

Miami-Dade County School District
No. 07-4115E
Initiated by: Parent
Hearing Officer: June C. McKinney
Date of Final Order: March 6, 2008

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

██████████,)
)
Petitioner,)
)
vs.) Case No. 07-4115E
)
MIAMI-DADE COUNTY SCHOOL BOARD,)
)
Respondent.)
_____)

FINAL ORDER

Pursuant to notice, a formal hearing was held in this case on December 12, 2007, in Miami, Florida, before June C. McKinney, a duly-designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: ██████████, pro se
(Address of record)

For Respondent: Mary C. Lawson, Esquire
Miami-Dade County School Board
1450 Northeast Second Avenue, Suite 400
Miami, Florida 33132

STATEMENT OF THE ISSUES

The issues presented for resolution herein are:

(1) Whether the Respondent has properly identified ██████████ as autistic;

(2) Whether the Respondent is providing a free appropriate public education to ■■■, as required by the Individuals with Disabilities Education Act, Title 20, Sections 1400-85, United States Code ("IDEA"), and by Section 504 of the Rehabilitation Act of 1973, Title 29, Section 794, United States Code ("Section 504") by placing ■■■ in an Exceptional Student Education(ESE) self-contained class.

PRELIMINARY STATEMENT

In a letter dated September 12, 2007, the School Board of Miami-Dade County, Florida ("School Board" or "Respondent"), transmitted to the Division of Administrative Hearings a Request for Exceptional Student Education Due Process Petition ("Petition"). The Petition in which ■■■ requested a due process hearing was submitted to the School Board on September 11, 2007.

Upon receipt of the referral from the School Board, the Division of Administrative Hearings assigned the undersigned administrative law judge to hear the case.

On September 28, 2007, a prehearing conference was held for the purpose of identifying the specific issues to be presented at the hearing. At that time, ■■■, acting on behalf of ■■■, indicated that one issue he wanted to raise was whether ■■■ should be identified as autistic and placed in the ESE class.

The initial Petition was found to be insufficient and Petitioner filed an amended Due Process Request on October 4, 2007. As a result of Petitioner filing an amended due process petition on October 4, 2007, the undersigned extended the time

lines 26 Days and the new date for the final decision became December 21, 2007.

The School Board treated the amended due process request as a request for a due process hearing pursuant to Section 230.23(4)(m), Florida Statutes, and Florida Administrative Code Rule 6A-6.03311.

On October 16, 2007, the parties requested an extension of the 45-day requirement due to the unavailability of the parties to proceed to hearing until December 12, 2007. Due to the unavailability of the parties to go to hearing from November 6, 2007, through December 12, 2007, the undersigned granted an extension of time, 39 days, which moved the final order deadline to January 29, 2008.

At the hearing, ■■■, presented the testimony of two witnesses: ■■■. Petitioner did not offer any exhibits.

The School Board presented the testimony of the following witnesses: Yvonne Hanley, Staffing Specialist; Dr. Sheilla St. Fleurose, Psychologist; Liza Rivera, Special Education Teacher; Laura Furiati, Speech Language Pathologist; and Dr. Anne Marie Sasseville, Instructional Supervisor, Special Education, the School Board's Expert Witness. Respondent's Exhibits 1 through 25 were offered and received into evidence.

At the conclusion of the hearing, the parties ordered transcripts and requested that they be given until January 22, 2008, to submit proposed final orders. The undersigned granted the extension of time of the 45-day requirement, which added 41

days to the final decision deadline. The final decision is due March 10, 2008.

The transcript of the proceeding was filed with the Division of Administrative Hearings on January 4, 2008. Respondent timely filed a Proposed Final Order, which has been duly-considered. No proposed order was filed by Petitioner.

FINDINGS OF FACT

Based on the oral and documentary evidence presented at the final hearing, and the entire record in this proceeding, the following findings of fact are made:

1. ■■■ was born on ■■■. ■■■ did not attend public school since the 2006-2007 school year. At the time of the hearing, ■■■ was in the fifth grade. With the exception of fifth grade, ■■■ had been enrolled in Miami-Dade County School System continuously from first grade through fourth grade in a self-contained ESE class.

2. When ■■■ entered the Miami-Dade County School system, an initial eligibility for ESE program evaluation was done on December 18, 2001. It was determined that ■■■ was developmentally delayed and language impaired.

3. On May 31, 2002, a team met to reevaluate whether ■■■ needed to stay in the ESE program. A Proposal to Change Identification of Educational Placement was completed after the reevaluation and ■■■ was placed in a language impaired and autistic class for Autism Spectrum Disorder (ASD). ■■■ was placed in a self-contained classroom where ■■■ remained from kindergarten through fourth grade.

4. Ms. Rivera was ■■■'s ESE teacher in the self-contained autistic classroom. She taught ■■■ from first through fourth grade. Ms. Rivera has a bachelor's degree in elementary education and is certified in the State of Florida for elementary education grades one through six and as an exceptional education teacher, grades K through 12.

5. The program that Respondent delivers to ■■■ is carefully designed for ■■■. In fourth grade, ■■■ had a very structured daily schedule. ■■■'s schedule started with a morning meeting to prepare ■■■ for what was to come that day. The activity started with a discussion of the day of the week, date, weather, and what would take place that day--such as whether ■■■ would attend music, physical education or speech.

6. Additionally, there was an individual schedule at ■■■'s desk, and Ms. Rivera set a timer to go off every 20 minutes that prompted ■■■ to check ■■■'s schedule. When the timer rang, Petitioner would use a pen to check off ■■■'s schedule.

7. Ms. Rivera's classroom is set up in several centers: one-to-one, where ■■■ worked on ■■■'s IEP goals; three-to-one, three students and one adult, where ■■■ worked with computers, a listening center, etc; and in small groups. Some work was done independently with frequent prompting. When ■■■ completed a task, ■■■ was able to choose a reward for completing ■■■'s assigned task.

8. Ms. Rivera taught ■■■ and prepared ■■■'s work based on ■■■'s individual cognitive level from the Bergans Test. ■■■'s

classroom instruction was based on a modified classroom curriculum tailored to ■■■'s need and abilities.

9. ■■■ performed well in Ms. Rivera's structured classroom setting. ■■■ could follow the daily schedule but was not able to transition when there was a change in the schedule. Sometimes ■■■ would bounce up and down and make sounds, tippy-toeing back and forth if there was a change. Ms. Rivera would have to verbally cue ■■■ as to where to go in order for ■■■ to transition.

10. Ms. Rivera evaluated ■■■'s strengths and weaknesses during ■■■'s fourth grade year and noted that ■■■'s cognitive levels were lower than grade level when she gave ■■■ the Bergans Test. ■■■ scored on grade level two on vocabulary, writing, and math, two years behind ■■■'s placement grade level. Additionally, ■■■'s ability to communicate if Petitioner needed help with something, or just communicate socially was limited. ■■■ lacked social skills. It was also difficult for ■■■ to work independently.

11. Ms. Rivera was responsible for implementing the goals of ■■■'s IEP during each year that Petitioner was her student. ■■■ made educational progress each year.

12. When Ms. Rivera prepared the FAAR, a report done at the end of ■■■'s fourth grade year, it was based on results of the Bergans. Bergans indicated ■■■ had completed some fourth grade work with prompting, but was unable to demonstrate mastery of any Sunshine Standards for fourth grade.

13. At the end of ■■■'s fourth grade, an IEP team met to reconsider eligibility, ■■■'s goals and objectives and review ■■■'s placement. On March 13, 2007, an IEP was completed. It's goals were implemented for the remainder of the school year which included the months of March, April and May 2007. ■■■ made some progress. However, ■■■'s parents requested a meeting to review ■■■'s placement.

14. At the interim review of ■■■'s placement meeting on May 24, 2007, both ■■■'s parents were present. The IEP team determined that ■■■ continued to meet eligibility for autism and language impairment after reviewing the psychological testing, assessments of the teacher, teacher's observation, and information from the general education teachers. The placement decision was based on ■■■'s need for special educational support, language difficulty and social interactions.

15. ■■■ disagreed with the team's determination and requested that ■■■ be removed from the Autistic Program and the self-contained class. ■■■'s parents believe that ■■■ interacts fine with other children from their observations at home and church. Also, ■■■ was working with ■■■ on ■■■'s academic education at home and believed that ■■■ could function in a general education fifth grade class. The School Board agreed to have ■■■ reevaluated.

16. In July 2007, Dr. St. Fleurose was informed by the chairperson of the psychology department that she would be doing a psychological reevaluation of ■■■. Dr. St. Fleurose has both a master's and doctorate in clinical psychology and has worked as a

school psychologist for the past five years. She is licensed in Florida as a clinical psychologist and in Pennsylvania as a certified school psychologist.

17. Dr. St. Fleurose started the reevaluation by reviewing ■■■'s previous psychological evaluation from 2005, which revealed cognitive delays based on an IQ test and also found ■■■ to have mild autism.

18. Dr. St. Fleurose reevaluated ■■■ on July 25, July 31, and August 9, 2007, by performing the following tests: Differential Ability Scales, Wechsler Intelligence Scale for Children, Woodcock-Johnson Tests of Achievement, Gilliam's Autism Rating Scales (GARS-11), Comprehensive Test of Phonological Awareness Behavior Observations, and House Tree Person Drawings.

19. Dr. St. Fleurose started with an initial IQ test, looked at ■■■'s academic achievement, reviewed the inconsistencies and did another IQ test. The testing was administered individually, one-on-one. ■■■ needed frequent correcting, tended to give up easily, and needed coaxing to attend to the different tasks. ■■■'s attention was variable. Sometimes ■■■ seemed to be focused and other times she observed ■■■ staring blankly into space and needing redirecting. Additionally, ■■■ would also respond without considering the stimuli. There was no spontaneous conversation. ■■■'s speech was flat and ■■■'s voice was monotone. ■■■ also, at times, used words in idiosyncratic ways. ■■■ would repeat the last word said or make up words or repeat a word that had been said during a

previous subtest that wasn't related to the current test. ■■■ was not able to think abstractly.

20. Dr. St. Fleurose determined that the lack of functioning and difficulty demonstrated by ■■■ in one-to-one testing indicated a general education placement would impede ■■■'s progress in school. It would, therefore, follow that in a general classroom setting where there are distractions and there is not someone designated and available to redirect ■■■ every minute, that ■■■'s attention would be variable, ■■■ would miss instruction, and thus show less progress than in ■■■'s direct placement.

21. Dr. St. Fleurose's reevaluation determined that ■■■'s cognitive delays were significant and that ■■■ had difficulty with learning. She found enough deficits to determine that they would get in the way of ■■■ performing academically.

22. Dr. St. Fleurose was not able to get a true IQ score because of ■■■'s lack of attention, Petitioner staring blankly into space, and ■■■'s impulsive answers given without considering the stimuli.

23. Dr. St. Fleurose concluded her report with the following summary:

Summary:

[■■■] is 10 years, 3 months of age and is currently enrolled in a self contained Autism class. [■■■'s] WISC-IV scores revealed verbal reasoning skills that fall within the Extremely Low range. [■■■'s] non-verbal, perceptual organization skills were also found to fall within the Extremely Low range. [■■■'s] working-memory span was found to be of Extremely Low quality. [■■■'s] processing speed was found to fall within the Low-

Average level. The aggregate of [REDACTED]'s intellectual skills was found to fall within the Extremely Low range of cognitive efficiency. However, the obtained findings may not accurately reflect [REDACTED]'s true levels of intellectual functioning.

24. Ms. Furiati had been [REDACTED]'s speech pathologist since December 2005. She has an undergraduate and graduate degree in speech pathology. She also has a Florida State teaching certification for speech and language impairment from K to 12 and is licensed in Florida and New York for speech and pathology. She has been working for the School Board for six years.

25. Ms. Furiati has provided [REDACTED] language therapy focusing on WH-questions, commenting, requesting, turn-taking, describing actions and attending. During therapy sessions, while working with [REDACTED], [REDACTED]'s therapy required close proximity, and consistent verbal and visual redirection. [REDACTED] made progress with the therapy. Ms. Furiati measured [REDACTED]'s progress by recognizing that [REDACTED] is now able to describe objects using one attribute, and [REDACTED] can attend for about five minutes without redirection. However, [REDACTED] still requires prompting and redirection.

26. Ms. Furiati conducted a speech language evaluation of [REDACTED] in August 2007 as part of the reevaluation. She started by reviewing [REDACTED]'s previous speech language evaluation from April 14, 2005, which indicated that [REDACTED] was active, and able to sit through the evaluation, but that [REDACTED] had a short attention span. The evaluation also provided background information about [REDACTED]'s receptive language and moderate delays.

27. Ms. Furiati gave [REDACTED] the Comprehension of Expressive Speech and Language (CESAL) test and the pragmatic subtest. [REDACTED]

had difficulty requesting objects ■■■ wanted or asking for help, making inquiries--asking questions, and with initiating, maintaining and terminating conversations. ■■■ even had difficulty associating proper names to animals.

28. After testing ■■■, Ms. Furiati concluded that ■■■ was distractible, had reduced eye contact, and had a severe receptive, expressive and pragmatic language disorder.

29. On September 5, 2007, an IEP reevaluation meeting took place to determine if the autism programming in a self-contained classroom was the correct placement. The team consisted of ■■■'s parents; Ms. Hanley; Dr. Fleurose; Ms. Rivera, Ms. Furiati; Dr. Sasseville; a general education teacher; and the Regional Center II ESE Resource Teacher. Ms. Hanley conducted the meeting and solicited input from various team members.

30. During this meeting, Ms. Hanley had Dr. Fleurose share her findings from her psychological report with the IEP team. It was her opinion that ■■■ remained eligible for autism placement based on ■■■'s deficit in cognitive, social, and communication skills. She told the team members that the proper placement for ■■■ was the autism program.

31. Ms. Rivera also explained her position at the IEP meeting. After being ■■■'s teacher for four years, Ms. Rivera knew that ■■■ exhibited four characteristics of a child with autism. First she explained ■■■'s social difficulties in initiating conversations, playing with other children, and failure to maintain eye contact. Second, ■■■ had difficulties with communication particularly with expressing Petitioner's

needs to an adult, or if [REDACTED] is given a direction, [REDACTED]'s difficulty in understanding and following through without prompting. Sometimes Ms. Rivera had to use pictures to help [REDACTED] understand. Third, [REDACTED] had difficulty with changes and transitioning. Fourth, [REDACTED] self-stimulated by rubbing and had demonstrated sensory issues occasionally by covering [REDACTED]'s ears with both hands.

32. Ms. Rivera watched [REDACTED]'s progress in the structured environment while prompting with a schedule and determined that [REDACTED] needed such structure because of [REDACTED]'s problems with transitioning. She also felt that [REDACTED] needed a smaller classroom setting because of [REDACTED]'s verbal abilities and cognitive delays. Since [REDACTED] was functioning on a second grade level, Ms. Rivera did not believe that [REDACTED] could function in a general curriculum fifth grade classroom.

33. Additionally, [REDACTED]'s communication and social interaction would be a big issue in general education classes with 20 or more students. Ms. Rivera also agreed that the correct placement for [REDACTED] was in the autistic program in an ESE self-contained class.

34. Ms. Furiati also reviewed her report in the IEP meeting and agreed with the team that [REDACTED] met the criteria for eligibility for autism and that the appropriate placement would be in the self-contained autistic class. She based her decision on observations of [REDACTED], the results of the psychological testing and the results of her CESAL test. Ms. Furiati also determined that [REDACTED] needs a low student-to-teacher ratio, a visual schedule,

one-on-one time and a classroom with limited distractions because ■■■ would be very distracted in general education classes and would have difficulty asking for help even if ■■■ needed to go to the bathroom. She even decided that ■■■ was much more immature as compared to the fifth grade non-autistic children in general education classes.

35. On September 5, 2007, ■■■'s IEP team reconsidered placement and after input from the team members, all the team members except the parents concluded that ■■■ continues to meet the criteria for autism spectrum disorder and language impairment. The team decided that a general education classroom would not be appropriate for ■■■ and that it was best that ■■■ continue to be placed in an ESE self-contained classroom.

36. Before writing the IEP, the team even offered ■■■'s parents resource classes as a trial in the general population with support. ■■■ responded that ■■■ didn't want that. ■■■ wanted the autism label removed.

37. The IEP was written detailing ■■■'s eligibility for autism and language impaired in an ESE self-contained class providing the related services to ■■■ for language therapy with general education placement for art, physical education, and music.

38. Dr. Anne Marie Sasseville, the School Board's expert in educating children with autism, agreed with the IEP team's recommendation that ■■■ needs the autism program, and the support of a self-contained ESE class.

39. ■■■'s parents disagreed with the placement and filed a due process petition against the School Board. Other than their personal opinions, ■■■'s parents presented no persuasive evidence to contradict the conclusions of Dr. St. Fleurose, Ms. Rivera, and Ms. Furiati.

CONCLUSIONS OF LAW

40. 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)(e) Florida Statutes.¹

41. The goal of both the IDEA and Section 504 is to ensure that children with disabilities receive a free appropriate public education. Pursuant to the IDEA, a state is eligible for federal funds if it demonstrates that it "has in effect policies and procedures" that ensure that "[a] free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive" 20 U.S.C. § 1412(a)(1)(A).

42. Pursuant to Title 34, Section 104.33(a), Code of Federal Regulations, the rules enacted to implement Section 504, the "recipient [of federal funds] that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person." The FAPE required by Section 504 is equivalent to that required by the IDEA. 34 C.F.R. § 104.33(b)(2).

43. The basic requirements of a FAPE are described in Cypress-Fairbanks Independent School District v. Michael F., 118 F.3d 245, 247-48 (5th Cir. 1997):

The "free appropriate public education" . . . described in an IEP [Individual Education Plan], . . . need not be the best possible one, nor one that will maximize the child's educational potential; rather, it need only be an education that is specifically designed to meet the child's unique needs, supported by services that will permit him "to benefit" from the instruction. In other words, the IDEA guarantees only a "basic floor of opportunity" for every disabled child, consisting of "specialized instruction and related services which are individually designed to provide educational benefit." Nevertheless, the educational benefit to which the Act refers and to which an IEP must be geared cannot be a mere modicum or de minimis; rather, an IEP must be "likely to produce progress, not regression or trivial educational advancement." In short, the educational benefit that an IEP is designed to achieve must be "meaningful."

44. The burden of proof in an administrative hearing is on the party seeking the relief requested to prove the party's claims. Schafer v. Weast, 546 U.S. 49, 62 (2005). In the present case, because it is the Petitioner that is the party attacking the educational program once deemed appropriate for ■■■, ² the burden rests on the Petitioner to prove by the preponderance of the evidence that the educational classification and placement is not appropriate.

45. A "child with a disability" under the Federal definition is qualified for special education services under IDEA. 20 U.S.C.S. § 1400 et seq. To qualify, a child must have one of several enumerated conditions, and by reason, thereof,

need special education and related services. 20 U.S.C.S. § 1401(3)(A).

46. In the Florida K-20 Education Code, "exceptional students" are students who have "been determined eligible for a special program in accordance with rules of the State Board of Education." The term includes, among others, "students who are . . . speech and language impaired . . . [and those who are] autistic. . . ." § 1003.01(3), Fla. Stat.

47. According to the "rules of the State Board of Education," the former are students with "disorders of language, articulation, fluency, or voice which interfere with communication, pre-academic or academic learning, vocational training, or social adjustment." Fla. Admin. Code R. 6A-6.03012(1).

48. The State Board of Education provides criteria for a student with Autism Spectrum Disorder in Florida Administrative Code Rule 6A-6.03023(4)(a) as:

(a) Evidence of all of the following:

1. Uneven developmental profile as evidenced by inconsistencies across or within the domains of language, social interaction, adaptive behavior, and/or cognitive skills; and
2. Impairment in social interaction as evidenced by delayed, absent, or atypical ability to relate to people or the environment; and
3. Impairment in verbal and/or nonverbal language or social communication skills, and
4. Restricted repetitive, and/or stereotyped patterns of behavior, interests, or activities; and

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(c), F.A.C.

49. It is reasonably clear from these definitions, and the undersigned concludes, that [REDACTED] is a child with autism. It is determined, based upon the persuasive evidence presented by Ms. Rivera regarding [REDACTED]'s lack of social interaction, academic needs, grade level placements, language difficulty, and sensory detachment in learning, that [REDACTED] demonstrates the four characteristics that place [REDACTED] in the category of a child with autism. Additionally, Dr. Fleurose and the IEP team confirmed the diagnosis with the battery of test and observations discussed above. It is concluded, therefore, that [REDACTED] is eligible for special education services due to [REDACTED] being a child with autism and language impairment.

50. School Board Rule 6Gx13-6A-1.331 has provided the following criteria for dismissal from a program for students who are identified as autistic as follows:

Dismissal criteria

Upon following the reevaluation process, the IEP team determines that the student

- c. is successful in the general education curriculum without special education support;
- or
- d. the disability no longer interferes with the student's ability to participate in the educational program; and,

* * *

Additionally, a student with autism is considered for dismissal when:

1. the student no longer exhibits severe impairments in socialization which have an adverse effect on his/her educational performance, and
2. the student possesses an intentional communication system which is functional, or
3. the reevaluation results and the IEP team findings indicate that placement in the regular education program is appropriate and

the student is no longer a student with a disability

51. ■■■'s parents assertion that ■■■ should not be in a self-contained class is not supported by the record. The criteria for dismissal have not been met. ■■■ was not able to fulfill a key element of the dismissal criteria, the requirement that ■■■ demonstrate the ability to be successful in the general education curriculum without special education support. ■■■'s substandard second grade level performance, standing alone, disavows the claim that ■■■ has met the dismissal criteria.

52. Furthermore, taken as a whole, the evidence presented demonstrates that ■■■ still needs to be in an ESE self-contained classroom. It is appropriate because ■■■ is autistic and can not function in a general population due to Petitioner's communication, social and academic levels. Additionally, it is clear from the testimony that ■■■ benefits from the self-contained class. ■■■ needs a smaller class size with individualized attention afforded by the recommended placement in that ■■■ would be all but lost in a regular classroom setting that averages 20 students or more. The modified curriculum specifically designed to meet ■■■'s unique academic needs assures ■■■'s continued educational progress.

53. Florida statutes and rules governing ESE respond to the federal funding mandates that schools provide ESE students a FAPE in the least restrictive environment. See Beth B. v Van Clay, 282 F.3d 493, 497 (7th Cir. 2002).

54. The least restrictive environment is codified in 20 U.S.C. Section 1412(5)(A), 34 C.F.R. Section 300.550, and Florida Administrative Code Rule 6A-6.03411(3)(a)(2). According to the Ninth Circuit Court of Appeals, a District must consider the following when evaluating the least restrictive environment:

(1) the academic benefits of placement in a mainstream setting, with any supplementary aides and services that might be appropriate; (2) the non-academic benefits of mainstream placement, such as language and behavior models provided by non-disabled students; (3) the negative effects the student's presence may have on the teacher and other students; and (4) the cost of educating the student in a mainstream environment.

See Clyde K v Puyallup School District, No. 3, 35 F.3d 1396, 1401-02 (9th Cir. 1994).

55. Petitioner has not met the burden of proof in this case. No evidence was presented that an ESE self-contained classroom for ■■■ is inappropriate. Also, Petitioner failed to present evidence to demonstrate ■■■ could successfully function in a general education classroom, which admittedly is the least restrictive environment. But, the School Board has provided ■■■ with access to general education classes that will not interfere with ■■■ progressing in ■■■'s basic academic areas. For ■■■, in light of ■■■'s disabilities, this is the least restrictive environment.

56. Finally, in this matter, it is established that ■■■ is properly identified as autistic and still needs the support in an

ESE self-contained class. Therefore, the School Board is providing ■■■ a FAPE with the supports and services necessary for ■■■ to maximize ■■■'s potential and meet with academic success.

ORDER

In view of the foregoing, the Parents' due process challenge fails, and the relief they have requested in their due process complaint is denied.

DONE AND ORDERED this 6th day of March, 2008, in Tallahassee, Leon County, Florida.

S

JUNE C. MCKINNEY
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 6th day of March, 2008.

ENDNOTES

^{1/} Unless otherwise indicated, all references to the Florida Statutes are to the 2007 codification.

^{2/} ■■■ had been in the self-contained class from grades one through four.

COPIES FURNISHED:

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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(1)(e), Florida Statutes; or
- c) files an appeal within 30 days in the appropriate state district court of appeal pursuant to Sections 1003.57(1)(e) and 120.68, Florida Statutes.