STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

[redacted],

Petitioner,

vs. Case No. 11-6264E

MIAMI-DADE COUNTY SCHOOL BOARD,

Respondent.
_____/

FINAL ORDER

Pursuant to notice, a due process hearing was held in this case on May 23 and 24, 2012; July 18 and 20, 2012; February 22, 2013; and March 18, 2013, by video teleconference with connecting sites in Miami and Tallahassee, Florida; and on January 14 and 15, 2013, in Miami, Florida before [redacted], an Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: [redacted]
(Address of record)

For Respondent: Mary C. Lawson, Esquire
Miami-Dade County School Board
1450 Northeast Second Avenue, Suite 430
Miami, Florida 33132

STATEMENT OF THE ISSUE

The issue for determination is whether the Child was [redacted] a free appropriate public education (FAPE) and, as a result, should receive compensatory education in the form of tutoring.

PRELIMINARY STATEMENT

The School Board received a request for a due process hearing (DPH Request) from the [redacted] on December 9, 2011, and filed the DPH Request with the Division of Administrative Hearings on December 12, 2011. Subsequently, on December 13, 2011, the School Board received another request for a due process hearing (Second DPH Request) from the Parent. On December 14, 2011, the School Board filed the Second DPH Request. By Order issued on December 29, 2011, the undersigned ordered, among other things, that the Parent had filed an Amended DPH Request, which consisted of the DPH Request received by the School Board on December 9, 2011, and the Second DPH Request received by the School Board on December 13, 2011. Subsequently, the School Board received, what the School Board identified as, a "Second Amended Due Process Request" from the Parent. By Order issued on January 9, 2012, the undersigned ordered, among other things, that the Second Amended DPH Request consisted of the Amended DPH Request and the request for a due process hearing received by the School Board on January 3, 2012.

Later, the School Board challenged the status of the Parent to proceed in the instant case as a Parent, instead of as an attorney. The Parent is also an [redacted] in the state of Florida. By Order issued on January 23, 2012, the undersigned determined that the Parent in the instant case satisfied the definition of a parent under the Individuals with Disabilities Education Act (IDEA); and ordered that the Parent's participation in the instant case was that of a parent, and that the Parent's capacity and status was a parent, not an [redacted].

The due process hearing was scheduled for March 5 through 7, 2012. The School Board presented to the Parent a proposed resolution agreement. A continuance of the hearing was granted to provide an opportunity for the parties to engage in discussion regarding the proposed resolution agreement. The parties were unable to reach an agreement on all of the issues and the due process hearing was re-scheduled.

After conducting several days of hearing, the School Board requested dismissal of the instant case for lack of jurisdiction due to the Parent having unilaterally removed the Child from the School Board's district and into another state. By Order issued on November 14, 2012, the undersigned denied dismissal.[1/] The due process hearing was re-scheduled.

The 45-day decision requirement was extended in light of

the circumstances presented in the instant case.

At hearing, the Parent testified and presented the testimony of [redacted] other witnesses. The Parent entered 11 exhibits (Petitioner's Exhibits numbered 1 (page 138),[2/] 6, 7, 8, 11, 14, 19, 34, 40, 41, and 42) and 21 of the School Board's exhibits (Respondent's Exhibits numbered 2 through 9, 13, 17, 18, 21, 29, 35, 38, 39, 40, and 41 (pages 153 and 155), 42, 46, and 47) into evidence. The School Board presented the testimony of [redacted] witness and entered 35 exhibits (Respondent's Exhibits numbered 1, 10, 11, 12, 14, 15, 16, 19, 20, 22 through 28, 30 through 34, 36, 37, 41 (page 152), 44, 45, 48 through 53, 55, 56, and 57) into evidence.

A transcript of the hearing was ordered. At the request of the parties, the time for filing post-hearing submissions was extended and set for than ten days following the filing of the transcript, thereby extending the 45-day decision requirement. The Parent moved for leave to extend the length of the post-hearing submission beyond 40 pages.[3/] After being afforded an opportunity to respond to the request, the School Board chose not file a response to the request. The Parent's request was granted, and both parties were permitted to file post-hearing submissions beyond 40 pages.[4/]

The transcript, consisting of 13 volumes, was filed on April 9, 2013. The parties' post-hearing submissions were due

to be filed on or before May 9, 2013. The School Board moved for an extension of time, consisting of two-weeks (14 days), to file post-hearing submissions, to which the Parent filed an objection. The two-week extension was granted, and the parties were to file their respective post-hearing submission on or before May 23, 2013; again, extending the 45-day decision requirement. The School Board's post-hearing submission was more than 40 pages, without its attachments, and was filed timely, without attachments. The School Board's attachments were filed on May 24, 2013, at 8:00 a.m. The Parent's post-hearing submission was less than 40 pages, had no attachments, and was filed on May 24, 2013, at 8:00 a.m. The School Board filed a motion to strike the Parent's post-hearing submission as not timely filed. The Parent filed a response in opposition. Even though the Parent's post-hearing submission was filed after the deadline for post-hearing submissions, the Parent's response is [redacted]. Moreover, the School Board suffered no prejudice due to the late-filing. Further, the Parent has [redacted] exhibited a contemptuous manner for this Administrative Law Judge's orders, as asserted by the School Board in its motion. Consequently, the motion to strike is denied, and the Parent's post-hearing submission is accepted as filed. The 45-day decision requirement is appropriately extended to include the 14-day extension of time.

The parties' post-hearing submissions were considered in the preparation of this Final Order.[5/]

FINDINGS OF FACT

1. The Child began attending one of the School Board's schools when the Child was in [redacted], during the 2003-2004 school year.

2. During the 2009-2010 school year while attending one of the School Board's [redacted] schools at the [redacted] grade level, the Child was medically diagnosed with [redacted] exhibiting [redacted] and [redacted] On March 4, 2010, the [redacted] School determined that the Child was eligible for Section 504 of the Rehabilitation Act of 1973 services. A Section 504 Accommodation Plan was developed and implemented.[6/]

3. On March 9, 2010, the Parent signed a consent for the School Board to conduct a [redacted] evaluation.[7/]

4. On March 24, 2010, a Functional Assessment of Behavior Intervention Plan (BIP) was developed. The anticipated duration of the BIP was until March 24, 2011. As well as interventions and strategies, the BIP included, among other things, [redacted] to teach [redacted] and [redacted].

5. In October 2010, a new school [redacted] began working at the [redacted] School. No evaluation of the Child had been performed prior to the employment of the new school

[redacted] The former school [redacted] had developed a list of student cases for which evaluations needed to be performed. The Child's name [redacted] on the list of student cases. Furthermore, upon review of the Child's cumulative file in August 2011, the new school [redacted] saw no consent for a [redacted] evaluation.

6. On April 29, 2011, during the 2010-2011 school year at the [redacted] grade level, another Section 504 Plan was developed for the Child, providing additional accommodations.[8/]

7. Sometime toward the end of the [redacted] grade, the then principal of the [redacted] School changed the Child to a [redacted] Exceptional Student Education (ESE) classroom and the Child's schedule to special education classes for [redacted], [redacted], [redacted], and [redacted]. [redacted] evaluation of the Child for special education services had been performed; [redacted] determination that the Child was eligible for special education services had been made; and no Individual Educational Plan (IEP) had been developed.

8. Section 1003.57, Florida Statutes (2011), provides in pertinent part:

> (1)(a) Each district school board shall provide for an appropriate program of special instruction, facilities, and services for exceptional students as

> prescribed by the State Board of Education as acceptable, including provisions that:
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> 1. The district school board provide the necessary professional services for diagnosis and evaluation of exceptional students.
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> * * *
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> (b) A student may not be given special instruction or services as an exceptional student until after he or she has been properly evaluated, classified, and placed in the manner prescribed by rules of the State Board of Education. The parent of an exceptional student evaluated and placed or denied placement in a program of special education shall be notified of each such evaluation and placement or denial. Such notice shall contain a statement informing the parent that he or she is entitled to a due process hearing on the identification, evaluation, and placement, or lack thereof. . . .
> (emphasis added).

9. Florida Administrative Code Rule 6A-6.0331 provides in pertinent part:

> [S]chool districts . . . must ensure that all students with disabilities . . . and who are in need of specially designed instruction and related services are identified, located, and evaluated, and appropriate exceptional student education is made available to them if it is determined that the student meets the eligibility criteria specified in Rules 6A-6.03011 through 6A-6.0361, F.A.C. . . .
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> * * *
>
> (3) Initial evaluation. Each school district must conduct a full and individual initial evaluation before the initial

provision of ESE. Either a parent of a student or a school district may initiate a request for initial evaluation to determine if the student is a student with a disability . . . .

* * *

(6) Determination of eligibility for exceptional students.

(a) A group of qualified professionals determines whether the student is an exceptional student in accordance with this rule and the educational needs of the student. . . If a determination is made that a student is an exceptional student and needs ESE, an IEP or EP must be developed for the student in accordance with these rules.
(emphasis added).

10. Florida Administrative Code Rule 6A-6.03028 provides in pertinent part:

(1) Entitlement to FAPE. All students with disabilities aged three (3) through twenty-one (21) residing in the state have the right to FAPE consistent with the requirements of the Individuals with Disabilities Education Act, 20 USC Section 1400, et. seq (IDEA), its implementing federal regulations at 34 CFR Subtitle B, part 300 et.seq. which is hereby incorporated by reference to become effective with the effective date of this rule, and under Rules 6A-6.03011 through 6A-6.0361, F.A.C. FAPE shall be made available to students with disabilities . . . and any individual student with a disability who needs special education and related services, even though the student has not failed or been retained in a course or grade, and is advancing from grade to grade. . . .

* * *

> (m) IEP implementation and accountability. The school district, or other state agency that provides special education either directly, by contract, or through other arrangements, is responsible for providing special education to students with disabilities in accordance with the students' IEPs. . . An IEP must be in effect before special education and related services are provided to an eligible student and must be implemented as soon as possible following the IEP meeting. . . . (emphasis added).

11. The then [redacted] saw [redacted] difference in a Section 504 Accommodation Plan and an IEP in that [redacted] were used to assist a student to access a school's educational program. Further, the then [redacted] was more concerned with the Child benefiting from the special education classes than the differences between a Section 504 Accommodation Plan and an IEP.

12. Even though the evidence demonstrates that the Child [redacted] from being [redacted] the ESE services, the evidence demonstrates further that the Child [redacted] have been receiving ESE services due to [redacted] evaluation being performed, [redacted] determination of eligibility for ESE services, and [redacted] IEP.

13. During the summer of 2011, a new [redacted] was assigned to the Child's [redacted] School.

14. At the beginning of the 2011-2012 school year, the Child's [redacted] grade, the new [redacted] [redacted] the Child from the [redacted] ESE classroom and placed the Child in a

co-teaching class, which included a [redacted] teacher and a [redacted] co-teacher. The new [redacted] determined that, [redacted] an evaluation, a determination of eligibility, and an IEP, the Child [redacted] receive ESE services.

15. The new [redacted] provide the Parent with prior notice that the Child would [redacted] receive the ESE services. Under the circumstances surrounding the Child's [redacted] ESE classes, there was [redacted] for the new [redacted] to provide the Parent with prior notice before [redacted] the ESE services.

16. On August 29, 2011, the BIP was revised. The revision provides:

> Team met to review Behavior Intervention Plan parent is requesting a private [redacted] evaluation. At the current time, parent is in [redacted] with revising the current plan. Team feels that the extensive request will be better served with an IEP once an evaluation is completed and placement is determined. School will continue provide services on current plan. (emphasis added).

The Parent [redacted] with the Team and wanted a revision of the BIP. The Parent wrote comments at the Conference Notes section of the BIP, which included wanting a revision of the BIP, and requesting an evaluation and determination of placement.

17. The evidence demonstrates that, at the meeting on August 29, 2011, the Parent was requesting an evaluation by the

School Board. Even though the School Board [redacted] have in the Child's cumulative file the consent for an evaluation signed by the Parent, at that meeting, the School Board had the Parent's request for an evaluation in writing.

18. The new [redacted] at the [redacted] School assured the Parent that a [redacted] evaluation would be expedited for the Child.

19. The evidence demonstrates that, even though the Parent signed a consent for a [redacted] evaluation in March 2010, the Parent was [redacted] for an evaluation after a Section 504 Plan and a BIP were developed in March 2010 and after the Child was placed in special education classes toward the [redacted] of the 2010-2011 school year at the [redacted] grade level. Further, the evidence demonstrates that the Parent advocated for an evaluation after the Child was [redacted] from the special education classes.

20. On September 6, 2011, the Parent signed consent for the School Board to conduct a screening/assessment.

21. On September 8, 2011, the Parent signed consent for the School Board to conduct an evaluation. Even though the Parent had signed a consent for the evaluation in March 2010, the [redacted] School [redacted] have a record of the signed consent. Under these circumstances, it was [redacted] for the new

[redacted] to request the Parent to sign a consent for the evaluation.

22. The [redacted] evaluation was completed on October 5, 2011, less than 30 days from the time that signed-consent was provided by the Parent.

23. Florida Administrative Code Rule 6A-6.0331 provides in pertinent part:

> (3) Initial evaluation. Each school district must conduct a full and individual initial evaluation before the initial provision of ESE. Either a parent of a student or a school district may initiate a request for initial evaluation to determine if the student is a student with a disability or is gifted.
>
> * * *
>
> (d) The school district shall ensure that initial evaluations of students suspected of having a disability are completed within 60 school days (cumulative) that the student is in attendance after the school district's receipt of parental consent for the evaluation. . . .
>
> * * *
>
> (4) Parental consent for initial evaluation.
>
> (a) The school district must provide notice to the parent that describes any evaluation procedures the school district proposes to conduct. In addition, the school district proposing to conduct an initial evaluation to determine if a student is a student with a disability or is gifted must obtain informed consent from the parent of the student before conducting the evaluation.

> (b) Parental consent for initial evaluation must not be construed as consent for initial provision of ESE.
> (emphasis added).

24. The evidence demonstrates that the [redacted] was timely completed.

25. On October 27, 2011, the Child was determined eligible for ESE services in the area of [redacted] ([redacted]).

26. IEP meetings to develop an IEP were held on October 27, November 3 and 10, and December 7 and 12, 2011; a total of [redacted] days.

27. Both the Parent and the School Board blame one another for unnecessarily [redacted] the development of the IEP. The evidence demonstrates that both the Parent and the School Board share the blame.

28. For instance, the Parent requested reading of the entire Procedural Safeguards because the Parent [redacted] to the presence of the School Board's counsel at the IEP meetings and [redacted] believe that the Procedural Safeguards permitted the presence of the School Board's counsel; whereas, the School Board wanted to treat the Parent as an [redacted] instead of a parent, and wanted its counsel at the IEP meetings. The two opposite positions clashed, reducing the productivity of some IEP meetings.

29. As another instance, with the Parent's [redacted] understanding why the Child was [redacted] to be [redacted] from ESE classes and believing that some of the School Board's IEP Team members were [redacted] the Parent [redacted] those Team members at the IEP meetings. The Parent questioned them intensively, which they [redacted] understand, and to which they [redacted]. On the other hand, some of the School Board's IEP Team members were [redacted] with the Parent, [redacted] understand why the Parent was making some of the requests for the Child, and believed that the Parent was [redacted] the process and was [redacted] them from their students and their other responsibilities, resulting in some of the Team members [redacted] being as [redacted] as they could be.

30. At the IEP meeting on December 12, 2011, the IEP was finalized. However, the Parent [redacted] to sign the IEP on the bases that the BIP was [redacted] and that the IEP contained several deficiencies. The evidence [redacted] demonstrate that the Parent unreasonably [redacted] to sign the IEP.

31. The School Board's counsel [redacted] attend any IEP meetings after January 23, 2012.[9/]

32. On February 21, 2012, the IEP was revised and the BIP was revised, resulting in an Interim IEP being agreed upon. The Parent consented for the Child to be placed in ESE classes for [redacted], [redacted], and [redacted]. The Child remained in

general education classes for [redacted], [redacted], and [redacted].

33. On June 8, 2012, the Parent [redacted] the Child from the School Board's district.

34. The Parent enrolled the Child in a [redacted] school in the state of [redacted] Regarding tutoring, the Child receives tutoring in [redacted] for [redacted] to [redacted] hours a week. The majority of the tutoring is in the area of [redacted] The Parent pays $115.00 an hour for the tutoring in homework. According to the Parent, the Child is doing [redacted] in school because of the tutoring.

35. Evidence was presented as to the number of hours that the Child was receiving tutoring in homework. However, [redacted] was presented as to the number of hours that were [redacted] by the Child for tutoring in homework.

36. The evidence [redacted] demonstrate that the Child was receiving any tutoring from the School Board during the time that the Child was attending school at the School Board's district.

37. [redacted] was presented that the School Board determined that the Child needed to receive tutoring to access the educational program.

CONCLUSIONS OF LAW

38. The Division of Administrative Hearings has jurisdiction of these proceedings and the parties thereto pursuant to sections 1001.42(4)(l) and 1003.57(1), Florida Statutes (2012).[10/]

39. The Parent has the [redacted] of proof in these proceedings. Schaffer v. Weast, 546 U.S. 49 (2005). The standard of proof is a preponderance of the evidence. DeVine v. Indian River Cnty. Sch. Bd., 249 F.3d 1289, 1292 (11th Cir. 2001).

40. This administrative tribunal may not substitute its own notions of sound educational policy for those of school authorities that are under review. Bd. of Educ. Hendrick Hudson Cent. Sch. Dist. v. Rowley, 458 U.S. 176, 208 (1982); Johnson v. Metro Davidson Cnty. Sch. Sys., 108 F. Supp. 2d 906, 914 (M.D. Tenn. 2000). Further, state and local educational agencies are deemed to possess expertise in educational policy and practice, and their educational determinations predicated upon their expertise should be given great weight. Metro Davidson Cnty. Sch. Sys. at id., citing Burilovich v. Bd. Of Educ. of the Lincoln Consol. Sch. Sys., 208 F.3d 560, 567 (6th Cir. 2000). The evidence [redacted] demonstrate a reasonable reason [redacted] great weight to the expertise of the School Board in this matter.

41. Section 1001.42(4)(l) provides, among other things, that the School Board shall "[p]rovide for an appropriate program of special instruction, facilities, and services for exceptional students . . . ."

42. States must comply with the IDEA in order to receive federal funding for the education of handicapped children. The IDEA requires states to establish policy which ensures that children with disabilities will receive a FAPE. Through an IEP, the educational program accounts for the needs of each disabled child.

43. Florida Administrative Code Rule 6A-6.030152 provides in pertinent part:

> (1) Definition. [redacted] [redacted] means having [redacted] vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to [redacted] or [redacted] problems. This includes, but is not limited to . . . [redacted] . . . .
>
> (2) Activities prior to referral. Prior to referral for evaluation, the requirements in subsections 6A-6.0331(1)-(3), F.A.C., must be met.
>
> (3) Evaluation. In addition to the provisions in subsection 6A-6.0331(4), F.A.C., the evaluation for a student must also include the procedures in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services as required by Rule 6A-6.03411, F.A.C.

> (4) Criteria for eligibility. A student with [redacted] is eligible for exceptional student education if the following criteria are met:
>
> (a) Evidence of [redacted] that results in [redacted] efficiency in [redacted] and [redacted] the student's performance in the educational environment, and,
>
> (b) The student needs special education as defined in paragraph 6A-6.03411(1)(c), F.A.C.
> (emphasis added).

44. Florida Administrative Code Rule 6A-6.03411 provides in pertinent part:

> (1) Definitions. As used in Rules 6A-6.03011 through 6A-6.0361, F.A.C., regarding the education of exceptional students, the following definitions apply:
>
> * * *
>
> (c) Assistive technology service. Assistive technology service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. . . .

45. A state meets the IDEA's requirement of a FAPE when it provides personalized instruction with sufficient support services to permit the disabled child to benefit educationally from that instruction. The instruction and services [redacted] provided at public expense, meet the state's educational standards, approximate grade levels used in the state's regular education, and correspond to the disabled child's IEP. Rowley,

458 U.S. at 176.

46. Inquiry in cases involving compliance with the IDEA, which is a de novo inquiry, is twofold: (1) whether there has been compliance with the procedural requirements of the IDEA, including the creation of the IEP, and (2) whether the IEP developed is reasonably calculated to enable the child to receive educational benefits. Rowley, 458 U.S. at 206-207.

47. A state is not required to maximize the potential of a disabled child commensurate with the opportunity provided to a non-disabled child. Rather, the IEP developed for a disabled child must be reasonably calculated to enable the child to receive some educational benefit. Rowley, 458 U.S. at 200-203. The disabled child must be making measurable and adequate gains in the classroom, but more than de minimus gains. J.S.K. v. Hendry Cnty. Sch. Bd., 941 F.2d 1563 (11th Cir. 1991); Doe v. Alabama State Dep't of Educ., 915 F.2d 651 (11th Cir. 1990). The unique educational needs of the particular child in question must be met by the IEP. Todd D. v. Andrews, 933 F.2d 1576 (11th Cir. 1991). "The importance of the development of the IEP to meet the individualized needs of the handicapped child cannot be underestimated." Greer v. Rome City Sch. Dist., 950 F.2d 668, 695 (11th Cir. 1991).

48. In examining an IEP, great deference is given to the educators who develop the IEP. Todd, 933 F.2d at 1581.

49. The disabled child's education must be provided in the least restrictive environment (LRE) available. A determination of such environment requires consideration of whether there has been compliance with the procedural requirements of the IDEA and whether the IEP is reasonably calculated to enable the child to receive educational benefits. DeVries v. Fairfax Cnty. Sch. Bd., 882 F.2d 876 (4th Cir. 1989).

50. Furthermore, regarding the LRE in the placement of the child, generally, to the maximum extent appropriate, children with disabilities are to be educated with children who are non-disabled; and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment are to occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 20 U.S.C.S. § 1412(a)(5); 34 C.F.R. § 300.114(a). Further, in selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services he or she needs. 34 C.F.R. § 300.116(d). An IEP must be examined as to whether it provides a meaningful education in the LRE. Pachl v. Sch. Bd. of Anoka-Hennepin Indep. Sch. Dist. No. 11, 453 F.3d 1064, 1068 (8th Cir. 2006).

51. The evidence [redacted] to demonstrate that the Child was denied FAPE by the School Board.

52. Further, the evidence [redacted] to demonstrate that the School Board determined that the Child needed tutoring for homework. Additionally, the evidence is insufficient to demonstrate that the Child [redacted] tutoring for homework.

53. Therefore, the evidence [redacted] to demonstrate that the Child is entitled to compensatory education.

54. Even assuming that the evidence demonstrates that the Child [redacted] tutoring for homework, the School Board, [redacted] this Administrative Law Judge, would make the determination regarding the number of hours and frequency needed.

CONCLUSION

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

ORDERED that the Parent's due process complaint against the School Board is dismissed.

DONE AND ORDERED this 17th day of June, 2013, in Tallahassee, Leon County, Florida.

S

_____
ERROL H. POWELL
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 17th day of June, 2013.

ENDNOTES

[1/] See D.F. v. Collingswood Borough Bd. of Educ., Case No. 11-2410 (3rd Cir., September 12, 2012).

[2/] Petitioner's Exhibit numbered 1, page 138 is the attachment to Respondent's Exhibit numbered 22.

[3/] Florida Administrative Code Rule 28-106.215 limits proposed orders (post-hearing submissions) to 40 pages unless authorized by the presiding officer.

[4/] Id.

[5/] In its post-hearing submission, the School Board exhibited its dissatisfaction with rulings made by this Administrative Law Judge (ALJ) by rearguing issues upon which this ALJ had already ruled. The ALJ had neither granted the School Board an opportunity to reargue the issues, nor had the School Board cited any authority that would permit it to reargue the same issues. Consequently, such action by the School Board was improper.

[6/] No Section 504 issues were referred to the Division of Administrative Hearings.

[7/] See Endnote 2.

[8/] No Section 504 issues were referred to the Division of Administrative Hearings.

[9/] January 23, 2012, is the date that this ALJ issued the Order regarding the status of the Parent in these proceedings.

[10/] Unless indicated otherwise, all future references to the Florida Statutes are to the year 2011.

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)(b), Florida Statutes (2011), 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).