STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

**,

Petitioner,

vs. Case No. 18-1840E

SARASOTA COUNTY SCHOOL BOARD,

Respondent.
_____/

FINAL ORDER

A final hearing was held in this case before Todd P. Resavage, an Administrative Law Judge (ALJ) of the Division of Administrative Hearings (DOAH), on [redacted], by video teleconference at sites in Sarasota and Tallahassee, Florida.

APPEARANCES

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

For Respondent: [redacted], Esquire
Matthews EastmOore
1626 Ringling Boulevard, Suite 300
Sarasota, Florida 34236-6815

STATEMENT OF THE ISSUES

Whether Respondent failed the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., by modifying Petitioner's Individualized Education Plan (IEP) without convening the full IEP team; failed to properly implement Petitioner's IEP as it relates to [redacted] issues; and failed to

properly address Petitioner's educational placement; and, if so, to what remedy is Petitioner entitled.

PRELIMINARY STATEMENT

On [redacted], Respondent received Petitioner's Request for Due Process Hearing (Complaint). Petitioner's Complaint was forwarded to DOAH on [redacted], and assigned to the undersigned for all further proceedings.

On [redacted], Respondent filed a Motion to Dismiss, which was construed as a Notice of Insufficiency. On [redacted], the undersigned issued an Order of Insufficiency, with leave for Petitioner to amend. Petitioner filed an Amended Request for Due Process Hearing (Amended Complaint) on [redacted]. Thereafter, on [redacted], Respondent again filed a Motion to Dismiss, which the undersigned construed as a Notice of Insufficiency. On [redacted], the undersigned issued an Order of Sufficiency, specifically delineating those claims which met the minimal IDEA pleading requirements. Said Order was never challenged and Petitioner did not file an amended complaint thereafter. Said claims are set forth immediately above in the Statement of the Issues.

On [redacted], Respondent filed a Notice of Waiver of Resolution Session. On [redacted], a telephonic hearing was conducted, wherein the parties advised that they wished to engage in mediation. On [redacted], the undersigned issued an Order

granting the waiver of the resolution session and ordered that the timeline for conducting the due process hearing shall be extended pending mediation.

On [redacted], Respondent filed a Status Report, wherein it was indicated that mediation was scheduled for [redacted]. The mediation date was rescheduled on several occasions and was ultimately conducted on [redacted]. As mediation was unsuccessful, a telephonic status conference was conducted on [redacted]. During the telephonic conference, Petitioner advised the undersigned that, due to [redacted] employment-leave availability, [redacted] preferred to conduct the final hearing at least 30 days from the date of the conference. Petitioner was advised that setting the final hearing at that time would be outside of the timelines for conducting the due process hearing, pursuant to Florida Administrative Code Rule 6A-6.03311(9). Petitioner acknowledged the same and agreed to extend the timelines for conducting the final hearing and for the issuance of the undersigned's final order.

The final hearing was scheduled for [redacted] and [redacted], and proceeded as scheduled. Despite the undersigned's Amended Case Management Order and Notice of Hearing, Petitioner failed to disclose or provide Respondent and the undersigned with copies of proposed exhibits. During the final hearing, Petitioner was directed to provide the undersigned with several

exhibits during a break, at lunch, or following the conclusion of the hearing. Petitioner failed to do so. On [redacted], Respondent forwarded the same to the undersigned. Petitioner's Exhibits 1, 2, and 3 were admitted. Respondent's Exhibits 2 through 7 were admitted. The identity of the witnesses and exhibits and rulings regarding each are as set forth in the Transcript.

Based on the parties' stipulation at the conclusion of the hearing, the parties' proposed final orders were to be submitted on or before [redacted], and the undersigned's final order would issue on or before [redacted]. On [redacted], Petitioner filed a Motion to Extend Time to File Proposed Order. On [redacted], the undersigned granted the motion and extended the deadline to file proposed final orders to [redacted], and the final order deadline was extended to [redacted]. Petitioner timely submitted a Proposed Final Order. Respondent filed an untimely Proposed Final Order. Both orders have been considered in issuing this Final Order.

Unless otherwise indicated, all rule and statutory references are to the version in effect at the time of the alleged violations. For stylistic convenience, the undersigned will use [redacted] pronouns in the Final Order when referring to Petitioner. The [redacted] pronouns are neither intended, nor should be interpreted, as a reference to Petitioner's actual gender.

FINDINGS OF FACT

1. In the [redacted]-[redacted] school year, Petitioner attended a [redacted] school in either Pinellas or Manatee County, Florida. An IEP had been previously developed for Petitioner.[1/]

2. For the [redacted]-[redacted] school year, Petitioner transferred to Respondent's school district and was enrolled in School A, a public [redacted] school in [redacted] County, Florida. At that time, Petitioner was [redacted] years old and in [redacted] grade.

3. The [redacted]-[redacted] school year began on [redacted] [redacted], [redacted]. Based upon the prior IEP, Respondent was aware that Petitioner had been previously determined, at some point, to be eligible for exceptional student education (ESE) services under the eligibility category of [redacted]/[redacted] [redacted]([redacted]). It is also undisputed that Petitioner has a medical diagnosis of [redacted].

4. On the first day of school, Respondent obtained consent from Petitioner's [redacted] to utilize special classroom tools ([redacted] [redacted], [redacted] [redacted], [redacted]-[redacted] [redacted], and a [redacted] [redacted]) to address Petitioner's [redacted] issues.

5. As Petitioner had not been in public school for the prior year, and did not have a current IEP, Respondent desired to convene an IEP meeting to address Petitioner's [redacted] needs. On [redacted] [redacted], [redacted], [redacted] [redacted], Respondent's ESE Liaison, contacted Petitioner's [redacted] by telephone and requested that [redacted]

participate in an IEP meeting on [redacted], [redacted]. Petitioner's [redacted] advised that [redacted] would attend the meeting at the scheduled time and date. Respondent also sent home, with Petitioner, a written notice of the meeting.

6. The IEP meeting convened on [redacted], [redacted], as scheduled and agreed upon by Petitioner and Respondent, however, Petitioner's [redacted] did not appear. The school-based members of the IEP team proceeded with the meeting and an IEP was developed for Petitioner. No evidence was presented that Petitioner's [redacted] objected to the IEP, as drafted, or that [redacted] requested to reconvene the IEP due to [redacted] absence.

7. The [redacted], [redacted], IEP ([redacted] IEP) noted that Petitioner has a need for [redacted] [redacted] interventions or [redacted] and noted that, due to [redacted] disability, [redacted] "demonstrates [redacted] [redacted] which impacts [redacted] ability to [redacted] without [redacted] within [redacted] and [redacted] setting." It was further noted that Petitioner "requires a [redacted] [redacted] setting with [redacted] [redacted] infused throughout the school day."

8. Accordingly, Petitioner was assigned to a [redacted]-[redacted] placement wherein [redacted] would spend [redacted] than [redacted] percent of the [redacted] week with [redacted]-[redacted] peers. Pertinent to the issues in this matter, [redacted] goals were documented and said goals were to be monitored by [redacted] [redacted] teacher and, at times, a [redacted]

[redacted]. [redacted] was also to receive [redacted] in [redacted] and [redacted] skills on a [redacted] basis in [redacted] classroom. To facilitate the desired [redacted], the IEP also provided accommodations and modifications such as several brief sessions; repeat, simplify, summarize, or clarify directions or instructions; [redacted]; [redacted] percent extended time for assignments; and frequent breaks.

9. On or about [redacted], [redacted], Petitioner's [redacted] advised [redacted] that the [redacted] Petitioner used were not working properly. Although the [redacted] were the same as provided to other students with [redacted] issues, [redacted] proceeded to obtain a different set of [redacted] from the [redacted]. After this set was determined satisfactory, a separate set was ordered specifically for Petitioner.

10. On [redacted], [redacted], a parent-teacher meeting was conducted wherein Petitioner's [redacted] expressed concerns that Petitioner needed [redacted] for [redacted] to complete [redacted] assignments and further advised that [redacted] had been placed on a [redacted]. On this date, Petitioner's [redacted] advised that the [redacted] "seem to be working fine for [Petitioner]."

11. On [redacted], [redacted], Respondent received, from Petitioner's [redacted], a previously drafted [redacted]

[redacted] ([redacted]). On that date, Respondent requested, and Petitioner's [redacted] provided, consent to incorporate the [redacted] into the [redacted] IEP.

12. On [redacted] [redacted], [redacted], another parent-teacher conference was conducted. This conference was initiated due to an incident the prior day. On that occasion, Petitioner's teacher had provided [redacted] with an academic task that Petitioner refused. Petitioner's [redacted] [redacted] to the point of [redacted] [redacted] and [redacted] [redacted] the room and [redacted]. Ultimately, the room had to be [redacted] of other [redacted], and Petitioner was sent to the [redacted].

13. Various evaluations were conducted in October and November [redacted]. Said evaluations included the [redacted] [redacted] [redacted], 4th Edition, and a [redacted] [redacted] [redacted]. Also during this time period, staff at School A were compiling data to be utilized in a [redacted] [redacted] [redacted] ([redacted]). The unrefuted testimony established that the [redacted] process began at the beginning of school.

14. The data collected as part of the [redacted] process demonstrated that Petitioner's [redacted] were not [redacted] during the beginning of the year. Pursuant to the record evidence, during August, September, and part of October [redacted], Petitioner was [redacted] [redacted] percent in all areas for [redacted] [redacted] [redacted] and [redacted] than [redacted] percent for [redacted] [redacted] [redacted]. [redacted] [redacted],

School A's [redacted], credibly testified that, initially, Petitioner had so few [redacted] issues that [redacted] questioned [redacted] placement in a [redacted]-[redacted] setting.

15. A slight increase in [redacted] began at the end of October [redacted] and significantly increased the first week of November [redacted]. Of note, on [redacted], Petitioner's [redacted] took [redacted]. The undisputed evidence established that Petitioner's [redacted] spiked in November and early December [redacted], resulting in [redacted]. The collected data demonstrated that [redacted] from [redacted] percent to [redacted] percent; [redacted] from [redacted] percent to [redacted] percent; [redacted] from [redacted] percent to [redacted] percent; and [redacted] from [redacted] percent to [redacted] percent. From the evidence presented, it does not appear that any of the [redacted] resulted in [redacted] that would individually or in combination be construed as a change in Petitioner's placement.

16. The [redacted] process was completed on or about [redacted], [redacted]. After the [redacted] was completed, a new [redacted] was drafted to address Petitioner's [redacted]. Petitioner's [redacted] testified that [redacted] input was not utilized in either the [redacted] process or the [redacted] of the [redacted] at School A. [redacted] testimony is not credited. [redacted] credibly testified that there were multiple interactions with Petitioner's [redacted] throughout the [redacted]

process, and [redacted] testimony is corroborated inter alia by the parent-teacher conference notes. [redacted] further credibly testified that the [redacted] was in draft form as of [redacted]; however, the meeting was not concluded. [redacted] credibly explained that Petitioner's [redacted] opinions and information would be considered in drafting the final [redacted]; however, that did not occur as the meeting was not concluded.

17. For all that appears, Petitioner's [redacted] withdrew [redacted] from School A on or after [redacted]. It is undisputed that Petitioner and Respondent agreed to transfer Petitioner to School B, another public [redacted] school in Respondent's school district. Petitioner has been attending School B since January [redacted], and it is undisputed that [redacted] is "doing well and is progressing at the current school."

18. No evidence was presented by Petitioner to establish that the [redacted] IEP was inappropriate. Similarly, no evidence was presented by Petitioner to establish that Respondent was not implementing the [redacted] IEP while Petitioner attended School A. Petitioner also failed to present sufficient evidence to establish that the [redacted] was inappropriately conducted or that the [redacted] employed by Respondent were inappropriate or not employed with fidelity. To the contrary, the better evidence establishes that Respondent's implementation

of the [redacted] supports was effective in reducing Petitioner's [redacted] [redacted].

CONCLUSIONS OF LAW

19. DOAH has jurisdiction over the subject matter of this proceeding and 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).

20. 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).

21. 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).

22. 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 (FAPE) to such child." 20 U.S.C. § 1415(b)(1), (b)(3), (b)(6).

23. Local school systems must 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).

24. "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).

25. 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).

26. "The IEP is 'the centerpiece of the statute's education delivery system for disabled children.'" Endrew F. v. Douglas Cnty. Sch. Dist. RE-1, 137 S. Ct. 988, 994 (2017) (quoting Honig

v. Doe, 108 S. Ct. 592 (1988)). "The IEP is the means by which special education and related services are 'tailored to the unique needs' of a particular child." Id. (quoting Rowley, 102 S. Ct. at 3034).

27. The IDEA further provides that, in developing each child's IEP, the IEP team must, "[i]n the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior." 20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.324(a)(2)(i)(emphasis added).

28. In Rowley, the Supreme Court held that a two-part inquiry must be undertaken in determining whether a local school system has provided a child with FAPE. As an initial matter, it is necessary to examine whether the school system has complied with the IDEA's procedural requirements. Rowley, 458 U.S. at 206-207. A procedural error does not automatically result in a denial of FAPE. See G.C. v. Muscogee Cnty. Sch. Dist., 668 F.3d 1258, 1270 (11th Cir. 2012). Instead, FAPE is denied only if the procedural flaw impeded the child's right to FAPE, significantly infringed the parents' opportunity to participate in the decision-making process, or caused an actual deprivation of educational benefits. Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 525-26 (2007).

29. Here, Petitioner appears to advance two procedural claims. In a light most favorable to Petitioner, the Amended Complaint is construed as alleging that Petitioner's IEP was modified without convening the full IEP team. Specifically, Petitioner alleges that, "I was denied involvement in [Petitioner's] [redacted] evaluation and changes were made to [redacted] [redacted] reports without parent notification." As discussed in the Findings of Fact above, Petitioner failed to present competent evidence to support said claim.

30. To the extent Petitioner is also alleging that Respondent committed a procedural violation in conducting the [redacted] IEP meeting in [redacted] absence, that claim is denied. Respondent has a duty to "take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate." 34 C.F.R. § 300.321(a)(1). Respondent took the appropriate steps to notify Petitioner verbally and in writing of the purpose, time, and location of the IEP meeting, and Petitioner agreed to attend the same. Petitioner failed to present any evidence that Petitioner's parent requested that the IEP meeting not proceed or be rescheduled due to [redacted] absence. Additionally, no evidence was presented that Petitioner objected, in any way, to the [redacted] IEP. Indeed, Petitioner agreed to subsequently incorporate the previous [redacted] into the [redacted] IEP. Accordingly, to the extent

said claim was a technical procedural violation, Petitioner failed to establish that the same impeded [redacted] right to FAPE, significantly infringed Petitioner's [redacted] opportunity to participate in the decision-making process, or caused an actual deprivation of educational benefits.

31. Pursuant to the second step of the Rowley test, it must be determined if the IEP developed pursuant to the IDEA is reasonably calculated to enable the child to receive "educational benefits." Rowley, 458 U.S. at 206-07. Recently, in Endrew F., the Supreme Court addressed the "more difficult problem" of determining a standard for "when handicapped children are receiving sufficient educational benefits to satisfy the requirements of the Act." Endrew F., 137 S. Ct. at 993. In doing so, the Court held that, "[t]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." Id. at 999. As discussed in Endrew F., "[t]he 'reasonably calculated' qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials," and that "[a]ny review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal." Id.

32. The determination of whether an IEP is sufficient to meet this standard differs according to the individual circumstances of each student. For a student who is "fully integrated in the regular classroom," an IEP should be "reasonably calculated to enable the child to achieve passing marks and advance from grade to grade." Id. (quoting Rowley, 102 S. Ct. 3034). For a student not fully integrated in the regular classroom, an IEP must aim for progress that is "appropriately ambitious in light of [the student's] circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives." Id. at 1000.

33. Here, Petitioner has not raised any claim as to the substantive propriety of the [redacted] IEP. Petitioner's Amended Complaint is construed, however, to assert that Respondent failed to properly implement Petitioner's IEP as it relates to [redacted] issues. In determining whether the failure to comply with the terms of the IEP constitutes a denial of FAPE, two primary standards have been articulated. In Houston Independent School District v. Bobby R., 200 F.3d 341, 349 (5th Cir. 2000), the following standard was set forth:

> [A] party challenging the implementation of an IEP must show more than a de minimis failure to implement all elements of that

> IEP, and, instead, must demonstrate that the school board or other authorities failed to implement substantial or significant provisions of the IEP. This approach affords local agencies some flexibility in implementing IEP's, but it still holds those agencies accountable for material failure and for providing the disabled child a meaningful educational benefit.

34. Utilizing the foregoing standard, which requires proof of "substantial or significant" implementation failures, the court in Bobby R. held that the school district's failure to provide speech services for four months——among other implementation deficiencies——did not constitute a denial of FAPE. 200 F.3d at 348-49.

35. A competing standard was set forth in Van Duyn v. Baker School District 5J, 502 F.3d 811, 822 (9th Cir. 2007). In Van Duyn, the Ninth Circuit articulated a standard that, similar to Bobby R., requires proof of a material failure to implement the child's IEP—that is, something more than a "minor discrepancy" between the services a school district provides and the services required by the IEP. However, in contrast to Bobby R., the court in Van Duyn held that its materiality standard "does *not* require that the child suffer demonstrable educational harm in order to prevail." Id. at 822 (emphasis added). Thus, under the Van Duyn standard, a material failure to implement an IEP could constitute a FAPE denial even if, despite the failure, the child received non-trivial educational benefits.

36. Petitioner avers that Respondent wrote "[redacted] instead of trying to make reasonable adjustments and accommodation services to meet [Petitioner's] disability needs." Petitioner further avers that [redacted] was "removed from [redacted] classroom into a [redacted] and [redacted] for weeks away from [redacted] peers and missed countless time away from school." Aside from the bald allegations of the Amended Complaint, Petitioner failed to present evidence of any specificity to support said claims. Under either of the above-articulated standards, the undersigned determines Petitioner did not establish a material failure to implement the IEP.

37. Finally, Petitioner's Amended Complaint was construed as asserting that Respondent failed to properly address Petitioner's educational placement. In addition to requiring that school districts provide students with 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.

38. 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).

39. 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).

40. The evidence established at hearing clearly demonstrates that Petitioner is not challenging the educational placement as described above, but rather, the alleged delay in changing physical school locations from School A to B. Indeed, Petitioner remains in a [redacted]-[redacted] placement at School B. Petitioner failed to provide any evidence that Respondent violated the IDEA in not acquiescing to a change of school location prior to January [redacted].

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's Amended Complaint is denied in all respects.

DONE AND ORDERED this 4th day of January, 2019, in Tallahassee, Leon County, Florida.

S

TODD P. RESAVAGE
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 4th day of January, 2019.

ENDNOTE

[1/] The IEP was not presented during the final hearing. Based on the evidentiary presentation, the [redacted], IEP references both Pinellas and Manatee County, Florida. The undersigned has no knowledge of when the IEP was developed, the IEP's contents, which school district drafted the IEP, or the IEP's duration.

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).