

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

CITRUS COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 16-1591E

█,

Respondent.

\_\_\_\_\_ /

FINAL ORDER

Pursuant to notice, a final hearing was conducted in Inverness, Florida, on █, before Administrative Law Judge Edward T. Bauer of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Terry J. Harmon, Esquire  
Sniffen & Spellman, P.A.

█, █

R. Wesley Bradshaw, Esquire  
Bradshaw & Mountjoy, P.A.

█, █

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

STATEMENT OF THE ISSUE

Whether the School Board's assessments of Respondent were appropriate.

PRELIMINARY STATEMENT

From [REDACTED] through [REDACTED], Petitioner Citrus County School Board ("School Board") conducted multiple assessments of Respondent, which included: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Thereafter, on [REDACTED], Respondent's [REDACTED] expressed [REDACTED] disagreement with these assessments and requested an independent educational evaluation ("IEE") in connection with each evaluated area. On [REDACTED], the School Board filed a Request for a Due Process Hearing ("Complaint"), alleging that its evaluations were appropriate and that the parent's request should be denied.<sup>1/</sup>

As noted above, the final hearing was held on [REDACTED], during which testimony was heard from eight witnesses: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. In addition, the following exhibits were received in evidence: Petitioner's Exhibits 1 through 8, 12, and 14 through 16; and Respondent's Exhibits 22 through 31; and 36 through 38.<sup>2/</sup>

The final hearing Transcript was filed on [REDACTED].<sup>3/</sup>  
The parties thereafter submitted proposed final orders, which the undersigned has considered.

For stylistic convenience, the undersigned will use [REDACTED] pronouns in this Final Order when referring to Respondent. The [REDACTED] pronouns are neither intended, nor should be interpreted, as a reference to Respondent's actual gender.

Unless otherwise noted, all statutory and rule citations are to the versions in effect at the time the School Board performed the assessments at issue.

#### FINDINGS OF FACT

##### I. Background

1. Respondent is a [REDACTED]-year-old child who was authorized to receive, at all relevant times, special education and related services pursuant to the [REDACTED] and [REDACTED] eligibility categories.

2. In late 2012, Respondent and [REDACTED] relocated from [REDACTED] County to Citrus County, where they continue to reside. Since that time, Respondent has received all of [REDACTED] academic instruction at home, with [REDACTED] serving as a "[REDACTED] [REDACTED]."

3. As noted earlier, this proceeding involves an array of assessments conducted by the School Board during the [REDACTED] and [REDACTED] academic years. The first, a [REDACTED]

[REDACTED], was performed at the [REDACTED] request in [REDACTED]  
[REDACTED]. Some months later, on [REDACTED], the School Board  
secured the [REDACTED] consent to reevaluate Respondent in the  
following areas: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED].

4. Following the completion of these assessments, the  
[REDACTED] requested IEEs in connection with each evaluated area,  
prompting the School Board to initiate the instant proceeding.  
The details of the School Board's assessments are recounted  
below, beginning with the [REDACTED].

II. [REDACTED]

5. As explained during the final hearing, a [REDACTED]  
[REDACTED] is a process that attempts to  
identify the [REDACTED]. Once  
completed, an [REDACTED] becomes the basis of a behavioral intervention  
plan ("BIP"), whose terms are designed to address conduct that  
interferes with a child's ability to learn.

6. The FBA at issue was conducted by [REDACTED], a [REDACTED]  
[REDACTED] who holds a [REDACTED].  
[REDACTED] is licensed as both a [REDACTED] and a  
[REDACTED], and has conducted hundreds of [REDACTED] during  
[REDACTED] [REDACTED]-year career with the School Board.

7. [REDACTED] [REDACTED] comprised [REDACTED] principal elements: a review of Respondent's educational records, which included copies of previous [REDACTED]; an interview of Respondent's [REDACTED] (who, as noted above, was educating Respondent at home as the child's "[REDACTED]"); and, finally, an observation of Respondent in [REDACTED] educational setting.

8. [REDACTED] interview with the [REDACTED] was conducted on [REDACTED], at Respondent's home. During the course of the interview, the [REDACTED] characterized Respondent as [REDACTED]. The [REDACTED] further advised, however, that Respondent frequently exhibited [REDACTED], including [REDACTED]

9. Having identified the problem conduct, [REDACTED] shifted the focus of [REDACTED] interview to the function of the [REDACTED]. To that end, [REDACTED] had the [REDACTED] complete two questionnaires: the [REDACTED], an instrument used to identify the factors influencing the occurrence of problem behaviors; and the [REDACTED], which is designed to identify the situations in which a student is likely to [REDACTED] in certain ways. Based upon the [REDACTED] responses, [REDACTED] hypothesized

that the functions of Respondent's [REDACTED] were "[REDACTED]" and, to a lesser extent, "[REDACTED]."

10. With this hypothesis in place, [REDACTED] conducted a home-based observation of Respondent at [REDACTED] study area. Unfortunately, the observation, which lasted roughly two to three hours, was less than ideal, for Respondent was [REDACTED] nearly the entire time. Nevertheless, [REDACTED] credible testimony establishes that the observation—which included an interview of the child—yielded sufficient information to complete an appropriate [REDACTED].<sup>4/</sup>

11. [REDACTED] finalized Respondent's [REDACTED] in writing on [REDACTED]. In addition to detailing the nature of the [REDACTED] and its [REDACTED], the [REDACTED] also included a host of remedial measures. In particular, [REDACTED] recommended, inter alia, that all "positive attempts at academic performance by [Respondent] should be praised and reinforced with intervals of successful participation gradually increased in duration"; that appropriate behaviors be reinforced by rewarding the child with free time to engage in preferred activities; that, prior to beginning a task, the child should be given a picture representation of what will be needed and the order of steps to complete it; and that "motor breaks" lasting three to five minutes should be provided after 30 to 34 minutes of cognitive effort.<sup>5/</sup>

12. Thereafter, in or around [REDACTED], [REDACTED] discussed the finalized [REDACTED] with Respondent's [REDACTED]. During the course of the meeting, the [REDACTED] raised no objections to either the scope of the [REDACTED] or [REDACTED] methodology; on the contrary, the [REDACTED] seemed "pretty happy" with the final product.<sup>6/</sup>

III. [REDACTED]

13. Respondent's [REDACTED] was performed by [REDACTED], a [REDACTED] who has been employed with the School Board for the past [REDACTED] years.<sup>7/</sup> In connection with [REDACTED] employment, [REDACTED] performs more than 100 [REDACTED] annually.

14. The [REDACTED] at issue, which [REDACTED] conducted over the course of three sessions on separate days,<sup>8/</sup> was preceded by an examination of Respondent's relevant educational records. In particular, [REDACTED] reviewed multiple prior assessments, the results of which [REDACTED] later summarized in [REDACTED] report. Among other things, the records indicated that although Respondent's [REDACTED] [REDACTED] was [REDACTED], [REDACTED] nevertheless exhibited a slight [REDACTED] in the area of [REDACTED]—that is, [REDACTED] [REDACTED]. [REDACTED] also conducted a student interview, during which Respondent discussed [REDACTED] favorite school subjects and long-term goals.

15. [REDACTED] thereafter evaluated Respondent utilizing a variety of standardized assessment tools, each of which is valid and reliable. First, [REDACTED] administered the [REDACTED], a traditional [REDACTED] test which provides a [REDACTED] score, a [REDACTED], as well as [REDACTED] and [REDACTED] scores. As delineated in the final report, Respondent's results were as follows: a [REDACTED] of [REDACTED], placing the child's overall [REDACTED]; a [REDACTED], indicating [REDACTED]; a [REDACTED], placing Respondent in the [REDACTED]; and a [REDACTED], also in the [REDACTED]. Specifically with regard to the [REDACTED] score, the subtest results demonstrated that Respondent is better able to remember information acquired [REDACTED] rather than [REDACTED].

16. Next, [REDACTED] administered the [REDACTED], a standardized instrument that assesses a person's ability to [REDACTED]. As explained during the final hearing, [REDACTED] utilized two particular [REDACTED]: [REDACTED]



[REDACTED]  
[REDACTED]  
[REDACTED]. Respondent's scores on the subtest components fell within the [REDACTED] in the areas of [REDACTED]  
[REDACTED]  
[REDACTED].

17. In addition to the foregoing assessments, [REDACTED] utilized two other standardized tools: the [REDACTED], which assess a variety of [REDACTED]  
[REDACTED]  
[REDACTED]; and the [REDACTED]  
[REDACTED], which assess [REDACTED]  
[REDACTED].

[REDACTED]. Respondent's performance on the [REDACTED] was [REDACTED], with one exception: the child scored in the [REDACTED] in the area of [REDACTED], suggesting some [REDACTED] in taking the perspective of others. As for the [REDACTED], Respondent scored in the [REDACTED]  
[REDACTED].

18. To round out the evaluation, [REDACTED] administered the [REDACTED], a questionnaire that helps evaluate the symptoms of [REDACTED]; and the [REDACTED]  
[REDACTED]



IV. [REDACTED]

20. The undersigned turns now to the [REDACTED]  
[REDACTED], which was conducted by [REDACTED], a [REDACTED]  
[REDACTED] who has performed hundreds of evaluations  
during [REDACTED]-year career.

21. As reflected in [REDACTED] final report, [REDACTED] began the  
evaluation process by conducting a thorough review of  
Respondent's educational records. In particular, [REDACTED]  
examined the child's current IEP, [REDACTED]  
[REDACTED] performed  
by the [REDACTED] County School Board.

22. Consistent with the terms of the parental consent form  
dated [REDACTED], the ensuing evaluation, which [REDACTED]  
performed over two hours in a simulated educational  
environment,<sup>10/</sup> focused on two areas of concern: [REDACTED]  
[REDACTED]  
[REDACTED]. With respect to the former,  
[REDACTED] required the child to complete a [REDACTED]  
[REDACTED]. Respondent's [REDACTED] revealed, among  
other things, [REDACTED]  
[REDACTED]  
[REDACTED]. The [REDACTED] was  
otherwise [REDACTED]; using a "[REDACTED]





that would prevent Respondent from [REDACTED]  
[REDACTED].

VI. [REDACTED]

29. The undersigned turns finally to the [REDACTED]  
[REDACTED], which was performed on [REDACTED], by [REDACTED]  
[REDACTED], a [REDACTED] with [REDACTED] years' experience.  
[REDACTED], who holds a [REDACTED] degree in [REDACTED]  
[REDACTED], is recognized by the  
[REDACTED] as highly qualified  
in [REDACTED] field.

30. [REDACTED] evaluation, which correctly focused on  
the area of [REDACTED] (the area of concern identified  
in the consent document), was preceded by an exhaustive review  
of Respondent's cumulative file. Next, with the aim of  
identifying other potential areas of concern, [REDACTED] asked  
the [REDACTED] to complete a series of checklists, namely, the  
[REDACTED] and the [REDACTED]  
[REDACTED].<sup>13/</sup> The [REDACTED] responses to the checklists  
indicated, among other things, that the [REDACTED]  
[REDACTED].  
The responses also suggested that Respondent [REDACTED]  
[REDACTED]. For  
instance, Respondent [REDACTED]

[REDACTED]

[REDACTED].

31. With this background information in place, [REDACTED] administered the [REDACTED] [REDACTED], [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]. The child's subtest responses yielded an overall composite score of [REDACTED] [REDACTED], placing Respondent in the [REDACTED]. Notably, however, Respondent's performance in the subtest area of [REDACTED] was [REDACTED] than [REDACTED] results from [REDACTED], suggesting a [REDACTED] [REDACTED].

32. [REDACTED] also administered the [REDACTED] [REDACTED], which provides diagnostic information about a child's ability to [REDACTED] [REDACTED]. As detailed in [REDACTED] final report, the [REDACTED] is composed of five subtests: [REDACTED] [REDACTED] [REDACTED]. The





## CONCLUSIONS OF LAW

### I. Jurisdiction

35. The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and of the parties thereto pursuant to section 1003.57(1)(b), Florida Statutes, and Florida Administrative Code Rule 6A-6.03311(9)(u).

### II. General Principles of the IDEA

36. District school boards are required by the Florida K-20 Education Code to provide for an "appropriate program of special instruction, facilities, and services for exceptional students [ESE] as prescribed by the State Board of Education as acceptable." §§ 1001.42(4)(1) & 1003.57, Fla. Stat.

37. The Florida K-20 Education Code's imposition of the requirement that exceptional students receive special education and related services is necessary in order 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).

### III. Independent Evaluations at Public Expense

38. Under the IDEA and its implementing regulations, a parent of a child with a disability is entitled, under certain circumstances, to obtain an independent educational evaluation of the child at public expense. The circumstances under which a parent has a right to an independent educational evaluation at public expense are set forth in 34 C.F.R. § 300.502(b), which provides as follows:

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.

39. Florida law, specifically Florida Administrative Code 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.

40. These provisions make clear that a district school board in Florida is not automatically required to provide a publicly funded independent educational evaluation whenever a parent asks for one. A school board has the option, when presented with such a parental request, to 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). If the district school board is able to meet its burden and establish the appropriateness of its evaluation, it is relieved of any obligation to provide the requested independent educational evaluation.

41. To satisfy its burden of proof, Petitioner must demonstrate that the assessments at issue complied with Florida Administrative Code Rule 6A-6.0331(5), which sets forth the elements of an appropriate evaluation. Palm Beach Cnty. Sch. Bd. v. \*\*, 66 IDELR 29 (Fla. DOAH July 2, 2015). Rule 6A-6.0331(5) provides as follows:

(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.

42. Pursuant to the findings of fact contained herein, the School Board has proven that the assessments at issue fully complied with rule 6A-6.0331(5). In particular, each assessment was conducted by trained and knowledgeable personnel who utilized—and properly administered—a variety of valid instruments that yielded reliable and comprehensive information concerning Respondent's educational needs.

43. Before concluding, the undersigned notes that while Respondent is not entitled to an independent educational evaluation at public expense, the [REDACTED] is free to obtain an independent evaluation at [REDACTED] own expense, whose results the School District would be required to consider. See Fla. Admin. Code R. 6A-6.0331(6)(j)1. (providing that if a parent "shares with the school district an evaluation obtained at private expense . . . [t]he school district shall consider the results

of such evaluation in any decision regarding the provision of FAPE to the student, if it meets appropriate district criteria").

#### CONCLUSION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that Respondent is not entitled to an Independent Educational Evaluation at public expense.

DONE AND ORDERED this 13th day of June, 2016,<sup>17/</sup> in Tallahassee, Leon County, Florida.

S

---

Edward T. Bauer  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675  
Fax Filing (850) 921-6847  
www.doah.state.fl.us

Filed with the Clerk of the  
Division of Administrative Hearings  
this 13th day of June, 2016.

#### ENDNOTES

<sup>1/</sup> Respondent's [REDACTED] also requested an IEE in connection with an [REDACTED]. However, testimony adduced at the outset of the final hearing conclusively proved that the [REDACTED] evaluation was *itself an IEE*—furnished by the School Board at the [REDACTED]



request—that related to an [REDACTED] evaluation performed in [REDACTED]. As a parent is entitled, at most, to one IEE in connection with a particular assessment, see Fla. Admin. Code R. 6A-6.03311(6)(i); Warren G. v. Cumberland County School District, 190 F.3d 80, 87 n.4 (3d Cir. 1999), the undersigned relieved the School Board of any obligation to prove the appropriateness of either [REDACTED] evaluation. Tr. 40:10-13.

2/ The parties' exhibits were admitted in their entirety and without restrictions, save for the following: all e-mails and/or due process hearing requests attached to Respondent's Exhibits 20 through 27, which have been disregarded; and Respondent's Exhibits 36 through 38, which have been received for background purposes only. Tr. 218:14-25; 288:11-23

3/ Although this Final Order includes several citations to the record to highlight particular testimony or exhibits, the findings and conclusions contained herein are not based solely on the evidence specifically cited but, rather, on the undersigned's review and consideration of the entire record.

4/ Tr. 249:6-9.

5/ Pet'r Ex. 3, pp. 25-26.

6/ Tr. 269:2-8.

7/ [REDACTED] holds [REDACTED] and [REDACTED].

8/ [REDACTED] credibly testified that although Respondent was fatigued during testing session, the child was nevertheless attentive, alert, and able to complete the required tasks. Tr. 141:25-143:23. As such, there is no persuasive evidence that the child's fatigue detracted from the validity and reliability of the assessment.

9/ In particular, [REDACTED] utilized a sentence completion test (Purcell Incomplete Sentences) as an informal means of gathering information on Respondent's thoughts and feelings regarding a range of topics. [REDACTED] also administered the [REDACTED], a non-standardized questionnaire that allows the examinee to self-identify areas of strength.

10/ Tr. 78:2-19.

11/ [REDACTED] compared Respondent's results on the [REDACTED] to normed standards published in the [REDACTED]. Pet'r Ex. 4, p. 30.

12/ Pet'r Ex. 4, p. 30. [REDACTED] also administered [REDACTED]. Id.

13/ [REDACTED] also received completed checklists from several of the child's former teachers. Pet'r Ex. 6, pp. 51-52.

14/ During [REDACTED] final hearing testimony, [REDACTED] conceded that the evaluation did not include an observation of Respondent conversing or interacting with peers. [REDACTED] credibly explained, however, that such an observation would have been inappropriate in this instance, as Respondent did not have any opportunities for peer interaction:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tr. 203:1-18; 204:23-205:3.

<sup>15/</sup> Pet'r Ex. 6, p. 60.

<sup>16/</sup> Pet'r Ex. 6, p. 60.

<sup>17/</sup> By order dated [REDACTED], the undersigned extended the deadline for the issuance of this Final Order to June 13, 2016.

COPIES FURNISHED:

Terry J. Harmon, Esquire  
Sniffen & Spellman, P.A.  
123 North Monroe Street  
Tallahassee, Florida 32301  
(eServed)

R. Wesley Bradshaw, Esquire  
Bradshaw & Mountjoy, P.A.  
209 Courthouse Square  
Inverness, Florida 34450  
(eServed)

Respondent  
(Address of Record-eServed)

Matthew Mears, General Counsel  
Department of Education  
Turlington Building, Suite 1244  
325 West Gaines Street  
Tallahassee, Florida 32399-0400  
(eServed)

Liz Conn, Dispute Resolution  
Program Director  
Bureau of Exceptional Education  
and Student Services  
Department of Education  
Turlington Building, Suite 614  
325 West Gaines Street  
Tallahassee, Florida 32399-0400  
(eServed)

Sandra Himmel, Superintendent  
Citrus County School Board  
1007 West Main Street  
Inverness, Florida 34450

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).