STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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Petitioner,

vs. Case No. 19-0464E

SANTA ROSA COUNTY SCHOOL BOARD,

Respondent.
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FINAL ORDER

Pursuant to notice, a due process hearing was held before the Division of Administrative Hearings (DOAH) by Administrative Law Judge Diane Cleavinger, on [redacted] and [redacted], in Milton, Florida.

APPEARANCES

For Petitioner: Parent of the Student
(Address of Record)

For Respondent: [redacted], Esquire
Sniffen & Spellman, P.A.
123 North Monroe Street
Tallahassee, Florida 32301

STATEMENT OF THE ISSUES

The issues in this proceeding are:

a. Whether, during [redacted], the Santa Rosa County School Board (District or School Board) failed to evaluate the Student for eligibility for exceptional student education (ESE) services.

b. Whether, during [REDACTED], the School Board failed to develop an appropriate individualized education program (IEP) for the Student thereby failing to provide appropriate services, accommodations, and support for the Student.

c. Whether, during the [REDACTED] school year, the School Board was required to provide transportation services to the Student.

PRELIMINARY STATEMENT

Petitioner (Student), through [REDACTED] parents, filed a request for a due process hearing with Respondent, the School Board, on [REDACTED]. On [REDACTED], the School Board forwarded the Petition to DOAH for hearing. A Case Management Order was issued on the same day, establishing deadlines for a sufficiency review as well as for the mandatory resolution session. Thereafter, a telephone conference was held with the parties to discuss setting this case for hearing. Based on that discussion, on [REDACTED], a Notice of Hearing was issued setting the hearing for [REDACTED] through [REDACTED].

The hearing was held as scheduled. At the final hearing, Petitioner offered the testimony of eight witnesses and introduced into evidence Petitioner's Exhibits lettered A through TT and VV. Respondent presented the testimony of seven witnesses and introduced into evidence Respondents Exhibits numbered 1 through 38.

Following the conclusion of the hearing, a discussion was held with the parties regarding the post-hearing schedule. Based on that discussion an order establishing deadlines for Proposed Orders and the Final Order was entered on [redacted]. The Order established the deadline for filing proposed final orders as [redacted]. The deadline for entering the final order was extended to [redacted].

After the hearing, the parties timely filed proposed final orders on [redacted]. To the extent relevant, the proposed orders were considered in preparing this Final Order.

Additionally, unless otherwise noted, citations to the United States Code, Florida Statutes, Florida Administrative Code, and Code of Federal Regulations are to the current codifications.

Further, for stylistic convenience, the undersigned will use [redacted] pronouns in this 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. The Student was enrolled in the Santa Rosa County School District around [redacted]. Prior to that date, the Student was enrolled in public school in California. During that time, the Student was recognized as [redacted] and eligible for ESE services under the Individuals with Disabilities Education

Act (IDEA). However, the parents had revoked consent for such ESE services. The parents do not dispute that the Student is or that , on occasion at home, causes some and intense focus on topics that interest or are of concern to . There was no evidence that any of this behavior significantly interfered in the Student's ability to make adequate progress in school or conduct in a socially appropriate manner.

2. At the time of the hearing, the Student was finishing -grade year. was years old with a date of birth of . Notably, on , the Student will turn and all educational rights will transfer to , including the right to refuse all ESE services.

3. As noted above, the Student was enrolled in Santa Rosa County schools for -grade year ( ), around . At the time, the Student's parents submitted enrollment materials to the District. On the forms, the parents noted that the Student was and . The District also received information regarding the Student's performance on the Assessment of Student Performance and Progress. That assessment showed that the Student met standards in Math and English and was advanced in Science. Additionally, when the Student enrolled in the District, the District received notice

that parents had revoked consent for ESE services in , because "no longer needed the services prescribed in the IEP." The District also received documentation that the Student's parents revoked consent for ESE services at the beginning of the school year in . Further, upon enrollment in the District, the evidence demonstrated that the parents, who are very aware of a student's educational rights under Section 504 of the Rehabilitation Act and IDEA, informed school staff that they did not want ESE services for the Student. The evidence was clear that the refusal of such services by the parents was not unusual because from the records there was no obvious need for ESE services for the Student at the time.

4. In January of , the Student's parents reached out to the guidance counselor at the school seeking information about possibly creating a Section 504 Plan or IEP for the Student because they were concerned about the Student's possible reaction over something that happened between another student, , and of a . The evidence on the exact problem and the Student's relation to it was vague. However, the evidence did not demonstrate that a occurred, but only that a was by other with the situation being appropriately defused by school administration. At school, the Student behaved in usual, polite manner and did not exhibit any behaviors of concern. played on school's

team during year. also was well-liked by peers and teachers. The evidence also showed that the school year proceeded without significant incident.

5. On , the guidance counselor emailed the Student's parents and briefly explained the process to obtain an IEP or to write a Section 504 Plan and asked for the parent's input. The evidence showed that while the Student's parents originally sought information about possibly creating an IEP or a Section 504 Plan for the Student, they clearly elected to proceed with obtaining a Section 504 plan the quickest way possible. At the time, the better evidence demonstrated that the parents did not request evaluation for IDEA eligibility. Additionally, the evidence was not clear as to the accommodations the parent's desired. The evidence also did not demonstrate that any accommodations were needed by the Student or that the Student required ESE services in order to receive free appropriate public education (FAPE).

6. On , the guidance counselor met with the Student's parents. The counselor discussed the process for creating a Section 504 plan during the meeting and also again discussed the differences between an IEP and Section 504 Plan. The Student's parents agreed to proceed with scheduling an eligibility meeting under Section 504 and confirmed that agreement on , by email. Notably and contrary

to the parents' assertions, the Student's parents did not request an IDEA evaluation during the meeting and the evidence did not demonstrate that such an evaluation was warranted at the time.

7. On [redacted], a Section 504 eligibility meeting was held at which the Student was found ineligible as a student with a disability under Section 504. During the meeting the Student's educational performance and behavior at school were discussed. No one on the Section 504 team observed or heard the Student make inappropriate comments in class and no one on the team felt the Student needed specially designed instruction. At the time, the eligibility team observed that the Student was an A/B student, had no social or behavior issues, and did not have a [redacted] or [redacted] impairment that significantly affected one or more major life activities. Indeed, the evidence was clear that the Student did not meet the criteria under Section 504 for eligibility.

8. More importantly, through the Student's [redacted]-grade year, the evidence showed that he had very good grades and standardized test scores. The Student's first semester grades during [redacted]-grade year were as follows: English 1 – [redacted]; Algebra 1 – [redacted]; Personal Fitness – [redacted]; Driver's Education – [redacted]; Biology 1 – [redacted]; and Digital I – [redacted]. [redacted] second semester grades were as follows: English 1 – [redacted]; Algebra 1 – [redacted]; Fitness

Lifestyle – ; Critical Thinking – ; Biology 1 – ; and Digital In. – . At the end of the year GPA was and earned a 4 on the Reading Florida State Assessment (FSA), a 4 on the Science FSA and a 3 on the FSA End of Course (EOC) exam in Algebra 1. Such scores and grades demonstrate mastery of the school curriculum sufficient to advance from grade to grade. As indicated, the evidence also showed that the Student played on the high school team and was well-liked by peers. Additionally, the evidence showed that the Student was , and a good worker who generally managed time wisely in class. was not a discipline problem. In fact, the Student did not present in school any issues related to work, behavior or social skills that would have caused the school to evaluate the Student for ESE purposes. By all measures was a successful student and the evidence did not demonstrate that he was in need of ESE services or that the District violated its child find obligations. achieved reasonable progress at school and was promoted to the grade.

9. The evidence showed that the Student's -grade school year ( ) proceeded as the year before with regards to the Student's good grades and typical teenage behavior. again played for the school.

10. In March of [redacted], the guidance counselor spoke to the Student's parents because [redacted] parents were again concerned that the Student would be disciplined for possibly making inappropriate comments in school as a result of [redacted] good friend having been disciplined for [redacted] on [redacted]. The Student's parents reported that in their view [redacted] was making inappropriate comments at home relative to [redacted] friend's situation while discussing the topic with [redacted] parents. However, the evidence did not demonstrate what comments were being made at home. The evidence was clear that the Student did not make inappropriate comments at school and was not exhibiting inappropriate behavior at school. The evidence also demonstrated that the Student's alleged behavior was only an acute issue and not an on-going chronic issue. However, because of the parent's concerns over the Student possibly making an [redacted] [redacted] in school, the Student's parents informed the counselor that they wanted a Section 504 eligibility meeting to be held immediately. The evidence demonstrated that the only accommodation the parents desired at the time was for the Student to be able to [redacted] from class if a [redacted] [redacted] should arise so that [redacted] could [redacted] and thereby [redacted].

11. The better evidence demonstrated that the parents were notified in person that the Section 504 process was moving forward and that an eligibility meeting was scheduled for ██████████. The parent did not attend the meeting; however, parent input was accurately reported to the team by the guidance counselor.

12. The evidence showed that the 504 team was comprised of appropriate members and discussed all factors related to Section 504 eligibility for the Student. In an abundance of caution and to meet the parents' request, the team determined that the Student met eligibility requirements, because ███ "█████████" "can cause difficulty in ████████████" leading to █████████████. The team discussed that such █████ behavior was not an issue observed at school; but was rather, a parent-reported issue at home.

13. The team developed a Section 504 plan for the Student that provided ███ with a FASTPASS to leave class when ███ was ███████████████, or ███, and included a provision requiring ███████ if ███ said something ████████. The evidence showed that the Section 504 Plan was distributed to school staff for implementation. Additionally, the evidence showed that the eligibility determination and the Section 504 plan were provided to the parents who had no objections to it. The evidence also showed that while the plan was in place, the

Student did not exhibit behavior that required the use of FASTPASS or require for . The evidence was clear that, at school, the Student did not exhibit any of the that parents were afraid that might engage in. Additionally, the evidence showed that the parents were satisfied with the Section 504 plan, did not request further services, or request evaluation for IDEA eligibility or an IEP.

14. As with the previous school year, the evidence showed that the Student had very good grades and standardized test scores. The Student's first semester grades were as follows: English 2 – ; Geometry – ; Power Weights – ; Earth/Space Science – ; World History – ; and Intro. Eng. – . second semester grades were as follows: English 2 – ; Geometry – ; Rec. – ; Earth/Space Science – ; World History – ; and Intro. Eng. – . The Student's GPA was and earned a on the Reading FSA and a on the Geometry FSA. Such scores and grades demonstrate mastery of the school curriculum sufficient to advance from grade to grade. The evidence also showed that the Student continued to be well-liked by his peers, was , and a good worker who generally managed time wisely in class. was not a discipline problem. At school, did not exhibit any issues related to work, or social skills that would have caused the school to evaluate the Student for eligibility under IDEA for needed ESE services. By

all measures the Student was a successful student and the evidence did not demonstrate that ███ was in need of ESE services or that the District violated its child find obligations. In fact, the Student achieved reasonable progress at school and was promoted to the ███ grade.

███

15. Prior to school starting, the Student's newly assigned guidance counselor distributed the Student's Section 504 Plan to ███ teachers.

16. During the year, the Student was enrolled in Algebra 2; English 3; AP U.S. History, a college level class; Biotechnology 1; Building Construction Technology 1; and Weight Training 3. ███ also played on the High School Varsity ███ team and was on the school's competitive cheerleading team.

17. On ███, at the beginning of school, the parents requested through an email that the Student's Section 504 plan be revised to include transportation to and from ███ practice and games even though the Student had driven ███ to and from school and had a driver's license. The request did not state that it was needed because of the Student's disability. In fact, the evidence demonstrated the request was not based on an educational need or the Student's disability, but was made because the Student did not receive a parking permit as a ███ because all of the student parking permits had been distributed

to and because the Student appears to have had driving privileges taken away by parents because had received a traffic ticket. In fact, the parents at hearing appeared to be under the belief that the Student was entitled to transportation services, as well as other services and evaluations, simply because was and irrespective of the educational relevance for such services or evaluations relative to the lack of impact the Student's disability had on the Student. The parent's belief about such entitlement is misplaced.

18. Notably, the Student's Section 504 plan did not include participation in or specialized transportation as accommodations or necessary ESE services. More importantly, there was no evidence that demonstrated a need for accommodations relative to extracurricular activity or transportation.

19. On , the request for transportation services was appropriately denied at the direction of the   of ESE Services because received no information that the Student required transportation as an accommodation or service to minimize the impact of disability on education. Further, the received no information that the Student was unable to participate in practices, and, in fact continued to participate in such practices. Indeed, there was no evidence that demonstrated the Student's need for

transportation services. Similarly, there was no evidence that the District violated Section 504 or IDEA and failed to provide FAPE to the Student, when it denied transportation services to the Student. As such, the portion of the request for due process relative to transportation should be dismissed.

20. In the interim and in escalation of pressure over the request for transportation, on ██████████, the Student's parents transmitted a letter to the District requesting an ESE evaluation. This letter began the referral process for determination of eligibility under IDEA and the District began within a reasonable amount of time to collect educationally relevant social, psychoeducational, developmental history, and other relevant information on the Student. Notably, under IDEA, the District has 30 days to gather information for the referral process and to determine what evaluations are appropriate for determining possible eligibility under IDEA. During that process, the District may attempt to obtain signed, written consent from parents for any evaluations needed to determine eligibility.

21. Thus, on ██████████, District staff emailed the Student's parents and advised that the District could not move forward with any evaluations without their consent to evaluate, which the parents had not provided.

22. On [redacted], one of the parents provided a signed, written consent for evaluations under IDEA, dated [redacted]. In filling out the form, the parent chose evaluations in the areas the parent desired, which included psychoeducational, language, and medical evaluations.

23. On [redacted], the Student's assigned guidance counselor advised the parent that the District was not going to conduct a medical evaluation since there was no educationally relevant need for such an evaluation. The evidence in this case supported the District's conclusion. Instead, the District proposed to conduct psychoeducational and language evaluations that were educationally relevant for the Student given [redacted] educational history. The guidance counselor asked the parent to let [redacted] know if [redacted] "had any questions or [did] not feel comfortable signing the consent."

24. On [redacted], the parent acquiesced in the District's request and provided an informed, written consent, again dated [redacted], for evaluations in the areas of psychoeducational and language.

25. Once consent to evaluate was provided on [redacted], [redacted], the District had 60 calendar days, excluding all school holidays, Thanksgiving break, winter break, spring break and summer break, to evaluate the Student. In this case, the evaluation time period began on [redacted]. See Fla.

Admin. Code R. 6A-6.0331(3)(g). Further, during the time period relevant in this case, the District's [redacted] calendar reflects holidays on [redacted] – Veteran's Day and [redacted] through [redacted] – Fall Break/Thanksgiving. Accordingly, the deadline for the District to complete its evaluations was Sunday, [redacted]. Notably, the evidence was clear that even if the District missed the [redacted] deadline by a week, such procedural irregularity was immaterial to the provision of FAPE to the Student or the participation of the parents and would not be a violation of IDEA.

26. [redacted], the licensed school psychologist, conducted the psychoeducational evaluation. As part of [redacted] evaluation, [redacted] reviewed the Student's entire cumulative file, including previous IEPs and [redacted] then-current Section 504 Plan. [redacted] also gathered information from the parents and school staff about the parents' concerns, which included independent living after graduation, organization, time management, and communication skills of the Student. The evidence demonstrated that the psychoeducational evaluation was thorough and assessed and evaluated a number of areas including, but not limited to, post-secondary and post-school living skills, pragmatic skills, behavior, intellectual ability, and academics. The evidence demonstrated that the assessment methods used in the evaluation were generally accepted objective assessment methods in the relevant community. Further,

the evidence showed that the evaluation met the requirements for such evaluations in state and federal law and were otherwise appropriate evaluations under IDEA.

27. In the psychoeducational evaluation, the Student scored [redacted] in reading and math abilities. During the student input part of the evaluation, the Student reported to the school psychologist that [redacted] could be lazy and could perform better in school if [redacted] put in more effort especially as related to [redacted] performance in math class.

28. The school psychologist also obtained input from [redacted], and [redacted] ([redacted] [redacted]), all of whom were familiar with the Student in the school setting. [redacted] was asked to complete a checklist because the Student's teachers were not seeing characteristics of [redacted] in their classes. With respect to social skills, the Student's overall scores on school personnel rating scales demonstrated that [redacted] functioned as an [redacted] [redacted]. The only area in the psychoeducational evaluation with a clinically significant rating related to risk-taking behaviors, which has not been an issue in school for the Student. [redacted] also scored the Student as [redacted] for changes in routine activities or behavior. Classroom teachers did not have the same observation as [redacted]. In terms of daily living skills, self-care, health, safety, and community use (i.e.

workforce and outside environments), the Student was observed as being [redacted] compared to [redacted] same-age peers. Finally, with the exception of sensation seeking, the Student self-reported scores were all typical compared to other same-age peers.

29. On the other hand, [redacted] parents' rating scales demonstrated significantly different observations. However, such discrepancy in behavior is not unusual given the differences in the home and school environments.

30. [redacted], a licensed Speech-Language Pathologist (SLP) conducted the language evaluation. The parents reported to the SLP that the Student enjoys science but treats the rest of [redacted] classes as just something [redacted] has to do. The evidence demonstrated that such an attitude is typical of teenage students. In fact, the evidence demonstrated that the Student's attitude [redacted] impact [redacted] education. Indeed, the SLP observed the Student "was in the classroom just like any other student in the classroom. [redacted] was able to answer questions the teacher asked. [redacted] completed the work that was asked during the class time period, following the classroom directions. So all the expectations that were asked of [redacted] during that time period [redacted] was able to follow through with."

31. The SLP also evaluated the Student's pragmatic language involving the social aspects of language. None of the subjective teacher checklists reported concerns with pragmatic language.

However, to objectively measure the Student's language skills, the SLP administered the OWLS-2 and CASL-2 standardized assessments. Both of these assessments are generally recognized assessments in the relevant community for evaluating language skills.

32. The evidence demonstrated that the Student's performance on the standardized assessments were in the ██████████ range for ███ chronological age and did not raise any ESE concerns regarding ███ language skills. As such, the better evidence demonstrated that the Student did not have a need for ESE language services.

33. Further, the evidence demonstrated that the assessment methods used in the evaluation were generally accepted objective assessment methods in the relevant community. The evidence also showed that the language evaluation met the requirements for such evaluations in state and federal law and were otherwise appropriate evaluations under IDEA.

34. The evaluations were timely completed prior to ██████████, with the language evaluation completed on ██████████, and the psychoeducational evaluation completed on ██████████. The written report for the language evaluation was timely signed on ██████████. The psychoeducational report was signed on ██████████. However, as indicated earlier, the evidence did not demonstrate

that the signing of the psychological report after [redacted] [redacted], was a violation of IDEA.

35. On [redacted], even though the school psychologist had completed [redacted] psychoeducational evaluation, [redacted], the District's Program Facilitator who oversees the [redacted] program, observed the Student in class, because the school psychologist wanted to see if there was additional insight that could be gained on the Student since testing was not demonstrating a need for ESE services in school and [redacted] teachers were not seeing red flags indicating an educational or social need for ESE services in class.

36. The Program Facilitator observed the Student during first period English and observed the Student "functioned really well." [redacted] testified that a lot of times [redacted] is able to see [redacted] students pretty quickly during observations; however, [redacted] was not able to do so with this Student. During the observation, the Student sat with [redacted] peers and was a part of the group. [redacted] did not demonstrate social difficulties and the evidence did not demonstrate that the Student had such difficulties.

37. On [redacted], within a reasonable time after the evaluations were complete, an eligibility meeting was held, and the Student was found eligible under IDEA in the area of [redacted]. The evidence did not demonstrate that any other areas of eligibility were appropriate for the Student or needed to be

assessed by the District. The School psychologist and an SLP who could interpret the results of the evaluations were present to discuss the evaluations. The Student's parents were invited to and attended the meeting. The meeting notice also listed the Student as a person who may attend. However, for unknown reasons the Student did not attend the meeting. The evidence showed that the appropriate people participated in the meeting and that the IEP team was appropriately constituted.

38. During the meeting, which occurred right before the winter break, the evidence demonstrated that the school psychologist did not feel and the evidence confirmed that the Student's eligibility under IDEA was not clear and bordering on ineligible. However, even though the Student was [redacted] [redacted] and successful at school, the IEP team did have some concerns about the Student's time-management and follow-through on assignments sufficient to conclude that the Student was eligible for ESE services in the category of [redacted]. The evidence supported the team's conclusion even though, as discussed below, the evidence demonstrated the Student's recent difficulty with time management and follow-through was acute, not chronic and due to other factors, such as multiple absences from school and not applying [redacted] to a subject. Appropriate documents were signed by the team and parents as part of the eligibility process. Once eligibility was determined the evidence showed that the IEP team

convened to develop an IEP for the Student. However, there was not sufficient time to draft an IEP that day. As a result, the team, including the parents, agreed to reconvene the IEP meeting on , after the winter break and within the time periods established under IDEA. Towards that end, the evidence demonstrated that an appropriate meeting notice was prepared inviting the Student and parents to the agreed to , meeting. The evidence also demonstrated that the parents and the Student received the meeting notice in a timely manner.

39. On , the Student's parents called the District and requested to reschedule the , meeting. That same day, the District proposed or and , as possible dates for the IEP meeting.

40. On , after not hearing back from the parents regarding dates of availability for the IEP team meeting, the District contacted the parents again and re-proposed or and , as meeting dates.

41. On , the parents selected and agreed to hold the IEP meeting on . , the ESE liaison, advised the parents that would "do [ ] best to try to accommodate [their] request for ."

42. On , the guidance counselor advised that , would not work, because key personnel were unavailable; however, advised that , was

available. The parents agreed to hold the meeting on [REDACTED] [REDACTED].

43. On [REDACTED], [REDACTED] realized that [REDACTED], was a Saturday, so [REDACTED] offered the next school day, [REDACTED], as an option. On [REDACTED], the Student's parents agreed to [REDACTED]. Notably, given the intervening winter break, the necessity of including relevant meeting participants in the meeting and the parents' agreement to hold the meeting on [REDACTED], the evidence demonstrated that the delay in holding the meeting and drafting the IEP was not material to the provision of FAPE to the Student or the participation of the parents in the education of the Student. Further, the evidence was clear that the delay did not deny the Student any educational opportunities. Additionally, the better evidence demonstrated that an appropriate meeting notice was prepared for [REDACTED], and delivered to the parents. At the meeting, the IEP team was prepared to discuss, among numerous other topics, present levels of performance data, goals and objectives, accommodations and services, graduation requirements, post-secondary transition issues and specialized transportation. The team could also address any issues raised by the parents, including, if they were raised, life skills, social skills, pragmatic language skills, sensory difficulties, executive

functioning, assistive technology, related services, and transition plans.

44. However, on [redacted], the parents, ill-conceivably, filed the Due Process Complaint at issue in this case and stated that "the school is being put on written notice NOT to attempt to schedule an IEP meeting with the family." Even more puzzling and despite demanding that no IEP team meetings be held, the parents have asked the this tribunal order an IEP team meeting be held to address all of the issues the District was already prepared to address at the [redacted], IEP team meeting. However, the evidence was clear that it was the parents who refused to engage in the IDEA process and refused to meet with the District. The District has been and remains ready, willing and able to hold an IEP meeting to develop an IEP with the parents and the Student should they choose to attend. Further, the evidence was clear that the District met its child find obligations in conducting appropriate evaluations of the Student to determine [redacted] eligibility for ESE services. Given these facts, the portions of the due process complaint relative to child find and eligibility should be dismissed.

45. Finally, the evidence demonstrated that for the first semester ([redacted], through [redacted]), the Student earned [redacted] in Building Construction 1 and Weight

Training 2, ██ in AP U.S. History, English 3, and Biotechnology 1, and a ██ in Algebra 2.

46. The Student was in ████████████ Algebra 2 class for the first and second quarter and part of the third quarter. The evidence showed that the class was a hard class, resembled a college algebra course and has a class average grade of ██. There were approximately ██ students in the class. █████████ had no problem implementing the Student's Section 504 Plan.

47. The evidence showed that the Student, while in ██████████████ Algebra 2 class, was a typical Algebra 2 student. ██ had difficulty on tests and did not attend available tutoring. ██ did typically turn in homework.

48. The evidence showed that the Student earned a █ the first semester and had a grade of ██ when ██ transferred to a different Algebra 2 class during the third quarter. During that time, the evidence showed the Student's grade dropped because the Student missed about two weeks of school to go on a trip and was also out two days traveling with the ████████████████████████ ███. The evidence showed that the missed time in school caused the Student to fall behind in all ██ classes and created a backlog of work that the Student had to make up. In regards to Algebra, ██ missed two tests and other assignments, which contributed to ███ then-grade of ██. When ██████████ talked to the Student about ███ missing tests and work, ██ told ███ that ██

had six classes worth of make-up work and that Algebra 2 was "at the bottom of list to get made up, caught up." also slept in class three out of five days per week and socialized with a peer during work time in the class. At some point during the third quarter the Student transferred to another Algebra 2 class. The transfer worked because the Student was able to bring grade up in Algebra 2. More importantly, the evidence was clear that the Student mastered the course's curriculum. The evidence also showed that the Student made adequate and reasonable progress in the class.

49. During grade, the Student was also in English 3 class (first period for the first semester and sixth period part way through the third quarter). had no difficulties implementing the Student's Section 504 Plan.

50. During the third quarter, the Student took the initiative to request a class change (from first to sixth period), because was talking too much with a teammate during class. The evidence showed that the Student was not disruptive, but was simply "" with friend. During class, the evidence showed that the Student was , and . The evidence also showed that, like other students in the class, the Student had some missing longer assignments. However, he would turn in the missing assignment after being reminded. The evidence demonstrated that the Student

did not have any issues turning in homework. ██ also completed a project where ██ had to give a five minute PowerPoint presentation to the class. The evidence did not demonstrate a significant or atypical issue with time-management. At the time of the hearing, the Student was on grade-level, was monitoring ███ grades and had emailed █████████ close to the hearing to check why one of ███ grades had not been updated after ██ turned in an assignment. The evidence was clear that the Student mastered the course curriculum. The evidence also showed that the Student made adequate and reasonable progress in the class.

51. Additionally, the Student was in ███████████ Industrial Biotechnology 1 class. ██████████ was aware that the Student had a Section 504 plan.

52. The evidence showed that the class was a year-long class focused on laboratory skills to assist students, like the Student here, who are interested in potentially working in a scientific laboratory setting. Essentially, students learn workforce skills. The Student was an ███ student in the class. ███ teacher described the Student as a "superlative student" who was a leader in the class. The Student took initiative in class and worked "really well with the other students that are in ███ group." In class, ██ functioned as the coordinator/primary person in ███ group when experiments were conducted. ██ managed ███ time well during experiments, was organized, had a good work

ethic, turned in assignments on time, and functioned on grade-level. Socially, was typical among teenagers and acted as a "."

53. As with the previous school year, the evidence showed that had very good grades and standardized test scores. The evidence also showed that the Student continued to be well-liked by peers, was and a good who generally managed time wisely in class. was not a discipline problem. By all measures was a successful student. In fact, the Student achieved reasonable progress at school and will likely be promoted to the grade.

54. For the third quarter (, through), the Student earned an in Weight Training 3, a in Building Construction Technology 1, in AP U.S. History, English 3, and Biotechnology 1, and an in Algebra 2. As indicated, the Student was absent out of 45 days (more than percent of the third quarter), which the evidence showed caused grades to fall. However, as of , and as made up missed work and tests, the Student's fourth quarter grades were as follows: Algebra 2 – ; Biotechnology 1 – ; Building Construction Technology 1 – ; AP U.S. History – ; and English 3 – . As of the date of the hearing in May, the Student had a in Algebra 2, an in English 3, and an in Biotechnology. Given these facts, the

evidence was clear that the District has provided FAPE to the Student and has met its obligations under IDEA. As such, the due process complaint should be dismissed.

CONCLUSIONS OF LAW

55. DOAH has jurisdiction over the subject matter of this proceeding and of the parties thereto. See §§ 120.65(6) and 1003.57(1)(c), Fla. Stat.; Fla. Admin. Code R. 6A-6.03311(9)(u).

56. Petitioner bears the burden of proof with respect to each of the issues raised herein. Schaffer v. Weast, 546 U.S. 49, 62 (2005).

57. In enacting the IDEA, Congress sought to "ensure that all children with disabilities have available to them a free appropriate public education 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 each

agency's compliance with the IDEA's procedural and substantive requirements. Doe v. Ala. State Dep't of Educ., 915 F.2d 651, 654 (11th Cir. 1990).

58. Parents and students with disabilities are accorded substantial procedural safeguards to ensure that the purposes of the IDEA are fully realized. Bd. of Educ. 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) and (b)(6).

59. To satisfy the IDEA's substantive requirements, school districts must provide all eligible students with FAPE, which is defined as:

> [S]pecial 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).

60. The central mechanism by which the IDEA ensures FAPE for each child is the development and implementation of an IEP. 20 U.S.C. § 1401(9)(D); Sch. Comm. of Burlington v. Dep't of Educ., 471 U.S. 359, 368 (1985)("The modus operandi of the [IDEA] is the . . . IEP.")(internal quotation marks omitted). The IEP must be developed in accordance with the procedures laid out in the IDEA, and must be reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. Endrew F. v. Douglas Cnty. Sch. Dist., RE-1, 13 S. Ct. 988, 999 (2017).

61. "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) [I]nstruction conducted in the classroom,in the home, in hospitals and institutions, and in other settings. . . .

20 U.S.C. § 1401(29).

62. 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).

63. Indeed, "the IEP is 'the centerpiece of the statute's education delivery system for disabled children.'" Endrew F. v. Douglas Cnty. Sch. Dist. RE-1, 13 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)(where the provision of such special education services and accommodations are recorded).

64. In Rowley, the Supreme Court held that a two-part inquiry or analysis of the facts 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 or irregularity 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. 5-16, 525-26 (2007).

65. In this case, Petitioner alleged that the School Board failed to meet the procedural requirements of IDEA by failing to complete the referral process within the time periods under IDEA, failing to evaluate within the time periods under IDEA, not timely convening an IEP meeting and not properly evaluating the Student to determine the Student's eligibility under the District's child find obligations.

66. Relative to the issue involving the timeliness for the referral process and evaluations, the evidence demonstrated that the District received a request for the Student to be evaluated under the IDEA on [redacted]. According to Fla. Admin. Code R. 6A-6.0331(3)(b), the District had until [redacted], a Saturday, to complete the referral process. The District completed the referral process within that time and received signed, written consent for evaluations on [redacted], and a corrected consent form on [redacted]. Moreover, the evidence was clear that any delay in receiving the corrected consent form had no impact on the provision of FAPE to the Student or the participation of the parents in the Student's educational planning. Further, the evidence did not demonstrate

that the Student was denied any educational opportunities. As such, the provision of the second consent form after , did not create a procedural irregularity that was a material violation of IDEA.

67. As to the timelines for the evaluations, the evidence demonstrated that the District had 60 calendar days, excluding all school holidays, Thanksgiving break, winter break, spring break and summer break, to evaluate the Student. In this case, the evaluation time period began on . According to rule 6A-6.0331(3)(g), the District had until , to complete its evaluations of the Student. The evidence showed that both evaluations were completed in a timely manner. However, assuming arguendo that the psychoeducational evaluation was not completed within the time period proscribed in the rule, the evidence did not demonstrate that a four day delay in completion of the report was a procedural irregularity that was material and deprived the parents the opportunity to participate in the Student’s educational planning or deprived the Student of educational opportunities and FAPE.

68. In regards to the convening of an IEP meeting, the evidence was clear that the parents withdrew from the process of scheduling such a meeting when they filed this action asking for a remedy the District tried to provide and remains ready, willing

and able to provide. As such, no violation of IDEA occurred. See Sytsema v. Academy Sch. Dist. No. 20, 50 IDELR 213 (10th Cir. 2008); Hjortness by Hjortness v. Neenah Joint Sch. Dist., 48 IDELR 119 (7th Cir. 2007); and M.M. by D.M. and E.M. v. School Dist. of Greenville County, 37 IDELR 183 (4th Cir. 2002). Moreover, the evidence was clear that, given the intervening winter break, the necessity of including relevant meeting participants in the meeting and the parents' agreement to hold the meeting on [redacted], the delay in holding the meeting and drafting the IEP was not material to the provision of FAPE to the Student or the participation of the parents in the education of the Student. Further the evidence was clear that the delay did not deny the Student any educational opportunities.

69. Finally, as to the District's obligations to evaluate the Student for eligibility, the IDEA contains "an affirmative obligation of every [local] public school system to identify students who might be disabled and evaluate those students to determine whether they are indeed eligible." L.C. v. Tuscaloosa Cnty. Bd. of Educ., 2016 U.S. Dist. LEXIS 52059 at *12 (N.D. Ala. 2016)(quoting N.G. v. D.C., 556 F. Supp. 2d 11, 16 (D.D.C. 2008)(citing 20 U.S.C. § 1412(a)(3)(A)). This obligation is referred to as "Child Find," and a local school system's "[f]ailure to locate and evaluate a potentially disabled child constitutes a denial of FAPE." Id. Thus, each state must put

policies and procedures in place to ensure that all children with disabilities residing in the state, regardless of the severity of their disability, and who need special education and related services, are identified, located, and evaluated. 34 C.F.R. § 300.111(a).

70. However, "Child Find does not demand that schools conduct a formal evaluation of every struggling student." Mr. P. v. W. Hartford Bd. of Educ., 885 F.3d 735, 749 (2d Cir. 2018), cert. denied sub nom. Mr. P. v. W. Hartford Bd. of Educ., 139 S. Ct. 322 (2018); D.K. v. Abington Sch. Dist., 696 F.3d 233 (3rd Cir. 2012)(quoting J.S. v. Scarsdale Union Free Sch. Dist., 826 F.Supp.2d 635, 661 (S.D.N.Y. 2011))("The IDEA's child find provisions do not require district courts to evaluate as potentially 'disabled' any child who is having academic difficulties.")(internal quotation marks omitted); and D.G. v. Flour Bluff Indep. Sch. Dist., 481 F. App'x. 887 (5th Cir. 2012). Further, a school's failure to diagnose a disability at the earliest possible moment is not per se actionable, in part, because some disabilities "are notoriously difficult to diagnose and even experts disagree about whether [some] should be considered a disability at all." D.K., 696 F.3d at 249 (quoting A.P. ex rel. Powers v. Woodstock Bd. of Educ., 572 F. Supp. 2d 221, 226(D. Conn. 2008))(internal quotation marks omitted). Notably, the label assigned to a particular student is less

important than the skill areas evaluated. The issue is whether the district appropriately assessed the Student in all areas of a suspected disability. See e.g., Avila v. Spokane Sch. Dist. 81, 69 IDELR 204 (9th Cir. 2017, unpublished)(noting that a Washington district had assessed a student with autism for "reading and writing inefficiencies," the court ruled that it properly evaluated the student for dyslexia and dysgraphia). See also, Lauren C. v. Lewisville Indep. Sch. Dist., 2017 WL 2813935 *6, 70 IDELR 63 (E.D. Texas June 29, 2017).

71. To establish a Child Find violation, Petitioner must "show that school officials overlooked clear signs of disability and were negligent in failing to order testing, or that there was no rational justification for not deciding to evaluate." Sch. Bd. of the City of Norfolk v. Brown, 769 F. Supp. 2d 928, 942-43 (E.D. Va. 2010)(internal citations omitted). Further, in Dubrow v. Cobb Cty. Sch. Dist., 887 F.3d 1182 (11th Cir. 2018), the 11th Circuit held that to trigger a child find obligation and potential determination for eligibility, the Petitioner had to establish that his disability had an adverse impact on his education and that the student needed special education as a result of that impact. The court also held that a student is unlikely to need special education services if: 1) the student meets academic standards, 2) teachers do not recommend special education for the student, 3) the student does not exhibit

significant unusual or alarming conduct warranting special education, and 4) the student demonstrates the capacity to understand course material.

72. Rule 6A-6.0331(3)(e) sets forth the requisite qualifications of those conducting the necessary evaluations and rule 6A-6.0331(5) sets forth the procedures for conducting the evaluations. In conducting the evaluation, the school district "must not use any single measure or assessment as the sole criterion for determining whether a student is eligible for ESE." Fla. Admin. Code R. 6A-6.0331(5)(a)2. To the contrary, the school district "must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student." Fla. Admin. Code R. 6A-6.0331(5)(a)1. Further, the student shall be assessed in "all areas related to a suspected disability" and an evaluation "shall be sufficiently comprehensive to identify all of a student's ESE needs, whether or not commonly linked to the suspected disability." Fla. Admin. Code R. 6A-6.0331(5)(f) and (g). Given this criteria the evidence demonstrated that the evaluations performed by the District in determining the Student's eligibility were complete and appropriate for the Student. Additionally, the evidence demonstrated that the Student was assessed in all areas and that the evaluations otherwise met IDEA requirements.

73. Under Florida law ASD is defined in rule 6A-6.03023 of the Florida administrative Code and does not require a medical diagnosis. Further, there was no evidence that demonstrated the Student had any medical issues or that there was a need for a medical evaluation in order to appropriately evaluate the Student for eligibility. Thus, the District's denial to perform such an evaluation did not violate IDEA.

74. Further, the better evidence showed that the Student did not demonstrate clear signs of disability up to the time was found eligible under IDEA. For every school year, the evidence showed that the Student had very good grades and standardized test scores. The evidence also showed that the Student continued to be by peers, was and a good worker who generally managed time wisely in class. was not a discipline problem. By all measures was a successful student. In fact, the Student achieved reasonable progress at school. Further, the evidence was clear that teachers did not see any academic or social behaviors that would indicate a need for ESE services. Nor, did teachers feel he needed ESE services in their classes.

75. Finally, relative to alleged procedural violations of IDEA, the District's knowledge of the Student's medical diagnosis of and previously revoked IEPs are insufficient to demonstrate the District violated its Child Find obligations. On

this issue, the decision in D.A. v. Meridian Joint School District No. 2, 2014 WL 43639, at *1 (D. Idaho Jan. 6, 2014), aff'd, 618 Fed. Appx. 891 (9th Cir. 2015) is instructive.

76. In D.A., the Ninth Circuit Court of Appeals affirmed a district court and administrative law judge's decision that despite having, among other diagnoses, [redacted], a student did not need special education services. The court found the student had "received special education under the IDEA while enrolled in [redacted] from the [redacted] grade (2004–2005 school year) through the [redacted] grade (2007–2008 school year)." Id. After a three-year reevaluation in 2008, the District determined the student was no longer eligible for special education services and, instead, would receive accommodations under Section 504. Id. at **1-2. In the case and even though the student did exhibit typical behaviors expected of [redacted] students, had documented weaknesses, and had significant social and pragmatic difficulties, [redacted] parents were unable to demonstrate that [redacted] disabilities adversely impacted [redacted] education to the extent [redacted] needed specially designed instruction and related services under IDEA. Id. at *12; see also Dubrow, supra.

77. In this case, as indicated above the Student was successful both socially and academically. [redacted] did not exhibit significant behavior indicating a need for special education.

Given these facts, the evidence did not establish that the District violated its child find obligation.

78. Ultimately, the IEP team, based on the evidence before it, reasonably categorized Petitioner as ███ for education and IEP purposes. In so doing, the District met the requirements of IDEA and provided FAPE to the Student regarding its evaluation and categorization of the Student during the school years relevant in this case. As such, the portions of the Due Process Complaint relative to the referral process, child find evaluation, eligibility of the Student and the scheduling of the IEP meeting should be dismissed.

79. Turning to the one substantive issue involving transportation raised in the Complaint and 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. Further, in Endrew F., the Supreme Court addressed the "more difficult problem" of determining a standard for determining "when handicapped children are receiving sufficient educational benefits to satisfy the requirements of the Act." Endrew F., 13 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.

80. 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. at 3034). For a student, who is 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. This standard is "markedly more demanding" than the one the Court rejected in Endrew F., under which an IEP was adequate so long as it was calculated to confer "some educational benefit," that is, an educational benefit that was "merely" more than "de minimis." Id. at 1000-1001.

81. The assessment of an IEP's substantive propriety is guided by several principles, the first of which is that it must be analyzed in light of circumstances as they existed at the time of the IEP's formulation; in other words, an IEP is not to be judged in hindsight. See M.B. v. Hamilton Se. Sch., 668 F.3d 851, 863 (7th Cir. 2011)(holding that an IEP can only be evaluated by examining what was objectively reasonable at the time of its creation); Roland M. v. Concord Sch. Comm., 910 F.2d 983, 992 (1st Cir. 1990)("An IEP is a snapshot, not a retrospective. In striving for 'appropriateness,' an IEP must take into account what was, and was not, objectively reasonable when the snapshot was taken, that is, at the time the IEP was promulgated."). Second, an assessment of an IEP must be limited to the terms of the document itself. Knable v. Bexley Cty. Sch. Dist., 238 F.3d 755, 768 (6th Cir. 2001); Sytsema v. Acad. Sch. Dist. No. 20, 538 F.3d 1306, 1315-16 (8th Cir. 2008)(holding that an IEP must be evaluated as written).

82. Third, great deference should be accorded to the reasonable opinions of the professional educators who helped develop an IEP. See Endrew F., 13 S. Ct. at 1001 ("This absence of a bright-line rule, however, should not be mistaken for an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review" and explaining that "deference is based on the

application of expertise and the exercise of judgment by school authorities."); A.K. v. Gwinnett Cnty. v. 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 R.R. v. State Board of Education, 874 F.2d 1036, 1048 (5th Cir. 1989), "[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."

83. Further, the IEP is not required to provide a maximum educational benefit, but only need provide a basic educational opportunity. Todd D. v. Andrews, 933 F.2d 1576, 1580 (11th Cir. 1991); C.P. v. Leon Cnty. Sch. Bd., 483 F.3d 1151, 1153 (11th Cir. 2007); and Devine v. Indian River Cnty. Sch. Bd., 249 F.3d 1289, 1292 (11th Cir. 2001).

84. The statute guarantees an "appropriate" education, "not one that provides everything that might be thought desirable by loving parents." Tucker v. Bay Shore Union Free Sch. Dist., 873 F.2d 563, 567 (2d Cir. 1989)(internal citation omitted); see Carlisle Area Sch. v. Scott P., 62 F.3d 520, 533-534 (3d Cir. 1995); Kerkam v. McKenzie, 862 F.2d 884, 886 (D.C. Cir. 1988)("proof that loving parents can craft a better program than a state offers does not, alone, entitle them to prevail under the

Act"). <u>Walczak v. Fla. Union Free Sch. Dist.</u>, 142 F.3d 119, 132 (2d Cir. 1998); and <u>Doe v. Bd. of Educ.</u>, 9 F.3d 455, 459-460 (6th Cir. 1993)("The Act requires that the Tullahoma schools provide the educational equivalent of a serviceable Chevrolet to every handicapped student. Appellant, however, demands that the Tullahoma school system provide a Cadillac solely for appellant's use. . . . Be that as it may, we hold that the Board is not required to provide a Cadillac. . . .").

85. In this case, the transportation issue occurred when the Student had a Section 504 plan, albeit, the parents have raised the issue in an IDEA context. As indicated, an IEP has not been developed for the Student because the parents withdrew from the IEP process and the District never had the opportunity to address transportation services in an IEP meeting. However, the analysis of the need for such accommodation under Section 504 is similar to such an analysis under IDEA.

86. In that regard, the evidence demonstrated that the parents requested that the Student's Section 504 plan be revised to include transportation to and from practices and games even though the Student had driven to and from school and had a driver's license. In fact, the evidence demonstrated the request was not based on an educational need or the Student's disability, but was made because the Student did not receive a parking permit as a because all of the

student parking permits had been distributed to ███ who had priority over non-███ for such permits under the School's reasonable, nondiscriminatory parking program and because the Student appears to have had ███ driving privileges taken away by ███ parents because ███ had received a traffic ticket. Additionally, the Student's Section 504 plan did not include participation in ███ or specialized transportation as accommodations or necessary ESE services. The Student, in fact, was able to attend ███ practices and games.

87. More importantly, there was no evidence that demonstrated a need for accommodations relative to extracurricular activity or transportation or that the Student's disability had any impact on ███ ability to travel anywhere. Moreover, on these facts, it would create an unfair advantage to allow the Student to have a greater priority over others in the issuance of parking permits. _See_ _G.B.L. v. Bellevue School District No. 405_, 113 LRP 7016 (W.D. Wash. 02/15/13); _Zukle v. Regents of the University of California_, 14 NDLR 188 (9th Cir. 1999). Based on the facts relative to transportation, there was no evidence that the District violated Section 504 or IDEA and failed to provide FAPE to the Student when it denied transportation services to the Student. As such, the portion of the request for due process relative to transportation should be dismissed.

88. Finally, the balance of Petitioner's claims as asserted in the due process Complaints were not supported by the evidence, and, therefore, are dismissed.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's Complaint is DISMISSED in its entirety. Moving forward, the Student's parents and the Student are strongly encouraged to participate in the development of an initial IEP.

DONE AND ORDERED this 28th day of June, 2019, in Tallahassee, Leon County, Florida.

S

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Filed with the Clerk of the
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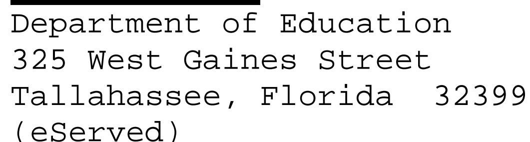
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NOTICE OF RIGHT TO JUDICIAL REVIEW

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).