

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

LEE COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 16-2566E

\*\*,

Respondent.

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FINAL ORDER

A final hearing was held in this case before Todd P. Resavage, an Administrative Law Judge of the Division of Administrative Hearings ("DOAH"), on June 29, 2016, in Fort Myers, Florida.

APPEARANCES

For Petitioner: Kevin William Pendley, Esquire  
Resolutions in Special Education, Inc.  
10661 Airport Pulling Road, Suite 13  
Naples, Florida 34109

For Respondent: No appearance

STATEMENT OF THE ISSUE

Whether the proposed change of the subject student's ("the Student") placement to a separate day school represents the least restrictive environment ("LRE") within the meaning of the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400, et seq.

PRELIMINARY STATEMENT

On May 6, 2016, Petitioner Lee County School Board, pursuant to section 1003.5715, Florida Statutes, filed a request for a due process hearing that sought approval to place the Student in an exceptional student education center ("special day school").<sup>1/</sup> Petitioner's hearing request was necessitated by the Student's parent's (hereinafter "Respondent") refusal to provide consent to the proposed placement as recommended in the Student's Individual Education Plan ("IEP") dated April 22, 2016.

On May 12, 2016, a Notice of Hearing was issued scheduling the final hearing for May 23, 2016. The final hearing proceeded as scheduled; however, at the inception of the final hearing, Respondent averred that [REDACTED] had not received notice of the final hearing or any orders or notices from DOAH. Respondent further represented that [REDACTED] had not timely received Petitioner's Request for Due Process Hearing or any other filing in this matter. After investigation, it was determined that Petitioner's address of record for Respondent was incorrect. Accordingly, it was determined that all prior orders and notices issued from DOAH had not been sent to Respondent's current address.

Petitioner made an ore tenus motion to continue the final hearing to properly prepare and to obtain counsel. Said motion was granted. On May 23, 2016, the undersigned issued an Amended Case Management Order, an Order Granting Continuance, and an

Order rescheduling the final hearing for June 29, 2016. The undersigned's administrative assistant contacted Respondent prior to the final hearing to remind █████ of the hearing date, time, and location.

The hearing proceeded as rescheduled. Despite proper notice, Respondent did not appear. At the conclusion of the final hearing, Petitioner stipulated that proposed final orders would be filed on or before July 18, 2016, and the undersigned's final order would be issued on or before August 1, 2016. The stipulation was memorialized by the undersigned's July 6, 2016, Order Extending Final Order Deadline and Establishing Deadline for Proposed Orders.

The final hearing Transcript was filed on July 18, 2016. The identity of the witnesses and exhibits and the rulings regarding each are as set forth in the Transcript. Respondent timely filed a proposed final order, which was considered in preparing this Final Order. Unless otherwise indicated, all rule and statutory references are to the version in effect at the time the subject IEP was drafted.

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

FINDINGS OF FACT

1. The Student was born on [REDACTED]
2. The Student began the 2015-2016 school year at a Lee County Public School (hereinafter "School A") as a repeating [REDACTED]. Records indicate that the Student was initially placed on a Tier 2<sup>2/</sup> academic intervention plan in the spring of 2015 at [REDACTED] previous school.
3. During the first semester of the 2015-2016 school year, the Student was in a general education setting and subject to the school-wide positive behavioral support plan for all students at School A. School A's behavior support plan was known as SOAR and designed to reward appropriate student behavior. The Student did not comply or attempt to comply with the SOAR program.
4. In November 2015, the Student's behavioral concerns increased dramatically and his Tier 2 plan was modified to reflect new behavioral interventions. Unfortunately, the modifications were proven to be ineffective as the Student's behavioral concerns only escalated further. [REDACTED] was frequently noncompliant and demonstrated physically and verbally aggressive behaviors to staff members and fellow students.
5. Due to the severity of [REDACTED] behaviors and the intense level of need, the Student was referred for Exceptional Student Education ("ESE") eligibility in December 2015. The Student was also recommended for a [REDACTED]



8. It was further noted that the Student's behavioral scores reflected several areas of clinically significant concern, including conduct problems, aggression, depression, withdrawal, adaptability, and social skills. Any score in the clinically significant range suggests a high level of maladjustment and the need for immediate intervention.

9. On January 15, 2016, a [REDACTED] was also developed that set forth the Student's target behaviors, a hypothesis as to the function of the problem behaviors, and recommended replacement behaviors. The [REDACTED] set forth SMART Goals,<sup>4/</sup> interventions, monitoring, and supports.

10. The IEP team concluded that, due to the severity of Student's [REDACTED], [REDACTED] was unable to participate in a general education class, and recommended that [REDACTED] be placed in a separate day school, wherein the Student would have no time with nondisabled peers. The Student's [REDACTED] was provided a parental consent form for said placement; however, the [REDACTED] did not consent.

11. The IEP team reconvened again on February 2, 2016. The documented purpose for the meeting was to discuss a possible change of placement. At this time, the IEP team recommended that the Student be placed in a separate class,<sup>5/</sup> an intensive support class at School A, wherein he would be with nondisabled peers only 15 percent of the school day.

12. The intensive support class consisted of approximately eight students and three adults--the teacher (a former behavioral specialist), a classroom assistant, and a behavioral specialist. The behavioral specialist, [REDACTED], was assigned specifically to work with the Student one-on-one for the entire school day.

13. [REDACTED] credibly described a typical day assisting the Student. Upon arrival at school, [REDACTED] was required to meet the Student and, if in an agitated state, escort [REDACTED] to a safe place away from other students and adults. If arriving via bus, the Student would kick and hit any child that [REDACTED] could reach, with no discernable triggering event. Most commonly, the Student would require at least two hours to deescalate after arriving at school. It was only then that [REDACTED] would attempt to transition the Student to the adjacent classroom.

14. Upon entering the classroom, [REDACTED], the teacher, and the assistant would attempt to establish a positive environment for the Student and prevent inappropriate behavior by focusing on [REDACTED] preferred activities. They would then cautiously attempt to transition the Student to non-preferred activities, such as academics. Despite every attempt to implement the Student's [REDACTED], the Student would frequently become agitated and start throwing objects around the room and at others.

15. [REDACTED] credibly testified that, in the course of working with the Student, [REDACTED] attacked [REDACTED] several times and, on a daily basis, would utter profanities at [REDACTED] for "about two solid hours." So frequent were [REDACTED] attacks on this witness, that [REDACTED] began wearing long socks to cover [REDACTED] arms to prevent scratches. On one occasion, [REDACTED] was bitten by the Student while attempting to prevent the Student's aggression towards another student. The bite broke the skin on [REDACTED] finger. As a result, [REDACTED] was required to seek medical treatment and currently has to undergo routine lab work for concerns related to Hepatitis B and C, and HIV.

16. In describing the unpredictable nature of the Student's aggressive behavior, [REDACTED] credibly testified that, on another occasion, the Student, without any cause, ran over to a [REDACTED] student, picked up the student's walking cane and struck the student on the head with the cane.

17. At some point after February 2, 2016, Respondent requested that the Student's educational program be changed to a different school location, School B. Petitioner acquiesced to this request and the Student enrolled at School B on or about February 12, 2016.

18. At School B, the Student was assigned to the [REDACTED] program. The [REDACTED] classroom consisted of seven students, the teacher, and two paraprofessionals.



19.

19. [REDACTED], the Student's [REDACTED] teacher, explained that the students in the class were primarily those struggling with aggression and frustration when requested to perform non-preferred tasks. The [REDACTED] classroom staff attempted to implement the Student's [REDACTED] with a particular focus on [REDACTED]. [REDACTED] credibly testified that the Student's behavior was often unpredictable and [REDACTED] would become aggressive towards adults and children if the requested task was, in any way, undesirable.

20. In the [REDACTED] placement, the Student's behavior was observed and documented in 30-minute increments throughout the school day. As the function or cause of [REDACTED] behavior was not discernable, [REDACTED] credibly explained that it was exceedingly difficult to develop strategies or plans to address [REDACTED] behavior on a consistent basis.

21. Despite the [REDACTED] classroom staff's efforts, the Student continued to display aggressive and destructive behavior without warning. The Student's parade of inappropriate behavior included, but was not limited to, the following: overturning desks and chairs; knocking items from shelves and throwing same to the floor; punching the principal and assistant principal; throwing items at the behavioral specialist; attempting to throw furniture at adults; striking adults; punching another seated

student in the jaw and attempting to continue punching the student (on two consecutive days); running out of the classroom and randomly hitting two innocent students and pulling one's hair as they were leaving the cafeteria; attempting to stab an adult with scissors; and pushing a student to the ground. In each of the aforementioned actions, it was determined that there was an imminent risk of serious injury or death to the student or others, requiring the use of restraint by School B staff. Indeed, during the Student's entire tenure at School B, the staff was required to restrain [REDACTED] on 26 occasions.

22. On multiple occasions, when the Student's behavior escalated, [REDACTED] was forced to remove the balance of the students in the [REDACTED] classroom to a separate location, such as the media room or simply the hallway. [REDACTED] credibly testified that the removals were disruptive to the other students and had a negative impact on their ability to learn.

23. On March 21, 2016, an IEP meeting was reconvened at School B for the documented purpose of a manifestation determination and to again consider a possible change of placement. At that time, the Student had been enrolled at School B for 24 days. During that brief period of time, the Student had been referred on seven occasions for physical aggression and insubordination and had been absent for ten days, five of which were unexcused and five due to suspension.

24. The IEP team concluded that, due to the severity of the Student's behaviors, [REDACTED] was unable to make progress in the separate class, and again proposed that the Student be placed in a separate day school. Once again, the Student's [REDACTED], who left the meeting before conclusion, did not provide consent to the separate day school placement. For reasons that are unclear from the record, the Student remained at School B.

25. On April 22, 2016, the IEP team properly convened a meeting once again to discuss a possible change of placement. Despite proper notice to the Student's [REDACTED], [REDACTED] did not attend. During this meeting, the team documented the following concerns, which are consistent with the witness testimony at hearing, as follows:

[The Student] has been enrolled in [School B] since February 18. [REDACTED] has received 8 referrals for physical aggression toward adults and peers and insubordination. When in the classroom, [the Student] will work in short increments of time with computer reward. Aggression has occurred when immediate attention was not given or [REDACTED] was faced with an undesired task, such as lining up, not wanting to go somewhere, someone else is getting attention. Other strategies used are giving [REDACTED] choices, allowing [REDACTED] not to work if [REDACTED] does not want to with no penalty, and ignoring attention seeking behaviors. Some of [REDACTED] attention seeking behaviors are saying inappropriate words, instead of coloring a paper [REDACTED] scribbles on it looks at you and laughs. All of the referrals have been for physical aggression to peers and adults. Behaviors include profanity towards adults, eloping the school building, hitting

(adults and peers), kicking, throws furniture, scratching, attempting to bite, and destroying classroom. ■■■ is non-compliant and unpredictable and there is often no apparent trigger for the behavior. When [the Student] goes into crisis, ■■■ has been physically aggressive each time. ■■■ has hit peers in the classroom and has eloped the room and hit/pulled the hair of children passing by on the way to the cafeteria. ■■■ has escalated until a team of trained crisis members have to restrain ■■■ until ■■■ is calm. After 10 to 15 minutes of being calm ■■■ will get up and become aggressive again unprovoked. Once the student gets the referral for physical aggression the duration of the aggression can last for the remainder of the day. When told to discontinue hitting or kicking ■■■ laughs and smiles and uses profanity. During one crisis, ■■■ ran at an adult while holding a pair of scissors over ■■■ head and attempted to hurt adults. During a crisis situation if ■■■ is not being physically aggressive ■■■ is trying to destroy school property. For example using bathroom trash bags to throw water on adults, stopping the toilet up with paper, stopping the sink up with paper towel. While ■■■ is doing this ■■■ is smiling looking to the adults to see what reaction he can get. One incident ■■■ had just gotten to school and needed to do a time away ■■■ refused to go to the room, ran to the second floor and attempted to get in several classrooms before finding one unlocked. ■■■ entered the room and physically attacked two students. (■■■ entered a classroom that ■■■ had never been in before, it was completely random. ■■■ did not know the students he attacked.). During another incident, [the Student] was walking to the timeout room and had said ■■■ was calm and ready to go. Two ■■■ grade classrooms were in the hallway. When ■■■ saw them ■■■ attempted to attack them but was stopped by adults. ■■■ had to be transported to an empty classroom. Once in the classroom ■■■ continued to hit, kick and try to bite the adults. This episode continued from 10:20 am to 1:05 pm when ■■■

█ came to pick █ up. This is typical when █ goes into crisis. The biggest concern for [the Student] is █ safety and the safety of others. █ requires constant one on one supervision at all times and when in crisis requires more than one staff member, at least 3.

26. The IEP team concluded that, due to the severity of █ behaviors, █ was unable to make progress in the classroom, and again recommended placement in a separate day school. The Student's █ again refused to consent to the recommended placement.

27. As noted above, on at least 26 occasions the Student had to be restrained, resulting in voluminous reports to the State Department of Education. In addition to the actual time and staff resources necessary to maintain the Student's safety, as well as the safety of others, countless hours in additional staff and administrative time was spent reporting the Student's excessive behavioral transgressions.

28. The proposed separate day school is an educational facility specially designed to meet the needs of students with cognitive, medical, and/or behavioral challenges. The school includes pre-kindergarten through 12th grade students and has a population of only 135 students. The separate day school also has a low student-to-teacher ratio (approximately three students to one adult); highly trained staff including ESE certified teachers; access to specially trained behavioral assistants; and various

crisis management trained personnel who can address the Student's educational and behavioral needs.

29. Additionally, many of the separate day school students receive outside support from third-party agencies, and there is a designated space for those representatives to meet with students and perform the required services. The separate day school also contracts with an area psychiatrist, whose services are available to the pupils at no cost.

30. [REDACTED], the separate day school's principal, who was familiar with the Student's educational records and documented behaviors, credibly testified that the school would be able to implement the Student's IEP goals and [REDACTED], and that the school would be an appropriate placement for the Student.

31. The undersigned finds that the Student cannot be satisfactorily educated in the regular classroom with the use of supplemental aids and services. The undersigned further finds that the Student has been mainstreamed by the Petitioner to the maximum extent appropriate.

#### CONCLUSIONS OF LAW

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

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

34. In enacting the IDEA, Congress sought to "ensure that all children with disabilities have available to them a free appropriate public education [FAPE] that emphasized special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A); Phillip C. v. Jefferson Cnty. Bd. of Educ., 701 F.3d 691, 694 (11th Cir. 2012). The statute was intended to address the inadequate educational services offered to children with disabilities and to combat the exclusion of such children from the public school system. 20 U.S.C. § 1400(c)(2)(A)-(B). To accomplish these objectives, the federal government provides funding to participating state and local educational agencies, which is contingent on the agency's compliance with the IDEA's procedural and substantive requirements. Doe v. Alabama State Dep't of Educ., 915 F.2d 651, 654 (11th Cir. 1990).

35. Parents and children with disabilities are accorded substantial procedural safeguards to ensure that the purposes of the IDEA are fully realized. See Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley, 458 U.S. 176, 205-06 (1982). Among other protections, parents are entitled to examine their child's

records and participate in meetings concerning their child's education; receive written notice prior to any proposed change in the educational placement of their child; and file an administrative due process complaint "with respect to any matter relating to the identification, evaluation, or educational placement of [their] child, or the provision of a free appropriate public education to such child." 20 U.S.C. § 1415(b)(1), (b)(3), & (b)(6).

36. Local school systems must also satisfy the IDEA's substantive requirements by providing all eligible students with FAPE, which is defined as:

Special education services that--(A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under [20 U.S.C. § 1414(d)].

20 U.S.C. § 1401(9).

37. "Special education," as that term is used in the IDEA, is defined as:

[S]pecially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including--

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings . . . .



20 U.S.C. § 1401(29).

38. The components of FAPE are recorded in an IEP, which, among other things, identifies the child's "present levels of academic achievement and functional performance," establishes measurable annual goals, addresses the services and accommodations to be provided to the child and whether the child will attend mainstream classes, and specifies the measurement tools and periodic reports that will be used to evaluate the child's progress. 20 U.S.C. § 1414(d)(1)(A)(i); 34 C.F.R. § 300.320. "Not less frequently than annually," the IEP team must review and, as appropriate, revise the IEP. 20 U.S.C. § 1414(d)(4)(A)(i).

39. In addition to requiring that school districts provide students with a FAPE, the IDEA further gives directives on students' placements or education environment in the school system. Specifically, 20 U.S.C. § 1412(a)(5)(A), provides as follows:

Least restrictive environment.

(A) In general. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of

supplementary aids and services cannot be achieved satisfactorily.

40. Pursuant to the IDEA's implementing regulations, states must have in effect policies and procedures to ensure that public agencies in the state meet the LRE requirements. 34 C.F.R. § 300.114(a). Additionally, each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. 34 C.F.R. § 300.115. In turn, the Florida Department of Education has enacted rules to comply with the above-referenced mandates concerning LRE and providing a continuum of alternative placements. See Fla. Admin. Code R. 6A-6.03028(3)(i) and 6A-6.0311(1).<sup>6/</sup>

41. In determining the educational placement of a child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. 34 C.F.R. § 300.116(a)(1). Additionally, the child's placement must be determined at least annually, based on the child's IEP, and as close as possible to the child's home. 34 C.F.R. § 300.116(b).

42. With the LRE directive, "Congress created a statutory preference for educating handicapped children with nonhandicapped

children." Greer v. Rome City Sch. Dist., 950 F.2d 688, 695 (11th Cir. 1991). "By creating a statutory preference for mainstreaming, Congress also created a tension between two provisions of the Act, school districts must both seek to mainstream handicapped children and, at the same time, must tailor each child's educational placement and program to his special needs." Daniel R.R. v. State Bd. of Educ., 874 F.2d 1036, 1044 (5th Cir. 1989).

43. In Daniel, the Fifth Circuit set forth a two-part test for determining compliance with the mainstreaming requirement:

First, we ask whether education in the regular classroom, with the use of supplemental aids and services, can be achieved satisfactorily for a given child. See § 1412(5)(B). If it cannot and the school intends to provide special education or to remove the child from regular education, we ask, second, whether the school has mainstreamed the child to the maximum extent appropriate.

Daniel, 874 F.2d at 1048.

44. In Greer, infra, the Eleventh Circuit adopted the Daniel two-part inquiry. In determining the first step, whether a school district can satisfactorily educate a student in the regular classroom, several factors are to be considered: 1) a comparison of the educational benefits the student would receive in a regular classroom, supplemented by aids and services, with the benefits he will receive in a self-contained special

education environment; 2) what effect the presence of the student in a regular classroom would have on the education of other students in that classroom; and 3) the cost of the supplemental aids and services that will be necessary to achieve a satisfactory education for the student in a regular classroom. Greer, 950 F.2d at 697.

45. Here, the undisputed evidence establishes that the Student cannot be satisfactorily educated in the regular classroom, with the use of supplemental aids and services. Moreover, there is no evidence that, subsequent to the ESE eligibility determination, the Student's [REDACTED] has sought for the Student to be educated in the regular classroom.

46. Accordingly, the instant proceeding turns on the second part of the test: whether the Student has been mainstreamed to the maximum extent appropriate. In determining this issue, the Daniel court provided the following general guidance:

The [IDEA] and its regulations do not contemplate an all-or-nothing educational system in which handicapped children attend either regular or special education. Rather, the Act and its regulations require schools to offer a continuum of services. Thus, the school must take intermediate steps where appropriate, such as placing the child in regular education for some academic classes and in special education for others, mainstreaming the child for nonacademic classes only, or providing interaction with nonhandicapped children during lunch and recess. The appropriate mix will vary from child to child and, it may be hoped, from

school year to school year as the child develops. If the school officials have provided the maximum appropriate exposure to

non-handicapped students, they have fulfilled their obligation under the [IDEA].

Daniel, 874 F.2d at 1050 (internal citations omitted).

47. In the 2015-2016 school year, the student was removed from the regular education classroom to progressively more restrictive points on the placement continuum, to no avail. As discussed above in the Findings of Fact, due to the nature and severity of ■■■ disability, ■■■ did not, or could not receive an educational benefit from said placements. Additionally, ■■■ behaviors posed a significant health and safety risk to ■■■ and others, and negatively impacted ■■■ classmates' ability to learn.

48. The majority of the Student's IEP team has opined (on multiple occasions), and Petitioner's witnesses uniformly testified, that FAPE cannot be provided to the Student absent a special day school setting. The undersigned is mindful that great deference should be paid to the educators who developed the IEP. A.K. v. Gwinnett Cnty. Sch. Dist., 556 Fed. Appx. 790, 792 (11th Cir. 2014) ("In determining whether the IEP is substantively adequate, we 'pay great deference to the educators who develop the IEP.'") (quoting Todd D. v. Andrews, 933 F.2d 1576, 1581 (11th Cir. 1991)). As noted in Daniel, "[the undersigned's] task is not to second-guess state and local policy decisions; rather, it

is the narrow one of determining whether state and local officials have complied with the Act." Daniel, 874 F.2d at 1048.

49. The April 22, 2016, IEP proposes a change of the Student's placement to the next point (in terms of escalating restrictiveness) on the continuum of possible placements. While it is undisputed that the proposed placement offers less potential for interaction with non-disabled peers, from the evidence presented, the Student's aggressive and violent behaviors warrant such a result. The undersigned concludes that Petitioner's proposed placement of the Student in a special day school mainstreams the Student to the maximum extent appropriate. Accordingly, the proposed placement is approved.

#### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's proposed change of the Student's placement from a separate/special class to an exceptional student education center/special day school is approved.

DONE AND ORDERED this 27th day of July, 2016, in  
Tallahassee, Leon County, Florida.

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TODD P. RESAVAGE  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 27th day of July, 2016.

### ENDNOTES

<sup>1/</sup> "Exceptional student education center" or "special day school" means a separate public school to which nondisabled peers do not have access. § 1003.57(1)(a)1.a., Fla. Stat.

<sup>2/</sup> Tier 2 refers to supplemental behavior and/or academic interventions provided to those students who need more support than typically available in the general education classroom setting.

<sup>3/</sup> A student with [REDACTED] has persistent (is not sufficiently responsive to implemented evidence based interventions) and consistent emotional or behavioral responses that adversely affect performance in the educational environment that cannot be attributed to age, culture, gender, or ethnicity. See Fla. Admin. Code R. 6A-6.03016(1).

<sup>4/</sup> SMART is an acronym for specific, measurable, attainable, realistic, and timely.

<sup>5/</sup> A special class is defined as "the provision of instruction to exceptional students who receive the major portion of their educational program in special classes located in a regular school." See Fla. Admin. Code. R. 6A-6.0311(c).

<sup>6/</sup> In Florida, a school district may not place a student in an exceptional student education center ("special day school"), without parental consent. Where, as here, the parent does not consent, the school district may not proceed with such placement unless the school district obtains "approval" through a due process hearing. See § 1003.5715, Fla. Stat. Section 1003.5715 does not abrogate any parental right identified in the IDEA and its implementing regulations. § 1003.5715(7), Fla. Stat.

COPIES FURNISHED:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

This decision is final unless, within 90 days after the date of this decision, an adversely affected party:

a) brings a civil action in the appropriate state circuit court pursuant to section 1003.57(1)(c), Florida Statutes (2014), and Florida Administrative Code Rule 6A-6.03311(9)(w); or

b) brings a civil action in the appropriate district court of the United States pursuant to 20 U.S.C. § 1415(i)(2), 34 C.F.R. § 300.516, and Florida Administrative Code Rule 6A-6.03311(9)(w).