STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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Petitioner,

vs. Case No. 17-2677E

PALM BEACH COUNTY SCHOOL BOARD,

Respondent.
_____/

FINAL ORDER

A final hearing was held in this case before Todd P. Resavage, an Administrative Law Judge of the Division of Administrative Hearings (DOAH), on June 21 and 22, 2017, in West Palm Beach, Florida.

APPEARANCES

For Petitioner: Jamison Jessup, Qualified Representative
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DeBary, Florida 32713

For Respondent: Laura E. Pincus, Esquire
Palm Beach County School Board
Post Office Box 19239
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STATEMENT OF THE ISSUE

Whether the individualized education plan (IEP) promulgated on March 13, 2017, was reasonably calculated to provide Petitioner a free appropriate public education (FAPE) where the

proposed placement was not in a [redacted] center, as requested by Petitioner.[1/]

PRELIMINARY STATEMENT

On May 8, 2017, Respondent School Board received Petitioner's due process complaint. Petitioner's complaint was forwarded to DOAH on May 9, 2017, and assigned to the undersigned.

On May 18, 2017, the final hearing was scheduled for June 21 and 22, 2017. On June 19, 2017, the parties filed a Joint Statement of Undisputed Facts, which required no additional proof at hearing. To the extent relevant, said facts are incorporated in this Final Order.

The final hearing was conducted as scheduled. The final hearing Transcript was filed on July 11, 2017. The identity of the witnesses and exhibits and the rulings regarding each are as set forth in the Transcript. At the conclusion of the hearing, the parties stipulated that proposed final orders would be filed within 14 days of the filing of the transcript, and that the final order would be issued within 28 days of the filing of the transcript. The parties filed proposed final orders, which have been considered in issuing this Final Order.

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

[redacted] pronouns in the Final Order when referring to Petitioner. The [redacted] pronouns are neither intended, nor should be interpreted, as a reference to Petitioner's actual gender.

FINDINGS OF FACT

1. In the 2016-2017 school year, Petitioner was an [redacted] grade student enrolled at School A, a public [redacted] school in Palm Beach County, Florida. Petitioner is [redacted] years old.

2. At all times relevant to this matter, Petitioner has been eligible to and has received exceptional student education (ESE) services under the [redacted] eligibility category.[2/]

3. Petitioner has been diagnosed, at various times, with [redacted], [redacted], and [redacted]. The record evidence is unclear as to whether all three diagnoses are current. It is undisputed that Petitioner is not currently taking any medication with respect to those diagnoses.

4. Petitioner is a [redacted] student, with a previously obtained IQ score in the [redacted] range. Notwithstanding [redacted] [redacted] intelligence, Petitioner is significantly underperforming. As of February 21, 2017, Petitioner's class rank was [redacted] out of [redacted]; [redacted] GPA was [redacted]; and [redacted] had earned [redacted] credits out of [redacted] attempted.

5. Petitioner's lack of academic success is not attributable to [redacted] [redacted] intelligence, the complexity of [redacted]

course load, the methodology of instruction, or the competency of [redacted] teachers. As discussed in greater detail below, [redacted] present lack of success is due to [redacted] lack of participation, passive defiance, and failure to attend class.

6. Petitioner's current IEP was developed on March 9, 10, and 13, 2017. The IEP documents that Petitioner's behavior impedes [redacted] learning or the learning of others. The March 2017 IEP sets forth Petitioner's present levels of academic achievement and functional performance, in pertinent part, as follows:

> [Petitioner] reads fluently and [redacted] literal comprehension is close to grade level but [redacted] inferential comprehension is below grade level. According to [redacted] data, [Petitioner] is comprehending at a [redacted] grade level and [redacted] vocabulary is at a [redacted] grade level. The teacher does not feel that it is an accurate representation of [redacted] abilities. [Petitioner] has admitted to "Christmas Treeing" the [redacted] assessments. [Petitioner] does not complete all assignments in Language Arts class.
>
> [Petitioner] can write a five paragraph essay in response to an expository or persuasive writing prompt. [redacted] includes a thesis and at least three supporting details. [redacted] can develop a good argument but does not expand on the topic. [redacted] sentences can be complex and compound with grade level vocabulary. [Petitioner] tends to avoid all tasks.
>
> [Petitioner] is working on math skills appropriate to grade level standards. [redacted] is very capable and the math teachers frequently reminds [Petitioner] that [redacted] must maintain attention to demonstrate

mastery of content. [Petitioner] is currently [redacted] math due to [redacted] lack of completing assignments. Math teachers have noted [redacted] is quite capable of proficiency in [redacted] school math classes when [redacted] is present and participating. The teacher noted a decline in work completion and efforts since October 2016.

[redacted] can be engaging with preferred adults. [redacted] often times makes promises that [redacted] will improve [redacted] performance in school, yet has not followed through on these vows. [redacted] teachers report that [redacted] is not motivated or attentive to instruction. [redacted] either puts [redacted] head down to sleep or plays with [redacted] cell phone. [redacted] avoids academic tasks/does not complete assignments in all classes.

[Petitioner] is a capable student and catches on quickly. [Petitioner] does enjoy the 1:1 attention and interaction with the teacher. [redacted] can work well when motivated but often will not participate in class activity or to [sic] do the opposite of what [redacted] is asked to do. Demonstrates difficulty with organization skills and completing homework assignments. On at least 4 separate occasions [redacted] has left campus without permission. [redacted] has been defiant at times, not following rules, and not giving up cell phone.

[Petitioner] is interested in law enforcement and forensics. [redacted] gets along well with most of [redacted] peers. [redacted] enjoys playing football. [redacted] is observant and has a subtle sense of humor. [redacted] is quite capable of being a very good student and [redacted] knows what needs to be done but sometimes chooses not to follow through on school work.
[Petitioner's] impulsiveness, inattentiveness, anxiousness, failure to initiate and complete assignments, and

> distractibility impacts [redacted] progress in the general education setting.

7. The March 2017 IEP provides goals to address Petitioner's areas of concern. Regarding, redacted attendance, the IEP provides that Petitioner will attend school with no more than one unexcused absence per month. This goal was to be measured by school attendance records and parent communication. Additionally, it provides a goal to address redacted independent functioning, providing that Petitioner will complete academic tasks with no more than two or fewer verbal prompts or reminders per assignment and that redacted will have materials necessary for classroom assignments. These goals were to be measured by data collection, gradebooks, and work samples.

8. To address redacted social-emotional behavior, the March 2017 IEP provided a goal that Petitioner will remain in redacted assigned area with no more than two verbal prompts or redirections and that when asked to either put redacted cell phone away or provide to a staff member, redacted will comply. These goals were to be measured by attendance records and teacher and staff observations and data collection via disciplinary records.

9. The March 2017 IEP provided the following accommodations, modifications, aids and services: cue to task/redirect; up to one additional day to complete assignments; positive verbal redirection; alternate setting for assessments;

check for clarification of directions; optimal seating away from distractions; allow use of word processor for lengthy assignments; 50 percent additional time for classroom assessments; hard copy of notes and study guides; break large assignments into smaller pieces; and an Individualized Behavior Intervention Plan.

10. Pursuant to the March 2017 IEP, Petitioner was to receive direct instruction in learning strategies one period per day and assistance from a support facilitator in [redacted] regular education classes (on a weekly basis). The IEP also provided for Petitioner to receive weekly counseling. Concerning placement, the March 2017 IEP proposed that Petitioner would continue in a [redacted] class environment, spending [redacted] of the school day with nondisabled peers.

11. It is undisputed that Petitioner's chronic failure to attend school is a significant contributor to [redacted] lack of educational success. When asked to describe [redacted] attendance pattern, Petitioner's mother testified that, "[i]t will probably be easier to count the days that [redacted] has gone to school and attended than it would be to give a number of the days that [redacted] missed or the classes that [redacted] missed."

12. In addition to Petitioner's failure to regularly avail [redacted] of the opportunity to attend school, when [redacted] does attend, despite [redacted] [redacted] capacity, Petitioner frequently

chooses to not engage in instruction (by placing [redacted] head on the table) or complete the requisite assignments. Further, when attending school [redacted] will often leave the classroom under the pretext of getting water or using the bathroom, and not return timely. It is further undisputed that another significant distractor and the source of many of [redacted] disciplinary issues is the inappropriate use of [redacted] cell phone in the classroom.

13. There is no credible evidence that Petitioner is engaged in the use of illegal drugs or alcohol. Petitioner has never been arrested or been involuntarily committed. Although Petitioner frequently uses coarse language when speaking with adults, there is no evidence that Petitioner has been aggressive (verbally or physically) with school staff. Even when Petitioner fails to attend school or elopes from school, there is no evidence that Petitioner is engaged in risky behavior or is otherwise a problem in the community.

14. At the March 13, 2017, IEP meeting, Petitioner's parents indicated that they believe the "[s]tudent requires a placement in a [redacted] center that has a [redacted] component in order to receive a meaningful educational benefit." Petitioner's complaint alleges that the March 2017 IEP "should provide continuous [redacted] treatment infused through the school day, daily individual counseling and other services that only a [redacted] center placement can provide." Petitioner's

complaint included that following proposed resolution: "Place the STUDENT in a [redacted] center of the PARENTS' choice at SCHOOL BOARD expense."

15. Petitioner presented the testimony of [redacted], Pys.S, M.S., a licensed school psychologist, in support of Petitioner's position. [redacted] credibly testified that, "it's clear that [redacted] really not working up to [redacted] potential in a [redacted] classroom or in a [redacted] school, for lack of a better word." [redacted] also authored a report wherein [redacted] recommended that:

> A [redacted] center with a [redacted] component is strongly recommended in order for [Petitioner] to be successful during [redacted] year of [redacted] school. [Petitioner's] disruptive behaviors as well as [redacted] symptomatology are clearly impairing various areas of functioning (e.g. social, occupational, academic). [Petitioner's] behaviors will most likely decompensate if [redacted] does not receive appropriate and effective services. Therefore, it is necessary for [Petitioner] to participate in a program that combines therapy and education in order for [redacted] to achieve academic success and learn effective coping mechanisms to better regulate [redacted] mood and aid [redacted] with self-control.

16. [redacted] further opined that Petitioner needs a counselor who is going to implement cognitive behavioral therapy or biological therapy, and was "really not sure if school counselors are trained to provide those type of services in the school system."

17. Petitioner's presentation at final hearing failed to include evidence from any representative of any [redacted] center concerning the specifics of any program. Extremely limited evidence concerning a potential center, "[redacted]," however, was presented. The limited evidence suggests that at the [redacted], the students attend physical exercise/activity in the morning and, if appropriate, group session. The limited evidence presented suggests that the educational component begins at
3:00 p.m. and continues until approximately 8:00 p.m., with most of the educational work being performed on-line.

18. Respondent presented the testimony of [redacted], Psy.D. [redacted] testified that based upon [redacted] research and experience, most residential programs tend to be lockdown facilities with certain therapeutic components. Psychiatrists are provided at some, but not all, residential treatment centers. Behavior modification is typically available through some form of level system.

19. [redacted] opined that in these facilities, "[a]cademics seem to take a back seat" with most of the academics presented online at the resident/student's pace. [redacted] testified that there is little direct instruction.

20. [redacted] credibly opined that the behaviors that remove Petitioner from educational opportunities are related to

[redacted] refusal to participate (either not engaging in the program or directly leaving the classroom). [redacted] opined that, in [redacted] experience, students placed in [redacted] programs tended to be lower-functioning students who had high aggressive behaviors and were essentially uncontrollable at home and school. These students were typically assaulting parents and staff and providing imminent threats on a daily basis. Additionally, [redacted] testified that residential treatment students often possess alcohol or drug issues and exhibit highly risky behaviors that often result in encounters with law enforcement. Petitioner, by contrast, does not exhibit these behaviors. For the most part, Petitioner simply refuses to perform.

21. [redacted] and [redacted] both presented credible evidence on the issue of Petitioner's placement; however, the undersigned concludes that [redacted] testimony is more persuasive.

CONCLUSIONS OF LAW

22. DOAH has jurisdiction over the subject matter of this proceeding and of the parties thereto pursuant to sections 1003.57(1)(b) and 1003.5715(5), Florida Statutes, and Florida Administrative Code Rule 6A-6.03311(9)(u).

23. Petitioner bears the burden of proof with respect to each of the claims raised in the Complaint. Schaffer v. Weast, 546 U.S. 49, 62 (2005).

24. In enacting the IDEA, Congress sought to "ensure that all children with disabilities have available to them a free appropriate public education 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 is contingent on the agency's compliance with the IDEA's procedural and substantive requirements. Doe v. Alabama State Dep't of Educ., 915 F.2d 651, 654 (11th Cir. 1990).

25. Parents and children with disabilities are accorded 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 are entitled to examine their child's

records and participate in meetings concerning their child's education; receive written notice prior to 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), & (b)(6).

26. Local school systems must satisfy the IDEA's substantive requirements by providing all eligible students with FAPE, which is defined as:

> Special education services that--(A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under [20 U.S.C. § 1414(d)].

20 U.S.C. § 1401(9).

27. "Special education," as that term is used in the IDEA, is defined as:

> [S]pecially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including–-
>
> (A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings . . . .

20 U.S.C. § 1401(29).

28. The components of FAPE are recorded in an IEP, which, among other things, identifies the child's "present levels of academic achievement and functional performance," establishes measurable annual goals, addresses the services and accommodations to be provided to the child and whether the child will attend mainstream classes, and specifies the measurement tools and periodic reports that will be used to evaluate the child's progress. 20 U.S.C. § 1414(d)(1)(A)(i); 34 C.F.R. § 300.320. "Not less frequently than annually," the IEP team must review and, as appropriate, revise the IEP. 20 U.S.C. § 1414(d)(4)(A)(i).

29. "The IEP is 'the centerpiece of the statute's education delivery system for disabled children.'" Endrew F. v. Douglas Cnty. Sch. Dist. RE-1, 13 S. Ct. 988, 994 (2017)(quoting Honig v. Doe, 108 S. Ct. 592 (1988)). "The IEP is the means by which special education and related services are 'tailored to the unique needs' of a particular child." Id. (quoting Rowley, 102 S. Ct. at 3034).

30. In Rowley, the Supreme Court held that a two-part inquiry must be undertaken in determining whether a local school system has provided a child with FAPE. As an initial matter, it is necessary to examine whether the school system has complied with the IDEA's procedural requirements. Rowley, 458 U.S. at

206-207. A procedural error does not automatically result in a denial of FAPE. See G.C. v. Muscogee Cnty. Sch. Dist., 668 F.3d 1258, 1270 (11th Cir. 2012). Instead, FAPE is denied only if the procedural flaw impeded the child's right to FAPE, significantly infringed the parents' opportunity to participate in the decision-making process, or caused an actual deprivation of educational benefits. Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 525-26 (2007). In this instant matter, Petitioner does not advance any procedural errors.

31. Pursuant to the second step of the Rowley test, it must be determined if the IEP developed pursuant to the IDEA is reasonably calculated to enable the child to receive "educational benefits." Rowley, 458 U.S. at 206-07. Recently, in Endrew F., the Supreme Court addressed the "more difficult problem" of determining a standard for determining "when handicapped children are receiving sufficient educational benefits to satisfy the requirements of the Act." Endrew F., 13 S. Ct. at 993. In doing so, the Court held that, "[t]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." Id. at 999. As discussed in Endrew F., "[t]he 'reasonably calculated' qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials," and that

"[a]ny review of an IEP must appreciate that the question is whether the IEP is *reasonable*, not whether the court regards it as ideal." Id.

32. The determination of whether an IEP is sufficient to meet this standard differs according to the individual circumstances of each student. For a student who is "fully integrated in the regular classroom," an IEP should be "reasonably calculated to enable the child to achieve passing marks and advance from grade to grade." Id. (quoting Rowley, 102 S. Ct. 3034). For a student not fully integrated in the regular classroom, an IEP must aim for progress that is "appropriately ambitious in light of [the student's] circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives." Id. at 1000.

33. The assessment of an IEP's substantive propriety is further guided by several principles, the first of which is that it must be analyzed in light of circumstances as they existed at the time of the IEP's formulation; in other words, an IEP is not to be judged in hindsight. M.B. v. Hamilton Se. Sch., 668 F.3d 851, 863 (7th Cir. 2011)(holding that an IEP can only be evaluated by examining what was objectively reasonable at the time of its creation); Roland M. v. Concord Sch. Comm., 910 F.2d

983, 992 (1st Cir. 1990)("An IEP is a snapshot, not a retrospective. In striving for 'appropriateness,' an IEP must take into account what was, and was not, objectively reasonable when the snapshot was taken, that is, at the time the IEP was promulgated."). Second, an assessment of an IEP must be limited to the terms of the document itself. Knable v. Bexley Cty. Sch. Dist., 238 F.3d 755, 768 (6th Cir. 2001); Sytsema v. Acad. Sch. Dist. No. 20, 538 F.3d 1306, 1315-16 (8th Cir. 2008)(holding that an IEP must be evaluated as written). Third, deference should be accorded to the reasonable opinions of the professional educators who helped develop an IEP. See Endrew F., 13 S. Ct. at 1001 ("This absence of a bright-line rule, however, should not be mistaken for an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review" and explaining that "deference is based on the application of expertise and the exercise of judgment by school authorities."); A.K. v. Gwinnett Cnty. v. 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 R.R. v. State Bd. of Educ., 874 F.2d 1036, 1048 (5th Cir. 1989), "[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 Act."

34. Here, Petitioner advances one substantive claim. Specifically, Petitioner avers that the March 2017 IEP fails to provide Petitioner with a FAPE in that the proposed placement is not a [redacted] center, as requested by Petitioner's parents. The IDEA provides directives on students' placements or education environment in the school system. Specifically, 20 U.S.C. § 1412(a)(5)(A) provides as follows:

> Least restrictive environment.
>
> (A) 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.

35. Pursuant to the IDEA's implementing regulations, states must have in effect policies and procedures to ensure that public agencies in the state meet the least restrictive environment (LRE) requirements. 34 C.F.R. § 300.114(a). Additionally, each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

34 C.F.R. § 300.115. In turn, the Florida Department of Education has enacted rules to comply with the above-referenced mandates concerning the LRE and providing a continuum of alternative placements. See Fla. Admin. Code R. 6A-6.03028(3)(i) and 6A-6.0311(1).

36. Additionally, "[i]f placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child." 34 C.F.R. § 300.104.

37. 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 parents, 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).

38. With the LRE directive, "Congress created a statutory preference for educating handicapped children with nonhandicapped 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 Act, School districts must both seek to mainstream handicapped 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 at 1044.

39. 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.

Daniel, 874 F.2d at 1048.

40. In Greer, infra, the Eleventh Circuit adopted the Daniel two-part inquiry. In determining the first step, whether a school district can satisfactorily educate a student in the regular classroom, several factors are to be considered: 1) a comparison of the educational benefits the student would receive in a regular classroom, supplemented by aids and services, with the benefits [redacted] will receive in a self-contained special education environment; 2) what effect the presence of the student in a regular classroom would have on the education of other students in that classroom; and 3) the cost of the supplemental

aids and services that will be necessary to achieve a satisfactory education for the student in a regular classroom. Greer, 950 F.2d at 697.

41. Against the above legal framework, we turn to Petitioner's substantive claim. Here, Petitioner contends that the appropriate placement should be that of a [redacted] center. Addressing the first prong, Petitioner failed to present sufficient evidence that [redacted] could not achieve a meaningful educational benefit in the regular classroom, as proposed in the March 2017 IEP, with the use of supplemental aids and services and that a [redacted] center is necessary. Indeed, Petitioner failed to present sufficient evidence as to any proposed treatment center and the services any such center would ostensibly provide and whether said program is primarily oriented toward enabling Petitioner to obtain an education. Although some evidence was presented concerning the [redacted] educational time slot, and the availability of group therapy (for some), Petitioner failed to present the undersigned with sufficient evidence in which to judge whether the [redacted] or any other potential facility's program would be appropriately tailored to meet Petitioner's special needs.

42. Similarly, Petitioner failed to present sufficient evidence addressing the second and third prong of the Daniel/Greer inquiry. The undersigned is also mindful of the

IDEA's goal of educating the student as close as possible to the student's home. From the evidence presented, it is unclear whether Petitioner's parents desire the requested placement to be in [redacted] County, Florida, somewhere else in Florida, or some other state.

43. In conclusion, Petitioner failed to satisfy [redacted] burden of establishing that the March 2017 IEP was not reasonably calculated to provide Petitioner FAPE where the proposed placement was not in a [redacted] center.

ORDER

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

DONE AND ORDERED this 8th day of August, 2017, in Tallahassee, Leon County, Florida.

S

TODD P. RESAVAGE
Administrative Law Judge
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Filed with the Clerk of the
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this 8th day of August, 2017.

ENDNOTES

[1/] Petitioner's complaint alleged several additional issues; however, on May 15, 2017, the parties entered into a partial resolution agreement. Said agreement resolved those issues and the corresponding remedies. Accordingly, only the above-stated issue will be addressed in this Final Order.

[2/] Petitioner's previous IEP dated April 1, 2016, indicated that Petitioner also received ESE services under the [redacted] eligibility category. The [redacted] exceptionality is not noted as an additional exceptionality on the IEP dated March 14, 2017.

COPIES FURNISHED:

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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).