Miami-Dade County School District
No. 04-0898E
Initiated by: Parent
Hearing Officer: John G. Van Laningham
Date of Final Order: July 12, 2004

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

[redacted]	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 04-0898E
	)	
MIAMI-DADE COUNTY SCHOOL BOARD,	)	
	)	
Respondent.	)	
	)	
	)	

FINAL ORDER

This case came before Administrative Law Judge John G. Van Laningham for final hearing by video teleconference on April 14, 2004, at sites in Tallahassee and Miami, Florida.

APPEARANCES

For Petitioner: [redacted] parent

For Respondent: Denise Wallace, Esquire
Miami-Dade County Public Schools
1450 Northeast Second Avenue, Suite 400
Miami, Florida 33132

STATEMENT OF THE ISSUE

Whether Petitioner has been provided a free appropriate public education, as required by the Individuals with

Disabilities Education Act, 20 U.S.C. § 1400, et seq., and its implementing federal regulations, 34 C.F.R. part 300, the corresponding state statutes and rules, and Miami-Dade County School Board policies and procedures.

PRELIMINARY STATEMENT

On January 5, 2004, the parents of Petitioner [redacted] a high school student who attends a public school in the Miami-Dade County School District, requested a due process hearing, complaining that Respondent had failed to identify their [redacted] as a disabled student until after [redacted] had turned 18 years old, thereby depriving [redacted] of opportunities to play for the school's baseball team and to graduate with [redacted] class. Respondent promptly referred the matter to the Division of Administrative Hearings ("DOAH"), initiating DOAH Case No. 04-0085E.

Not long after a final hearing had been scheduled, the parties requested that the matter be held in abeyance pending mediation and other attempts to settle the dispute. The final hearing was thus continued, twice, to allow the parties time to negotiate. Ultimately, on March 9, 2004, the case file was formally closed, it appearing that the parties had amicably resolved their differences.

Then, on March 15, 2004, Petitioner moved to reopen DOAH's file, asserting that Petitioner had not in fact reached an agreement with Respondent. By Order dated March 17, 2004, the matter was reopened as DOAH Case No. 04-0898E.

The final hearing took place on April 14, 2003, as scheduled, with both sides present. Petitioner presented the testimony of [redacted] and offered no exhibits. Respondent called the following witnesses on its behalf: Dr. Nick JacAngelo, Principal, [redacted] Joe Jackson, Executive Director, Division of Psychological Services; Nancy Migli, [redacted]s FCAT reading teacher; Elsie Rescio, Staffing Specialist; Maria Rhouly, [redacted]'s math teacher; and Maruja Gonzalez, Program Specialist. Additionally, Respondent offered seven exhibits, identified as Respondent's Exhibits A, C, D, E, F, G, and H, each of which was received in evidence.

The parties agreed to waive the requirement that the Final Order be issued within 45 days after the filing of the request for due process hearing.

The final hearing transcript was filed with DOAH on June 7, 2004. The original deadline for the parties' respective Proposed Final Orders was June 17, 2004. The undersigned later enlarged the time for filing post-hearing submissions, to June 21, 2004.

Each party timely filed a Proposed Final Order. The undersigned has considered the parties' submissions in the preparation of this Final Order.

Unless otherwise indicated, citations to the Florida Statutes refer to the 2003 Florida Statutes.

FINDINGS OF FACT

In accordance with Florida Administrative Code Rule 6A-

6.03311(5)(g)2., the following is a summary of the "facts and findings of the case," arrived at impartially, based solely on information presented at the final hearing.

The Parties

1. Petitioner [redacted] is a 19-year-old [redacted] who, as of the date of the hearing, was about to complete the eleventh grade at a public school in the Miami-Dade County School District. It is undisputed that [redacted] is eligible for exceptional student education ("ESE"). [redacted] exceptionality is "other health impaired." [redacted] disability is the result of a medical condition called attention deficit disorder.

2. Respondent Miami-Dade County School Board (the "Board") oversees the Miami-Dade County public schools and is responsible for, among many other things, the diagnosis, evaluation, and special instruction of exceptional students. For clarity and ease of reference, the Board, the Miami-Dade County School District, and their respective personnel will be referred to collectively in this Final Order simply as the "School" unless it is necessary to identify a specific actor.

The Relevant History

3. [redacted] was born on [redacted]. [redacted] entered [redacted] in 1999 as a ninth grader, making [redacted] a member of the class of 2003.[1] Yet, during the 2003-04 school year, which was nearing completion when this case was heard, [redacted]

was in the eleventh grade. Thus, it is inferred that, during [redacted] high school career, [redacted] has twice been denied promotion to the next grade. Although the evidence does not disclose which grades

[redacted] repeated or why specifically, the undersigned infers that [redacted] was held back due to [redacted] poor academic performance.

4. Although [redacted] high school years have been marked by academic failure, [redacted] has never been a troublemaker. Rather, [redacted] behavior has been that of a typical teenager. [redacted] has gotten along with [redacted] peers and been well liked. Apart from [redacted] dismal academic record, [redacted] evidently did not attract attention to [redacted]. Perhaps largely for that reason, the School kept [redacted] in general education classes, not suspecting that [redacted] might have a disability.

5. By [redacted] fourth year in high school (2002-03), when [redacted] was still in the tenth grade, [redacted] parents had become seriously concerned about [redacted]'s academic underachievement. They had discussed the situation with the School previously, but the evidence is vague as to when and with what frequency; what is clear is that [redacted] parents were dissatisfied with what they had heard.[2] Wanting more information, [redacted] [redacted] took [redacted] [redacted] to see Dr. Juan Ruiz-Unger on December 9, 2002. [redacted] [redacted] hoped that Dr. Ruiz-Unger, a pediatrician, could explain why [redacted] was not progressing academically. Dr. Ruiz-Unger candidly told [redacted]

[redacted] that [redacted] was probably not destined to excel in any field, such as medicine or science, that requires a high IQ.[3] Dr. Ruiz-Unger jotted a note to the School on [redacted] prescription pad observing that [redacted] might have a learning disability and suggesting that "a complete psychological profile" would be beneficial [redacted] [redacted] promptly brought Dr. Ruiz-Unger's note to the attention of the School.

6. On December 10, 2002, immediately after receiving Dr. Ruiz-Unger's note, the School notified [redacted] parents that a Child Study Team ("CST") would meet on December 12, 2002, to discuss the situation. A CST, which is typically composed of a student's teachers and other specialists (such as the guidance counselor and school psychologist), is responsible, first, for determining, with the help of the parents, which particular difficulties, academic or emotional, a student is having and, second, for developing strategies appropriate for addressing these difficulties, which might include referring the student for an evaluation, if one is deemed necessary.

7. When the CST met, the participants determined that [redacted] should be evaluated to determine whether [redacted] was eligible for ESE services. [redacted] parents readily consented to the recommended evaluation. The CST also developed strategies for helping LAC improve [redacted] academic performance. As a result of the CST meeting, the School offered to provide [redacted] with after-school tutoring, Saturday tutoring, and a referral to a dropout

prevention program. (None of these services was accepted.) Further, to increase [redacted] comprehension of classroom instruction, [redacted] teachers were asked to clarify their instructions and directions, and [redacted] was advised to bring a tape recorder to class.

8. On January 7, 2003, [redacted] vision, hearing, and speech were tested, as part of the evaluation process. [redacted] was also observed in the classroom on January 9, 2003. On March 6, 2003, the School referred [redacted] for a psychological evaluation. The school psychologist attempted to evaluate [redacted] in April and May of 2003, but[redacted] missed the appointments.[4]

9. On October 2, 2003, Dr. Alejo V. Vada, a school psychologist, conducted [redacted] evaluation. Based on the various test results, Dr. Vada concluded that [redacted] IQ was in the "low average range." Dr. Vada determined that [redacted] IQ and academic achievement were commensurate with each other. In other words, [redacted] found that there was no discrepancy between intellectual ability and performance indicative of a learning disability. Further, Dr. Vada observed no behaviors suggesting that [redacted] was emotionally handicapped. Dr. Vada recommended that the Multi-Disciplinary Team at [redacted] school make a determination regarding the most appropriate placement for [redacted] he also suggested that [redacted] be provided "the services of a tutor to help remediate some of [redacted] lagging skills," as well as "vocational counseling with the school guidance counselor."

10. A report containing the results of Dr. Vada's evaluation was forwarded to the Multi-Disciplinary Team ("MDT"). Based on this report, the MDT decided that [redacted] was not eligible for ESE services.

11. [redacted] parents disagreed with the results of Dr. Vada's evaluation and the MDT's determination. They requested that the School provide an independent educational evaluation ("IEE"). The School denied this request. Consequently, [redacted] parents arranged for an IEE at their own expense.[5]

12. In the meantime, Dr. Ruiz-Unger [redacted] physician) was provided a School form titled "Report of Medical Examination," which sought information pertinent to the determination whether [redacted] was eligible to receive ESE services. Dr. Ruiz-Unger competed the form on November 25, 2003. In this particular report, he diagnosed [redacted] with attention deficit disorder and cognitive disorder (visual/spatial). Dr. Ruiz-Unger also observed that, in his opinion, [redacted] required "close supervision and special classes, short and simple instructions," interaction with peers in sports such as baseball, and "behavior therapy to improve self-esteem."

13. The IEE that [redacted] parents had set up took place over the course of several days——on November 25, 2003; December 2, 2003; and December 5, 2003. During this time, a clinical psychologist named Ivan F. Danger, Ph.D., examined [redacted] to determine ,why [redacted] was not progressing academically. Dr. Danger

diagnosed [redacted] condition as attention deficit disorder without hyperactivity ("ADD") and cognitive disorder (visual/spatial). Apart from these diagnoses, Dr. Danger's findings were similar to Dr. Vada's, in that both psychologists concluded that [redacted] was functioning intellectually at a relatively low level.

14. [redacted] parents informed the School about the IEE that Dr. Danger had performed. The School agreed to review and consider Dr. Danger's report to determine whether, based on the IEE, [redacted] met the eligibility criteria for ESE services. The School scheduled an individual educational plan ("IEP") meeting for December 16, 2003.

15. At the IEP meeting, the IEP team reviewed the report from the IEE. The team concluded that the results were consistent with Dr. Vada's evaluation and hence failed to establish that [redacted] was eligible for ESE services. However, when [redacted] parents presented the Report of Medical Examination that Dr. Ruiz-Unger had completed on November 25, 2003, the IEP team decided that, based on the medical diagnosis of ADD, [redacted] was in fact "disabled" (having an "other health impairment") and thus could be provided ESE services.

16. The IEP team drew up an IEP for [redacted] that offered, among other things, placement in several ESE classes, namely English, math, and science. As well, the proposed IEP offered an opportunity for [redacted] to practice with the high school baseball team.[6] This particular item was included because [redacted] has a

strong interest in pursuing a career in baseball. It was made clear to the parents, however, that in order to practice with the baseball team, [redacted] would need to pass a physical examination and purchase the School-approved insurance, just like any other player. At least one member of the IEP team informed [redacted] that [redacted] could get a free physical examination at the school on December 17, 2003.

17. Because [redacted] was already 18 years old (and hence an adult) at the time [redacted] IEP was written, [redacted] should have been provided notice of the IEP meeting and been dealt with as the person responsible for [redacted] own interests. It is not clear, however, whether [redacted] was provided proper notice of the meeting, and the IEP states that [redacted] was "unable to participate" due to a scheduling conflict. For some unknown reason, the IEP team operated under the mistaken belief that [redacted] would turn 18 on March 7, 2004, which was actually [redacted] nineteenth birthday. Thus, everyone involved in preparing the IEP, including [redacted] parents (who had no reason to suppose otherwise), assumed that [redacted] parents had the authority to represent [redacted] with regard to the IEP, and everyone acted accordingly. Thus, [redacted] parents approved the proposed IEP on December 16, 2003, and it was subsequently implemented.[7]

18. As adopted, the IEP includes a form called "Parent and Student Notification of Transfer of Rights At Age of Majority" (the "Advance Notice"). Through this Advance Notice, the School

informed [redacted] and [redacted] parents that on March 7, 2004——the date mistakenly thought to be [redacted] eighteenth birthday——all of the rights of [redacted] parents under the IDEA would transfer to [redacted] The School did not inform [redacted] and [redacted] parents that the Advance Notice was incorrect (and affirmatively misleading) until this litigation was well under way. The School also never provided a separate notice to [redacted] and [redacted] parents advising them that the transfer of IDEA rights from parent to child on the occasion of the latter's reaching the age of majority had in fact occurred.

19. Petitioner has not complained about the academic services that have been provided under the IEP, and, indeed, [redacted] grades improved after [redacted] was placed in ESE classes. The IEP provision authorizing baseball practice has been a bone of contention, however. As it happened, following the IEP meeting, [redacted] did not get the free physical examination, or any other physical, and [redacted] did not return the required insurance form. As a result, [redacted] was not allowed to practice with the baseball team.

20. On February 18, 2004, [redacted] parents met with the principal, Dr. JacAngelo, to discuss, among other things, the fact that [redacted] was not practicing with the baseball team. Dr. JacAngelo explained that [redacted] could not practice with the baseball team until [redacted] had obtained the mandatory physical and insurance. At hearing, [redacted] [redacted] claimed that [redacted] was unable to get the physical completed because the doctor’s signature on the

required form needed to be notarized, and no one at the doctor's office could notarize the form. The Athletic Physical Form clearly states, however, that it is the parent's signature, not the doctor's, which needs to be notarized. Further, as of the hearing, [redacted] had not bought the School-approved insurance, which all participants in the School's athletic programs must do before taking part in a sport.

CONCLUSIONS OF LAW

21. The Division of Administrative Hearings has personal and subject matter jurisdiction in this proceeding pursuant to Section 1003.57(5), Florida Statutes, and Florida Administrative Code Rule 6A-6.03311(5).

22. This case arises under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq. ("IDEA"), which requires public schools to provide exceptional students a free appropriate public education ("FAPE") as a condition of receiving federal funds.

23. Embracing both procedural and substantive components, the test for determining whether a FAPE was provided is two-fold, requiring consideration of

> (1) whether the state actor has complied with the procedures set forth in the IDEA, and (2) whether the IEP developed pursuant to the IDEA is reasonably calculated to enable the child to receive educational benefits.

School Bd. of Collier County, Fla. v. K.C., 285 F.3d 977, 982 (11th Cir. 2002).

24[redacted] has not challenged the adequacy of the special education services (e.g. special instruction and interventions) that the School is providing. Instead, Petitioner contends that if the School had identified [redacted] as a student with a disability sooner than it did, then [redacted] would have received ESE services earlier, [redacted] grades therefore would have been better, and consequently he would have been able to play for (and not merely practice with) the baseball team.

25. Before addressing the merits of this claim, it is necessary first to discuss the School's argument that Petitioner's parents, who brought and prosecuted [redacted] due process request, lacked standing to maintain this proceeding.

Standing

26. The School asserts that substantially all of the parental rights afforded under the IDEA transferred to [redacted] by operation of law on [redacted] eighteenth birthday, which was March 7, 2003. Thus, the School contends, because [redacted] reached the age of majority before the first request for due process hearing was filed, [redacted] parents do not have standing to prosecute this case on their [redacted]'s behalf. This argument is not persuasive, for the reasons that follow.

27. The IDEA gives states permission to "provide that, when a child with a disability reaches the age of majority under State law" all of the parents' rights under the IDEA (except for the

right to receive notices) transfer to the child. See 20 U.S.C. § 1415(m)(1). It is the responsible school district's obligation to "notify the individual [student] and [redacted] parents of the transfer of rights." 20 U.S.C. § 1415(m)(1)(C).[8]

28. The federal regulations require school districts to give at least two notices regarding the transfer of parental rights. One of these must be a pre-transfer notice. Title 34, Code of Federal Regulations, Section 300.347(c), provides as follows:

> In a State that transfers rights at the age of majority, beginning at least one year before a student reaches the age of majority under State law, the student's IEP must include a statement that the student has been informed of his or her rights under [the IDEA], if any, that will transfer to the student on reaching the age of majority, consistent with [34 C.F.R.] § 300.517.

29. The other mandatory notice must be given at the time of the transfer of rights. Title 34, Code of Federal Regulations, Section 300.517(3), provides that "[w]henever a State transfers [parental] rights [to a student who has reached the age of majority], the [school district] shall notify the individual and the parents of the transfer of rights."

30. The School was aware of its obligations under the IDEA to provide these notices regarding the transfer of parental rights, as evidenced by a Florida Department of Education memorandum dated October 26, 1999, which addresses the subject of

transferring parental rights under the IDEA.[9] In this memorandum, at page 2, the Department notes that the pre-transfer notice (which must be included in the student's IEP pursuant to Section 300.347(c)) is "separate and distinct" from the time-of-transfer notice that Section 300.517(3) requires. On the next page, this memorandum states that "[w]hen the student attains his or her 18th birthday, a notice regarding the transfer of rights must be provided to the parent and student."

31. In this case, the School tried to give the required pre-transfer notice but wound up erroneously informing [redacted] and [redacted] parents in the Advance Notice that the transfer of rights would occur on March 7, 2004. Since everyone involved, including the School, believed that, and acted as if, [redacted] parents were [redacted] appropriate representatives in December 2003 when the IEP was drafted, and because the School affirmatively represented to [redacted] parents that they would retain their parental rights under the IDEA until March 7, 2004, it is concluded that the School is estopped from claiming that [redacted] parents were divested of their rights as of March 7, 2003, without warning, some nine months before they actively participated in the preparation of [redacted] IEP, at the School's request.

32. Further, the School failed to give the mandatory time-of-transfer notice. This alone is sufficient to defeat the School's argument that [redacted] parents lack standing, for it is concluded that the transfer of parental rights under the IDEA

does not occur unless and until all of the required notices are given in compliance with federal law.

33. Accordingly, the undersigned concludes that [redacted] parents have standing to maintain this proceeding on their son's behalf.

Child Find

34. Under the IDEA, school districts are charged with ensuring that "[a]ll children with disabilities residing the State, . . . regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated[.]" 20 U.S.C. § 1412(a)(3)(A). This is referred to as the "child find" duty. See, e.g., W.B. v. Matula, 67 F.3d 484, 492 (3d Cir. 1995). The child find duty is broad, extending to children who are merely suspected of having a disability, "even though they are advancing from grade to grade." 34 C.F.R. § 300.125(a)(2)(ii).

35. The duty to identify students who might be in need of special education services falls exclusively on school districts——and is not shared with parents. See Hicks, ex rel. Hicks v. Purchase Line School Dist., 251 F.Supp.2d 1250, 1253 (W.D.Pa. 2003)(child's entitlement to special education does not depend on parents' vigilance). To comply with the IDEA, school districts must evaluate children suspected of having a qualifying disability "within a reasonable time after school officials are on notice of behavior that is likely to indicate a disability."

Matula, 67 F.3d at 501.

36. The child find duty is echoed in Florida Administrative Code Rule 6A-6.0331, which provides, in pertinent part, as follows:

> The school board shall be responsible for the medical, physical, psychological, social and educational evaluations of students, who are suspected of being exceptional students, by competent evaluation specialists. Evaluation specialists shall include, but not be limited to, persons such as physicians, psychologists, audiologists, and social workers with each such person licensed in the professional's field as evidenced by a valid license or certificate to practice such profession in Florida. Educational evaluators not covered by a license or certificate to practice a profession in Florida shall either hold a valid Florida teacher's certificate or be employed under the provisions of Rule 6A-1.0502, F.A.C. Tests of intellectual functioning shall be administered and interpreted by a professional person qualified in accordance with Rule 6A-4.0311, F.A.C., or licensed under Chapter 490, Florida Statutes.

Fla. Admin. Code. R. 6A-6.0331(1)(a)(emphasis added).[10]

37. The facts of this case raise legitimate questions as to whether——and when——the School should reasonably have suspected that [redacted] had a qualifying disability. The undersigned believes that a reasonable educator might (and probably should) suspect that a student who has twice failed to advance to the next grade likely suffers from a learning disorder or other disability, at least where there are no other obvious explanations for the

student's consistently poor academic performance. For that reason, the undersigned harbors some doubt as to whether the School complied with the IDEA with respect to the timely identification of [redacted] disability.

38. Yet, the evidence presented in this case does not provide a sufficient foundation for the undersigned to find that the School breached its child find duty. There is little, if any, information in the record regarding the details of [redacted] day-to-day high school activities. Consequently, the undersigned has no idea, for example, what particular classroom behaviors [redacted] ninth and tenth grade teachers observed. Because the undersigned knows but a small portion of the facts that the School knew or should have known about, he cannot make a finding that the School was on notice, as of a particular date, that [redacted] had a disability. Instead, the unrebutted evidence shows that the School had reason to believe that [redacted] poor academic performance was generally in line with [redacted] relatively low IQ. Thus, as far as the undersigned can tell, [redacted] bad grades, while unfortunate, were not necessarily indicative of a qualifying disability.

39. At bottom, in order to find a breach of the child find duty, the undersigned would need to substitute [redacted] personal judgment for that of the school officials, based on a fraction of the information that was available to the school officials at the time critical decisions were made. While the outcome here might

have been different had Petitioner's case been presented by a skillful attorney, the undersigned cannot make decisions based upon what he imagines such a case might have looked like; rather, he is constrained to do the best with what he has been given.[11]

CONCLUSION

Based on the foregoing Findings of Fact and Conclusions of Law, it is determined that the School has neither violated the IDEA nor denied [redacted] a FAPE. Thus, it is ORDERED that Petitioner's request for relief is denied.

DONE AND ORDERED this 12th day of July, 2004, in Tallahassee, Leon County, Florida.

S

JOHN G. VAN LANINGHAM
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 12th day of July, 2004.

ENDNOTES

[1]/ Petitioner's [redacted] testified that [redacted] had started high school in 1997, but [redacted] undoubtedly misspoke, for [redacted] was only 12

years old the beginning of the 1997-98 school year. The undersigned infers that [redacted] started high school (ninth grade) at the usual age of 15, in 1999.

[2]/ [redacted] testified that [redacted] requests to have the School evaluate [redacted] for special education services were always turned down on the ground that there was no evidence warranting such an evaluation, but the evidence as a whole is simply insufficient to make any specific findings in this regard.

[3]/ The record does not disclose how Dr. Ruiz-Unger assessed [redacted]

[4]/ There is some dispute as to why [redacted] missed these appointments, and whose fault this was, but, whatever happened, the evidence is insufficient to support a finding that the School was purposefully delaying or otherwise trying to thwart the evaluation

[5]/ Petitioner has not specifically demanded, in this due process proceeding, to be reimbursed for the IEE, which cost [redacted] parents $1,000. Therefore, it is not necessary to determine in this case whether Petitioner was entitled to an IEE at public expense.

[6]/ [redacted] was not, and had not previously been, academically qualified to play for the baseball team, owing to [redacted] poor grades.

[7]/ At some point, [redacted] signed "Insert C" to the IEP. There is no evidence that [redacted] objected to any of the provisions of the IEP.

[8]/ The School has not cited any statute or rule by which the State of Florida specifically has elected to provide for this transfer of IDEA rights. The undersigned will assume for the sake of argument that the State has, in fact, so provided.

[9]/ The memorandum actually is not in evidence, but the School, having offered the document in support of its argument that [redacted] parents lack standing, is in no position to complain about the undersigned's consideration of it.

[10]/ The highlighted portions of the Rule refute the School's argument, advanced at page 14 of its Recommended Final Order, that the "IDEA does not require that a school district conduct a medical assessment as a means of evaluating a child for ESE services." Clearly, the School is required to order a medical evaluation when necessary to determine whether a student

suspected of having a disability actually is disabled.

[11]/ This is not a criticism of Petitioner's parents. They performed at least as well as the average layperson would have under similar circumstances. The reality, however, is that non-lawyers cannot reasonably be expected to handle expertly the daunting task of trying a case that is governed by a complex web of federal and state law.

COPIES FURNISHED:

[redacted].
(Address of record)

Denise Wallace, Esquire
Miami-Dade County Public Schools
1450 Northeast Second Avenue, Suite 400
Miami, Florida 33132

Eileen L. Amy, Administrator
Exceptional Student Education Program
Administration and Quality Assurance
Department of Education
325 West Gaines Street, Suite 614
Tallahassee, Florida 32399-0400

Dr. Rudolph F. Crew, Superintendent
Miami-Dade County School District
1450 Northeast Second Avenue, No. 912
Miami, Florida 33132-1394

Daniel J. Woodring, General Counsel
1244 Turlington Building
325 West Gaines Street
Tallahassee, Florida 32399-0400

NOTICE OF RIGHT TO JUDICIAL REVIEW

This decision is final unless an adversely affected party:

a) brings a civil action within 30 days in the appropriate federal district court pursuant to Section 1415(i)(2)(A) of the Individuals with Disabilities Education Act (IDEA); [Federal court relief is not available under IDEA for students whose only exceptionality is "gifted"] or
b) brings a civil action within 30 days in the appropriate state circuit court pursuant to Section 1415(i)(2)(A) of the IDEA and Section 1003.57(5), Florida Statutes; or
c) files an appeal within 30 days in the appropriate state district court of appeal pursuant to Sections 1003.57(5) and 120.68, Florida Statutes.