

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**,

Petitioner,

vs.

Case No. 22-3770E

LEE COUNTY SCHOOL BOARD,

Respondent.

FINAL ORDER

A due process hearing was held on June 1, 2023, by Zoom conference before Todd P. Resavage, an Administrative Law Judge (ALJ) with the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: Nathan Soowal, Esquire
Nathan Soowal, P.A.
3140 Northeast 9th Avenue
Pompano Beach, Florida 33064

For Respondent: Corey Huffman, Esquire
School District of Lee County
2855 Colonial Boulevard
Fort Myers, Florida 33966

STATEMENT OF THE ISSUE

Whether Respondent violated the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, *et seq.*, in failing to provide Petitioner with an appropriate educational placement in the least restrictive environment (LRE).

PRELIMINARY STATEMENT

Respondent received Petitioner's Request for Exceptional Student Education Due Process (Complaint) on December 8, 2022. Respondent forwarded the Complaint to DOAH on December 12, 2022, and the matter was assigned to the undersigned.

On December 28, 2022, Petitioner's counsel made a notice of appearance. Following a telephonic scheduling conference, conducted on January 5, 2023, Petitioner filed a request to amend the Complaint. By order dated January 12, 2023, Petitioner's Amended Due Process Complaint (Amended Complaint) was accepted, and the timelines for conducting this matter were started anew.

A notice of hearing was issued on February 16, 2023, setting the due process hearing for April 26 and 27, 2023. On April 14, 2023, Petitioner moved to continue the due process hearing. Following a telephonic motion hearing, conducted on April 21, 2023, Petitioner's motion was granted. By Order of April 21, 2023, the due process hearing was canceled and rescheduled for June 1 and 2, 2023.

On May 31, 2023, the parties filed a Joint Pre-hearing Stipulation. Under paragraph 5 of the stipulation, the parties stipulated to facts contained in subsections (a) through (o). By the stipulation, those facts have been admitted without the need for further proof at the due process hearing. The stipulated facts are incorporated, where relevant, below in the Findings of Fact.

The due process hearing was conducted, as rescheduled. Petitioner presented the testimony of [REDACTED], Petitioner's behavior specialist; [REDACTED], Petitioner's general education teacher; [REDACTED]

██████████, Petitioner’s coverage one-to-one paraprofessional; ██████████, Respondent’s board-certified behavior analyst (BCBA); and Petitioner’s mother. Petitioner’s Exhibit 1 was admitted into evidence. Respondent presented the testimony of ██████████; ██████████; ██████████, Petitioner’s social functioning teacher; ██████████, Petitioner’s one-to-one paraprofessional; ██████████, the dean of discipline at Petitioner’s school; and ██████████. Respondent tendered ██████████ as an expert witness during their direct examination without objection. Respondent’s Exhibits 1 through 18 were admitted into evidence.

At the end of the hearing, the parties agreed to submit proposed final orders within 14 days after the filing of the transcript at DOAH and the issuance of the undersigned’s final order within 14 days after the parties’ proposed final order submissions. The hearing Transcript was filed on June 20, 2023. Both parties filed proposed final orders, which have been considered in preparing this Final Order. Unless otherwise indicated, all rule and statutory references are to the version in effect at the time of the alleged violation.

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. In the ██████-█████ school year, Petitioner was a ██████-grade student. He attended ████████████████████ for about one week, and then transferred to ████████████████████ (██████████), a public elementary school in Respondent’s school district.

2. Petitioner was withdrawn from [REDACTED] on September 30, [REDACTED], and entered home education. He was reenrolled at [REDACTED] on October 22, [REDACTED].

3. On November 1, [REDACTED], Petitioner withdrew from [REDACTED] and was enrolled in [REDACTED] ([REDACTED]), a charter school sponsored by Respondent, and remained there for the balance of the school year.

4. At some point while attending [REDACTED] and [REDACTED], Petitioner was identified and determined eligible to receive exceptional student education (ESE) services under the eligibility categories of Autism Spectrum Disorder and Language Impairment. A positive behavioral plan (BIP) was also developed during this time to address significant behavioral concerns.¹

5. For the [REDACTED]-[REDACTED] school year, Petitioner, now in [REDACTED] grade, enrolled at [REDACTED] ([REDACTED]), a public elementary school in Respondent's school district. Petitioner remained at [REDACTED] for the entire school year.

6. At the beginning of the year, Petitioner was placed in a regular education classroom, and the staff provided the ESE services set forth in his prior IEP. Petitioner received one-to-one support throughout the school day, as provided by a paraprofessional in the general education classroom. As early as August 11, [REDACTED], the [REDACTED] staff began collecting data on three categories of behavior: aggression, elopement, and non-compliance. This data was collected from August 11 through September 2, [REDACTED].

7. [REDACTED], a behavior specialist at [REDACTED], worked with Petitioner daily throughout the [REDACTED]-[REDACTED] school year. [REDACTED] credibly testified that his aggression would lead him to hitting, spitting, or kicking other students or staff. His elopement would include leaving the desk area or running around the classroom or leaving the classroom. His non-compliance included failing to complete tasks.

8. [REDACTED] was assigned to Petitioner as his one-to-one paraprofessional. [REDACTED] worked with Petitioner throughout the school day, except for [REDACTED] lunch

¹ Neither the Individualized Education Program (IEP) nor the BIP were offered or admitted into evidence.

and a break, for the entire school year. ██████ testified that █████ collected the behavioral data, as directed by the IEP team, on aggression, elopement and non-compliance. █████ credibly testified that Petitioner has hit █████ and other members of the staff and that his behaviors cause disruption for other class members. █████ observed that Petitioner is more difficult in the morning because he does not want to start doing school work.

9. ██████ is the dean of students at ██████. ██████ credibly testified about Petitioner's behaviors during the first semester of ██████-█████ school year:

The first couple of weeks of school [he] was in the after-school program, and it's probably my first real encounter with [him]. I heard a lot of commotion and noise, and then one of the ██████, our after-school program – that's what it's called, our ██████ -- people that worked it were by my door, and she asked for help. And so she had gotten [him] into my office, and [he] was trying to rip things off the wall. [He] broke my telephone, my printer. [He] was trying to hit and kick and punch me as well as the ██████ counselor.

10. ██████ added that █████ is called to assist in the classroom if his behaviors have escalated and additional adults are needed. █████ estimated that █████ assistance is needed about twice per week. █████ explained the common scenario requiring █████ assistance:

When I have to get involved, if the class the class is still in there, it's usually to try to get [him] to take a break. When I go in there, if there's kids in there, sometimes [he] is trying to go at the kids and attack them, and I'll have to stand in between [him] and the students. And by attacking I mean hitting or kicking or spitting at.

11. As a result of the above-described behaviors, BCBA ██████ was contacted to provide behavioral assistance. ██████ started to conduct an Intensive Functional Behavior Assessment (FBA). The FBA was finalized

on September 6, [REDACTED]. The FBA documented that the following occurred during the functional assessment period:

1. Interviews were conducted with [REDACTED] (behavior specialist), [Petitioner's mother], [REDACTED] (second grade teacher), [REDACTED] (ESE teacher), & [REDACTED] (SLP).
2. The Functional Assessment Screening Tool (Iwata & DeLeon, 2005) was administered with [REDACTED], [Petitioner's mother], [REDACTED], & [REDACTED].
3. Frequency, antecedent, and setting data were collected during the assessment period.
4. Direct observation of the student by a behavior analyst.
5. A file and records review conducted by [REDACTED].

12. [REDACTED] set forth the following hypothesis in the FBA document:

The results of this [FBA] appear to indicate that [Petitioner's] aggression, elopement and non-compliance appears to be maintained primarily by escape from demand situations and access to preferred items and activities. We see more of all three of the targeted behaviors on Mondays, Thursdays and Fridays. They are all more prevalent between 8:00 and 9:30 in the morning which is during his ELA^[2] class and again between 12:15 and 1:00 during his math class. All three of the targeted behaviors are most likely to occur in the classroom. Some increased aggression is seen in the behavior specialist's office; however, this is because it is used to de-escalate him when difficult episodes occur. The three targeted behaviors also occur most often when presented a task, however being denied a preferred item or activity and times of transition are also frequent.

² English/Language Arts.

13. An IEP meeting took place on September 9, [REDACTED]. The purpose of the meeting was to conduct an annual IEP review; review potential reevaluation; consider a change of placement; and to develop, review or revise a BIP. The IEP developed on this date noted that Petitioner's behavior impedes his learning or the learning of others.

14. It is undisputed that Petitioner possesses strong academic abilities. At the time of the hearing, Petitioner was functioning at a [REDACTED]-grade math level and an upper [REDACTED]-grade ELA level. The September 9, [REDACTED], IEP included no academic goals.

15. Despite his academic abilities, as documented on the IEP, because of his disabilities, Petitioner "requires intense instruction in social skills, peer interactions, support with transitions, and constant supervision to ensure safety." The IEP further documented that "[his] lack of appropriate peer relationships, lack of social/emotion reciprocity, and severe behaviors limit/interfere with his ability to learn in the general education classroom." Finally, the IEP team documented that for Petitioner to be successful, he "requires a small classroom setting, and one-to-one assistance throughout the entire school day."

16. Input from Petitioner's general education teacher, as documented in the IEP, supports the testimony of [REDACTED], [REDACTED], and [REDACTED]. The general education teacher noted that Petitioner flouts the expected morning routine in the classroom. His non-compliance includes running around the classroom, failing to place his homework in the appropriate binder, eloping from his area during the "Pledge of Allegiance," and often jumping up to pull the flag off the wall. It was further documented that during the morning "moment of silence," Petitioner will loudly repeat inappropriate phrases such as "what the f**k."

17. During the IEP meeting, the team noted that, according to the FBA data, Petitioner engages in aggression, on average, 3.6 times per day; elopement 4.9 times per day; and non-compliance 5.3 times per day. The team

determined that, to be successful, Petitioner requires a small classroom setting, and one-to-one assistance throughout the school day.

18. The September IEP documented that Petitioner required small group instruction and therapy for part of the day, including some academics, center times, and social/behavioral skills to increase skills and meet goals. Accordingly, at that time, the IEP provided that his educational placement would be “[i]nside the regular class no more than 79% of the day and no less than 40% of the day.” Under the IEP meeting notes, with respect to his educational placement, it was documented that:

Time in placement may vary to allow for fading in to new learning setting and ease transition. Mom and dad will be informed of changes to [Petitioner’s] schedule before it is changed. This time will be determined based on teacher/team schedule. The team is considering beginning the day in the Social Functioning classroom, and then transitioning to the general education setting, after lunch.

19. On September 9, [REDACTED], a new Intensive Positive BIP was also developed. The BIP set forth Petitioner’s present level of behavioral performance; set forth three behavioral goals; provided reinforcer assessments (such as goldfish crackers, building toys, walks, and time to talk to someone on a preferred topic); six intervention strategies; positive reinforcement; a crisis plan; and a data monitoring plan. The BIP also set forth requirements for staff training.

20. Consistent with the IEP, following the IEP meeting, Petitioner was placed in a separate class placement, what Respondent calls the social functioning class, in the morning for ELA. After lunch, he remained in the general education class for math, science, social studies, specials (art, music, technology, and physical education), recess, and intervention time.

21. [REDACTED] is the social functioning ESE teacher for first and second grades. The class size, 14 students, is smaller than that of a regular

education classroom. Along with Petitioner's assigned one-to-one paraprofessional, the class also has an assigned paraprofessional.

22. [REDACTED] provided the following description of how the social functioning class operates:

Our social-functioning classroom in my particular classroom is center spaced. I do expose the children to some whole-group lessons for social skills and an introduction to the topics. Other than that, it is center spaced, strictly center spaced, and we do a lot of small group instruction in my classroom.

I do have a full-time paraprofessional, and when [REDACTED] takes [REDACTED] breaks and lunch -- but there is relief every day. We teach on social skills. We work on their IEP goals, which involve their academic and curriculum goals, their independent-functioning goals, and their social-emotional goals. So we do work on those IEP goals as well as the standards. So I have several students who are on standard curriculum and then those who are on access points curriculum, so I make sure that they are all instructed individually and in [a] small group.

23. Following the placement transition, unfortunately, Petitioner's targeted behaviors escalated. On October 26, [REDACTED], Petitioner received a disciplinary referral and an out-of-school suspension because Petitioner was hitting, kicking, punching, slapping, and headbutting all staff members working with him—resulting in one staff member seeking medical attention.³

24. Because of the alarming behavioral trend, on November 16, [REDACTED], an IEP team meeting was noticed for December 6, [REDACTED]. The purpose of the meeting was to review Petitioner's progress; review and potentially revise Petitioner's FBA and BIP; and consider placement options. The IEP discussed Petitioner's present level of behavior performance, as documented from data collected on his targeted behaviors since September 9, [REDACTED].

³ Petitioner's mother filed a request for due process hearing related to the suspension; however, withdrew the same on November 7, 2022.

25. A report from the social functioning teacher revealed, among other things, that aggression occurs regularly throughout the time in class and occurs because of the following: work or task demands; having his pathway blocked (for safety concerns, such as attempts to injure another person); and redirections away from restricted areas. His aggression manifests in hitting, kicking, spitting, and headbutting towards staff and students. It was reported that his aggression occurs on average of 19.06 times per school day. It was further documented that, from November 15 through 22; November 28 and 30; and December 1, [REDACTED], Petitioner ran around the classroom shouting “WTF” and “What the f**k.” On these same dates, he spits at the teacher, the classroom paraprofessional, his one-to-one paraprofessional, and his classmates.

26. A report from his general education teacher conveyed that, upon arrival to the class, he walks to the front of the room and stands in front of the smartboard and must be redirected 8 to 10 times before taking his seat. Throughout math class, he speaks over his teacher, on average, 14 times per class. Petitioner also elopes from his seat during math an average of 11 times per day to wander. It was further reported that there have been incidents where he was grabbing and poking other students and could not be redirected, causing a classroom evacuation.

27. The general education teacher further reported that Petitioner will often yell at the teacher and roll on the floor in the front of the room telling her to turn off the classroom smartboard. On average, he spends 8 minutes in the classroom prior to being escorted out of the room for a calming break. Respondent’s witnesses credibly testified that, in the classroom, Petitioner’s behavior had a negative effect on the education of other students.

28. Ultimately, the school-based members of the IEP team recommended that Petitioner’s education placement be changed to a separate class setting, wherein Petitioner would be inside a regular education class for less than 40

percent of the day. Petitioner's mother objected to this recommendation. Petitioner's mother filed the Complaint on December 7, 2023.

29. At the time of the December IEP meeting, a revised BIP was also drafted to attend to Petitioner's behavioral concerns. Along with setting forth the most recent data collected, the BIP now provided for 22 antecedent strategies and provided for action plans to address aggression, elopement, and non-compliance. No evidence was presented to support a finding that Petitioner's IEPs or BIPs were not implemented with fidelity during the relevant period.

30. Evidence presented at hearing supports a finding that while Petitioner was in the split placement of the social functioning classroom and the general education classroom, he demonstrated more of the targeted behaviors while in the social functioning class. This finding, however, is credibly explained by the time of day he attended the social functioning classroom and academic demands. [REDACTED] credibly testified that Petitioner is more difficult in the morning because he is seeking to avoid the transition to academic tasks. [REDACTED] also testified that Petitioner has difficulties in the morning integrating into academics. [REDACTED] stated that "[s]ome days all he wants to do is play and ask for toys." [REDACTED] hypothesized that Petitioner's behaviors may have also increased because of the increased demands of the curriculum as the year progresses.

CONCLUSIONS OF LAW

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

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

33. In enacting the IDEA, Congress sought to "ensure that all children with disabilities have available to them a free appropriate public education

[FAPE] 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. Ala. State Dep’t of Educ.*, 915 F.2d 651, 654 (11th Cir. 1990).

34. Local school systems must satisfy the IDEA’s substantive requirements by providing all eligible students with a 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).

35. “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).

36. 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). “The IEP is the centerpiece of the statute’s education delivery system for disabled children.” *Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 391 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311 (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 *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 181 (1982)).

37. Under the IDEA, parents with “complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child” must “have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.” 20 U.S.C. § 1415(f). In Florida, by statute, an ALJ must conduct the “impartial due process hearing” to which a complaining parent is entitled under the IDEA. § 1003.57(5), Fla. Stat.

38. The gravamen of Petitioner’s Amended Complaint is that Respondent, through the proposed December 6, 2022, IEP, has not provided or offered Petitioner FAPE via an acceptable educational placement. As stated in the parties’ Joint Pre-hearing Stipulation, the issue is “[w]hether the School Board of Lee County denied the student FAPE by recommending the student be placed in an SF classroom full-time, placing the child in a regular classroom less than 40% of the time.” In considering the appropriateness of an IEP, one must be mindful that “[a]n IEP is a snapshot, not a retrospective.

In striving for ‘appropriateness’ an IEP must take in to account what was, and was not, objectively reasonable when the snapshot was taken, that is, the time that the IEP was promulgated.” *Mandy S. v. Fulton Cnty. Sch. Dist.*, 205 F. Supp. 2d 1358, 1367 (N.D. GA 2000) (first quoting *Frank S. v. Sch. Comm. of the Dennis-Yarmouth Reg’l Sch. Dist.*, 26 F. Supp. 2d 219, 226 n.15 (D. Mass. 1998); and then quoting *Roland M. v. Concord Sch. Comm.*, 910 F.2d 983, 992 (1st Cir. 1990), *aff’d*, *Mandy S. v. Fulton Cnty. Sch. Dist.*, 273 F.3d 1114 (11th Cir. 2001)).

39. The IDEA provides directives on students’ placements or educational environments in the school system. Specifically, 20 U.S.C. § 1412(a)(5)(A) provides, as follows:

(5) 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 25 supplementary aids and services cannot be achieved satisfactorily.

40. 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 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 Department of Education has enacted rules to comply with the above mandates concerning LRE and providing a continuum of alternative placements. *See Fla. Admin. Code R. 6A-6.03028(3)(i) and 6A-6.0311(1).*

41. 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).

42. 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 1036, 1044 (5th Cir. 1989).

43. 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 R.R., 874 F.2d at 1048.

44. In *Greer*, the Eleventh Circuit adopted the *Daniel R.R.* 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 he 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.

45. Here, it is concluded that Petitioner cannot be satisfactorily educated in the regular classroom. Petitioner failed to establish that the benefits that he may receive in a regular classroom exceed that of the separate classroom placement. To the contrary, the evidence overwhelmingly established that Petitioner requires a small class setting, with one-to-one support to help manage his behavioral issues. The evidence further established that Petitioner's presence in the regular classroom setting has a negative effect on the ability of the teacher to effectively perform the duties required of the position. Due to his behaviors, his presence in the general classroom has also had a disruptive effect on his fellow students' access to education. At times, his behavior has put at risk the mental and physical health of his fellow second-grade students and school staff. No evidence was presented concerning the costs of the supplemental aids and services necessary to achieve a satisfactory education in the regular classroom.

46. It is concluded that Petitioner did not meet his burden of establishing that Respondent violated the IDEA in failing to provide Petitioner with an appropriate IEP by failing to provide an appropriate educational placement in the LRE.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner failed to satisfy his burden of proof for the claims asserted in Petitioner's Amended Complaint, and, therefore, Petitioner's Complaint is denied in all aspects.

DONE AND ORDERED this 17th day of July, 2023, in Tallahassee, Leon County, Florida.



TODD P. RESAVAGE
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 17th day of July, 2023.

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).