

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

DUVAL COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 25-0868E

\*\*,

Respondent.

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**FINAL ORDER**

This due process hearing was held, by agreement of the parties, on April 29, 2025. Administrative Law Judge Jessica E. Varn presided over the hearing, which was held via Zoom conference.

**APPEARANCES**

For Petitioner:	Kelly Hebden Papa, Esquire Tiffany Douglas Pinkstaff, Esquire Office of General Counsel 117 West Duval Street, Suite 480 Jacksonville, Florida 32202
For Respondent:	Maria Cammarata, Esquire Cammarata & Cammarata, P.L. 2831 East Oakland Park Boulevard, Suite #9 1056 Fort Lauderdale, Florida 33306

**STATEMENT OF THE ISSUES**

Whether the School Board's language evaluation of the student was appropriate; and, if found to be inappropriate, is the parent entitled to an independent educational evaluation (IEE)?

## PRELIMINARY STATEMENT

The School Board filed a request for a due process hearing with the Division of Administrative Hearings (DOAH) on February 13, 2025. A pre-hearing telephonic conference was held with the parties on March 4, 2025. The parties agreed to schedule the virtual hearing on April 29, 2025. On April 23, 2025, Respondent filed a Request for Clarification. A second pre-hearing telephonic conference was held on April 25, 2025.

The due process hearing was held on the agreed-upon date. At the hearing, School Board Exhibits 2, 3, and 9 through 11 were admitted; and Respondent Exhibit 7 was admitted. The School Board presented the testimony of Deanna Newell, a school psychologist; and Rachel Whorton, a speech and language pathologist. Respondent presented the testimony of the student's mother and Udyss Romano, a special education advocate. The Findings of Fact will not address each witness's testimony or every exhibit entered into the record, but all testimony was considered and all exhibits were reviewed in preparing this Final Order.

At the conclusion of the due process hearing, the parties agreed to file proposed final orders within 14 days of the Transcript's filing and to extend the Final Order deadline to 14 days thereafter. The Transcript was filed on May 21, 2025. Thus, the parties' proposed final orders were due on June 4, 2025, and the Final Order deadline was extended to June 18, 2025. Both parties filed timely proposed final orders, which were considered in preparing this Final Order.

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 reference to the student's actual gender.

### FINDINGS OF FACT

1. The student is a [REDACTED] schooler, who is eligible for exceptional student education (ESE) services.

2. In May [REDACTED], the student's individualized education plan (IEP) team gathered to plan for a reevaluation of the student. During this process, the parents provided a private speech and language evaluation.

3. The IEP team opted to accept and review the private speech and language evaluation to ensure it was appropriate. This task was delegated to [REDACTED]. [REDACTED] reviewed the private speech and language evaluation and found it appropriate. [REDACTED] never met with the student and never administered any speech and language assessments to the student. [REDACTED] testified that [REDACTED] never conducted a language evaluation of this student.

4. [REDACTED] did, however, gather more speech and language data needed for a complete reevaluation; specifically, [REDACTED] gathered input from the teachers and parents, utilizing the CELF-5 Observational Rating Scale.

5. In January [REDACTED], the parent requested an IEE in language, and a month later, the School Board filed this request for a due process hearing.

6. The School Board has not conducted a language evaluation of this student, a prerequisite for awarding Respondent a publicly funded IEE in language.

### CONCLUSIONS OF LAW

7. DOAH has jurisdiction over the parties and the subject matter of this proceeding. *See* §§ 1003.57(1)(b) and 1003.5715(5), Fla. Stat. *See also* Fla. Admin. Code R. 6A-6.03311(6) and (9).

8. The Florida K-20 Education Code requires school boards to provide an "appropriate program of special instruction, facilities, and services for [ESE]

students as prescribed by the State Board of Education as acceptable.” §§ 1001.42(4)(l) and 1003.57, Fla. Stat.

9. This mandate in Florida’s Education Code is necessary for the State to receive federal funding under the Individuals with Disabilities Education Act (IDEA), which requires, 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); *see also J.P. v. Cnty. Sch. Bd of Hanover Cnty., Va.*, 516 F.3d 254, 257 (4th Cir. 2008) (“Under the IDEA, all states receiving federal funds for education must provide disabled school children with a ‘free appropriate public education.’”).

10. The IDEA and its implementing regulations grant a parent of a child with a disability the right to obtain an IEE of the child at the public’s expense in some cases. *See* 34 C.F.R. § 300.502(b); Fla. Admin. Code R. 6A-6.03311(6).

11. Title 34 C.F.R. § 300.502(b) sets out the circumstances where a parent has the right to an IEE at public expense. That section provides the following:

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*.

(emphasis added). *See also* Fla. Admin. Code R. 6A-6.03311(6) (laying out the procedure for IEEs under Florida law).

12. Thus, as explained above, a school board need not provide a publicly funded IEE simply because a parent requests it. Instead, the school board may initiate a due process hearing to demonstrate, by a preponderance of the evidence, that its own evaluation is appropriate. *T.P. v. Bryan Cnty. Sch. Dist.*, 792 F.3d 1284, 1287 n.5 (11th Cir. 2015).

13. Here, the undisputed evidence establishes that the School Board never administered a language evaluation. Thus, there was no need to request this due process hearing when the family requested an IEE in language. There was no evaluation to disagree with.

14. As the pre-requisite for a publicly funded IEE is not met, Respondent is not entitled to one.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that because the School Board has yet to conduct a language evaluation of the student, Respondent is not entitled to an IEE in language. All other requests for relief, from either party, are DENIED.

DONE AND ORDERED this 11th day of June, 2025, in Tallahassee, Leon County, Florida.

  
Case No. 25-0868E

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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 11th day of June, 2025.

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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).