the LRE.

11. The IDEA provides directives on students' placements or educational environments in the school system. Title 20 U.S.C. § 1412(a)(5)(A) provides:

> Least Restrictive Environment.
>
> 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.

12. Under the IDEA's implementing regulations, states must have in effect policies and procedures to ensure that public agencies in the state meet the LRE requirements. 34 C.F.R. § 300.114(a). Additionally, each public agency must have a continuum of alternative placements available to meet the needs of children with disabilities for special education and related services. 34 C.F.R. § 300.115. Florida's Department of Education has enacted rules to comply with the LRE mandate. *See* Fla. Admin. Code R. 6A-6.03028(3)(i) and 6A-6.0311(1).

13. In determining the educational placement of a child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parent(s), and other persons knowledgeable about the child; the meaning of the evaluation data; and the placement options. 34 C.F.R. § 300.116(a)(1). Additionally, the child's placement must be determined at least annually, based on the child's IEP, and as close as possible to the child's home. 34 C.F.R. § 300.116(b).

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) (emphasis added).

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.

Id. at 1048.

16. The Eleventh Circuit has adopted the *Daniel* two-part inquiry. *See Greer*, 950 F.2d at 697.

> In determining the first step, whether a school district can satisfactorily educate a student in the regular classroom, several factors are to be considered, including a comparison of the educational benefits the student would receive in a regular classroom, supplemented by aids and services; what effect the presence of the student in a regular classroom would have on the education of other students in that classroom; and the cost of the supplemental aids and services that will be necessary to achieve a satisfactory education for the student in a regular classroom.

Id.

17. Moreover, deference should be paid to those 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.

18. Applying these principles here, Petitioner failed to present any competent substantial evidence establishing the School Board's recommended placement, or that the School Board's recommended change in placement, fails to meet the student's needs.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's Complaint is dismissed for failure to meet the burden of proof, and all relief is DENIED.

DONE AND ORDERED this 25th day of March, 2026, in Tallahassee, Leon County, Florida.

JESSICA E. VARN
Administrative Law Judge
DOAH Tallahassee Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 25th day of March, 2026.

COPIES FURNISHED:

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William D. Chappell, General Counsel (eServed)	Amy J. Pitsch, Esquire (eServed)
Kevin K. Hendrick, 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).