

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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)
Petitioner,)
)
vs.) Case No. 08-2707E
)
ALACHUA COUNTY SCHOOL BOARD,)
)
Respondent.)
_____)

FINAL ORDER

On September 25, 2008, a duly-noticed hearing was conducted in Gainesville, Florida, by Administrative Law Judge Lisa Shearer Nelson of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Breezi Stanislaus, Esquire
Post Office Box 9
Eagle Lake, Florida 33839

For Respondent: Thomas L. Wittmer, Esquire
Alachua County School Board
620 East University Avenue
Gainesville, Florida 32601

STATEMENT OF THE ISSUE

Whether the Alachua County School Board (School Board) has provided to █ a free appropriate public education with respect to transition services and speech therapy services.

PRELIMINARY STATEMENT

This case arose on June 2, 2008, when Petitioner filed a request for due process hearing with the School District. On June 6, 2008, the matter was referred to the Division of Administrative Hearings for assignment of an administrative law judge.

On June 16, 2008, an Order Requiring Status Report was issued, requiring the parties to advise the undersigned regarding the results of any mediation or resolution session and the dates for a pre-hearing conference. The parties initially filed a Joint Status Report indicating that settlement might have been reached, but thereafter reached an impasse. By agreement of the parties, the case was noticed for hearing to take place August 14, 2008. On August 6, 2008, Petitioner moved for a continuance, to which Respondent did not object, and both parties agreed to extend the time for the filing of the final order.

Final hearing was re-noticed for September 25, 2008, and proceeded as scheduled. The student is no longer a minor and the student, as opposed to the student's parents, is the petitioner in this case. Petitioner was not present at hearing but was represented by counsel. Petitioner presented the testimony of two witnesses and Petitioner's Exhibits numbered 1 and 3 through 41 were admitted into evidence.^{1/} Respondent

presented the testimony of eight witnesses and Respondent's Exhibits numbered 1 through 35 and 37 through 48 were admitted.

The proceedings were transcribed and the Transcript was filed with the Division October 8, 2008. Respondent filed its Proposed Recommended Order October 21, 2008. No submission was received from Petitioner.

FINDINGS OF FACT

1. Petitioner, [REDACTED] (the student) is a [REDACTED]-year-old born on February 28, [REDACTED]

2. The student enrolled in the Alachua County public school system on October 16, 1990. The student was identified as a student with a disability that same year and placed into the exceptional education program.

3. The student received speech/language services beginning on May 14, 2003. Until that time, the student's parents had not expressed any concern regarding [REDACTED] speech needs. The student continued to receive speech therapy throughout the high school experience.

4. The focus of the student's speech therapy was to improve student's speech fluency. In other words, therapy was an attempt to teach the student to slow the rate of speech and to say words without repeating or prolonging the words, or repeating phrases and sentences. A second goal was to teach the

student to "self-correct," by listening to the student's own speech and paying attention to cues by the therapist.

5. Goals related to the student's speech were to "use clear, fluent speech with more complete sentences and improved vocabulary at 80% accuracy." These goals, which are reflected in each of the relevant Individualized Educational Program (IEP), are standard goals for students suffering, as did Petitioner, with disfluency. The condition which affected the student's speech is not one that is ever cured, but rather controlled. Therefore, it is accepted practice for the goals to be repeated from year to year.

6. The speech goals for the student were appropriate, were designed to address the identified speech disfluency, and were consistent with the goals in the IEP and the speech services provided. Progress notes related to speech therapy on the student's IEPs indicate satisfactory progress.

7. The student received several evaluations during the educational experience. On August 13, 1990, at age ■■■ years, ■■■ months, the student was administered the Kaufman-Assessment Battery for Children, which result in the following scores: SEQ=72; SIM=66; MPC=66; and NV=80.

8. In February 1993, when the student was ■■■ years old, the WISC-III was administered and resulted in a verbal IQ score of 56; a performance IQ score of 54; and a full scale IQ score

51. The WIC-III was administered again in March 1996, when the student was ■■■ years old. At this time, Petitioner received a Verbal IQ score of 48; a performance IQ score of 46; and a full scale IQ score of 42.

9. In 1999, the student was given the Woodcock-Johnson Revised Achievement Tests and obtained a broad reading standard score of 40 and a math calculation standard score of 38.

10. On June 27, 2002, when the student was ■ years old, another psycho-educational evaluation was completed. The Woodcock-Johnson Tests of Achievement indicated that the student's academic skills in reading, writing and math were at a 1.7 grade equivalent level. The ability to understand and apply basic academic concepts and still across content areas was at a 1.2 grade equivalent level. These scores showing significant delays in intellectual, academic and adaptive functioning were consistent with previous testing for the student.

11. Petitioner has limited knowledge of money and how to use it, and repeated attempts to teach how to use money have been largely unsuccessful. While Petitioner can identify different coins, Petitioner does not know how many of each type equal a dollar, or how to add groups of coins together. The student would not be able to make change or to shop independently.

12. Another challenge in teaching the student, and for providing adequate vocational training, is Petitioner's difficulty in remembering multiple steps in a skill set. In addition to not being able to remember multiple steps, the student is also unable to transfer a skill-set from one context to another.

13. Neither the ability to remember multiple steps nor the ability to work with money changed appreciably during the period material to these proceedings, although the evidence indicates significant effort was made to address these concepts. These basic cognitive limitations have in large part shaped the choices made by the School Board in shaping the educational plan for Petitioner.

14. The student attended the Alachua County public schools through the 2007-2008 school year. Petitioner attended high school from the year 2000 until receiving a special diploma in May 2008.

15. Petitioner and Petitioner's mother regularly attended the individualized educational plan(IEP) meetings held on the student's behalf. Petitioner's mother generally spoke on the student's behalf at these meetings. Although the record indicates that Petitioner's mother did not attend every IEP meeting, ■■■ regularly participated in the development of annual IEP's, expressed ■■■ concerns regarding ■■■ child's program and

asked questions about the plans for Petitioner's education. After giving input, the parents appeared to be in agreement with the contents of the IEP's, and were regularly provided with notification of their rights regarding due process hearings should they disagree with the plan developed for their child.

16. An annual IEP meeting for the student was held on March 21, 2006, with the student and the student's mother in attendance. The educational services established for the student at this meeting included direct instruction; participation in a community-based training program; speech language therapy; and extended school year. The goals listed for independent functioning and curriculum were to improve basic math skills, such as counting money and using a calculator, and reading functional words in the community, such as warning signs and employment vocabulary.

17. The community-based training (CBT) program is part of the transition services at the high school the student attended. It provides actual work experiences for students with disabilities who are at least 16 years of age. Students may select a job-site that interests them, if available. Students may go to more than one job site during a school year, so that they may be exposed to different work settings and learn what they like best. The student's teacher makes contact with the employer's supervisor in the worksite to establish training

expectations and the student's work responsibilities. The teacher works with both the employer/supervisor and a paraprofessional to provide training for the student.

18. While in high school, the student received community based training at the following job sites: Altrusa House; Animal Control; Goodwill; Child's Dream Daycare; the VA Hospital; SBAC Transportation Office, and Santa Fe Little School.

19. In the 2006-2007 school year, the student was enrolled in Cognitive and Linguistic Skills; Leisure/Recreational Skills for Improvement of Quality of Life; Developmental-Functional Motor and Sensory Skills; Speech Therapy and Career Experiences. These courses included instruction in response to auditory stimulation; use of communication modes, assistive technology systems and devices, recreational equipment, leisure time and interpersonal relationships; self-appraisal; decision-making; self determination and self-advocacy; career options; community resources related to career decisions; workplace competencies and the rights and responsibilities of employees.

20. In the fall of 2006, the student worked at A Child's Dream daycare center through the CBT program. A paraprofessional accompanied the student to A Child's Dream, functioning as a liaison with the worksite teacher and assisting

the student as needed. The student seemed to enjoy working in this setting.

21. The next annual IEP meeting for the student was held on March 29, 2007. The educational services established included direct instruction; the CBT work program; speech-language therapy; and extended school year. The goals for the school year remained essentially the same as those for the previous year. At that time, the IEP team also decided to have an additional meeting dealing with transitional issues, so that representatives from local agencies could attend and participate. It does not appear that the student's parent(s) attended the March 29, 2007, meeting.

22. On April 30, 2007, the IEP team held a meeting to discuss transition services for the student, including discussion with representatives of other agencies in the community. The IEP team decided that the student would access the transit training course and independent living skills course through the Center for Independent Living. In addition, the student could access the Santa Fe Community College Adults with Disabilities program for post-graduation basic skills courses, and could access a job coach through the Division of Vocational Rehabilitation to assist on the job. There is no signature from either parent indicating their attendance at this meeting.

23. The Center for Independent Living came to the school for a period of approximately five weeks and worked with the student's teacher to teach how to use the city transit system. These lessons were for the entire class, and not just Petitioner.

24. In the spring of 2007, the student participated in the CBT program at the Veterans Administration Hospital. At this work setting, Petitioner made beds and obtained water for patients.

25. In the 2007-2008 school year, first semester, the student was enrolled in Leisure and Recreational Skills for Functional Living; Cognitive and Linguistic Skills; Developmental-Functional Motor and Sensory Skills; Learning Strategies; Speech Therapy and Business Technology.

26. Petitioner's mother had requested that the student receive training in office skills. In order to accommodate this request, the student was given instruction in how to open and save Word documents; basic formatting functions such as bolding, underlining and italicizing text; sending e-mail; and using a copy machine. Petitioner was successful with some but not all of these skills. For example, the student could make single copies but not sets. Petitioner had trouble answering the telephone because Petitioner could not remember what should be said when answering the telephone. Although both the student's

advocate and parents requested this type of training, the student expressed no particular interest in office work.

27. On September 6, 2007, another meeting was conducted to review the student's IEP. The student's mother participated in the meeting. The team changed the student's schedule to include a computer class and two periods of Learning Strategies to work intensively on computer skills, and added goals related to computer skills to the March 29, 2007, IEP.

28. Consent was also given at this meeting for the student to be re-evaluated, which occurred on September 25, 2007. The report from that evaluation showed that the results of the Reynolds Intellectual Screening Test (RIST) produced a RIST index score of 75, which is in the moderately low average range of functioning, and indicates functioning at or better than 5% of the student's peers. On the Kaufman Functional Academic Skills test (K-FAST), which measures performance in reading and math as applied to daily life, the student's standard score was 55 and within the low extreme-mild deficit range as compared to others at the student's age level. On the Bender Visual Motor Test, the student's score was 62, which is comparable to a child of less than five years old. The student's adaptive behavior composite standard score was classified as low.

29. On September 27, 2007, the IEP team met again to discuss the student's transition and educational needs. In

addition to the student's parent, representatives from other local agencies were present. Transition services, including the adult education program at Santa Fe College and Vocational Rehabilitation programs through the Department of Education and the possible ability of services from the Association for Retarded Citizens (ARC) were discussed, and the team provided transportation information (city bus, MV transportation, limited taxi service availability) for the student's use after graduation. An Alpha Smart was also to be provided so that the student could practice typing skills.

30. The IEP team met to discuss the results of the re-evaluation with the student and the student's mother on December 4, 2007. The possibility of the student working in an office to reinforce Petitioner's computer/office skills was discussed. It was decided that the student should observe office settings within the school.

31. On January 16, 2008, the team met again with the student and the student's mother, this time to arrange for a vocation-skill re-evaluation. They also discussed placing the student in an office placement in the School District's Transportation Department, for that part of Petitioner's schedule devoted to the CBT program.

32. In the spring semester, 2008, the student participated in the School Board's Transportation Office. Petitioner was

able to use a copy machine and a shredding machine, and sort documents by alphabet and number (although sorting was limited to the first letter or number). The student has a good attitude about performing the tasks assigned, but struggled to remember what needed to be done from day to day. The worksite supervisor had to remind Petitioner each day how to do the tasks assigned.

33. The student did not have a job coach in the Transportation Office. However, the supervisor assigned was familiar with exceptional education and the CBT program.

34. For the spring semester, the student was also enrolled in Leisure and Recreational Skills for Functional Living; Learning Strategies; Speech Therapy; and Career Placement. The student's daily lessons were based on the prepared IEPs, and the goals for daily lessons mirrored the IEP goals.

35. A career assessment for the student was completed by the School Board on January 30, 2008. The evaluation included the Brigance Diagnostic Life Skills and Employability Skills Inventories, and information regarding the student's personal strengths and career awareness and understanding.

36. The student did not testify in this proceeding. The evidence presented consistently indicated that the student did not express a preference of what the student wanted to do once high school was completed. Petitioner was content to let parents speak at IEP meetings and did not have a clear career

goal when questioned about the future. The IEPs listed as goals ideas such as "being with friends" or "doing well in school." A few referenced working in the student's parents' bakery, or restaurant.^{2/} Petitioner did, however, express preferences when questioned directly about work Petitioner liked or disliked. The career evaluation indicated that the student had some skills that could be used in the workplace immediately, but depending on the particular job, would need assistance and support.

37. The career assessment indicated that the student's ability to read directions for performing manual skills was at the fifth grade level, and comprehension level was at the third grade level. This assessment represents an improvement from prior testing.

38. A functional vocational assessment was also completed by Santa Fe Community College on February 12, 2008. With respect to this assessment, the student expressed a preference for patient care, personal service, laundry service and working with animals. The evaluator noted the need for repetitive job tasks in order for the student to be successful. The evaluator recommended that the student continue to do volunteer work; seek part-time employment in the laundry field after graduation; work with a job coach and receive additional training in the use of public transportation through the Center for Independent Living.

39. An annual IEP meeting was held March 25, 2008.

Neither parent was in attendance for this meeting. Educational services listed for the student on the resulting IEP were direct instruction; the CBT work program; speech therapy; and extended school year. Identified goals included improvement in the student's employment skills as measured by satisfactory employment evaluations in the CBT job and/or a passing grade on the student's report card for that class. Benchmarks for the CBT job were identified.

40. On April 1, 2008, the IEP team met again to review the vocational assessments, with both the student and the student's mother in attendance. The parent and the student's advocate requested 270 days after the school year with a job coach. Although it is not the normal practice of the School District to provide services past the school year that a student turns 22, the IEP team offered to provide instruction through the extended school year, with adult assistance, and arranged for the student to participate in the CBT program at the Santa Fe Little School. This placement was chosen because the student recently expressed an interest in working in the child care area.

41. On June 6, 2008, an Exceptional Education Summary was prepared by the student's primary instructor. The Summary acknowledged that the student's reading and math levels were at the first to second grade level, and did not make satisfactory

progress in academic areas. The Summary indicated, consistent with the instructor's testimony, that the student would need assistance from an advocate or family member to obtain employment and access the community. Petitioner is unable to live independently, but is capable of performing tasks that require few steps and a lot of repetition, such as laundry or food service. While progress in academic areas such as reading and math were minimal, the student did make progress with respect to life skills. The lack of progress in the academic areas were not due to a lack of effort on either the student's or the instructor's part. Rather, it appears that the lack of progress was due more to cognitive limitations and inability to sequence and remember multiple steps in a task.

42. The student's instructor closely monitored the student's progress, both in academics and more functional learning environments. For example, he monitored progress with office skills and child care skills using assessment sheets. His lesson plans supported the goals of the IEPs prepared for the student. Clearly, academic progression was minimal. However, given the cognitive barriers presented, the improvement in math and reading scores to a third-grade level, as opposed to a first-grade level, indicates that the student received some benefit in these areas.

43. The student received a special diploma in June of 2008. Although already ■ years old, Petitioner was offered and continued to attend extended school year classes until July 2008.

44. Since graduation, the student continued to receive supports from a community based vocational education teacher and a paraprofessional through July 2, 2008, in a community based training site at a child care facility, Santa Fe Little School.

45. In that setting, Petitioner monitored children during free play, recess and daily lessons; read books to the children; assisted in serving their food; and helped prepare the children for nap time. The student appeared to enjoy working in this setting and did so successfully until the end of the extended school year.

46. Before graduation, the school actively involved other agencies as reflected in Findings of Fact numbers 21-23, 29 and 38, to provide information regarding services available once the student was no longer in school. Since graduation, the student has registered with Work Exploration Center, Santa Fe College, and job coaching services were offered through the Division of Vocational Rehabilitation. The student's mother has refused this offer, opting instead to wait for another volunteer site to be located so that Petitioner can improve work skills.

47. The education provided to the student was appropriate, given Petitioner's capabilities.

48. The transition services provided through classroom instruction and the CBT program were appropriate and designed to provide the student with a variety of work experiences from which to assess the student's preferences for future employment. This variety was especially important where, as here, the student did not express a clear post-graduation goal.

49. The School Board's efforts in involving outside agencies through provision of career assessments and meetings to explore post-school service availability were also appropriate.

CONCLUSIONS OF LAW

50. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties to this action in accordance with Sections 120.569, 120.57(1), and 1003.57(1)(e), Florida Statutes (2008), and Florida Administrative Code Rule 6A-6.03311(11).

51. Respondent is the governing body of the Alachua County School District and is responsible for the control, organization, and administration of the public schools in its district. Art. IX, Fla. Const.; §§ 1001.30, 1001.33, 1001.41, and 1001.42, Fla. Stat. (2008).

52. The request for due process hearing identifies two alleged deficiencies with the services provided to Petitioner by

the School Board: that adequate speech and language therapy and transition services were not provided for the past six years. Petitioner has the burden of establishing each of these alleged deficiencies. Schaffer v. Weast, 546 U.S. 49 (2005).

53. As a preliminary matter, the scope of Petitioner's challenge to the sufficiency of the services provided by Respondent must be established. The petition alleges a six-year period. However, 20 U.S.C. § 1415(f)(3)(C) & (D), provide:

(C) Timeline for requesting hearing.

A parent or agency shall request an impartial due process hearing within 2 years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for requesting such a hearing under this subchapter, in such time as the State law allows.

(D) Exceptions to the timeline

The timeline described in subparagraph (C) shall not apply to a parent if the parent was prevented from requesting the hearing due to --

(i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint; or

(ii) the local educational agency's withholding of information from the parent that was required under this subchapter to be provided to the parent.

34 C.F.R. Sections 300.507 and 300.511 provide the same time limitations and exceptions.

54. In this case, the evidence presented indicates that Petitioner's parents attended most of the IEP meetings arranged to develop individualized educational plans for Petitioner. They were repeatedly notified of their due process rights. No evidence was presented to indicate that they did not know what services were being offered to Petitioner. Likewise, no evidence was presented to indicate that there had been any specific misrepresentations by the School Board, or withholding from the parent of information that the federal regulations provide that parents must be provided. Therefore, only the two-year period immediately preceding Petitioner's due process petition will be considered in this case, and the Findings of Fact deal with that time period.

55. The Individuals With Disabilities Education Act (IDEA) provides that, in order to receive federal funding, a state must insure the right of all students with disabilities to receive a free appropriate public education (FAPE). 20 U.S.C. Section 1401(9) defines FAPE as follows:

The term "free appropriate public education" means special education and related 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, or secondary school education in the State involved, and

(D) are provided in conformity with the individualized education program required under section 614(d) [20 U.S.C. § 1414(d)].

56. Florida has implemented the IDEA by requiring districts to provide for an appropriate program of special instruction, facilities, and services for students eligible for those services. § 1003.57, Fla. Stat. (2008).

57. To determine whether a school board has provided FAPE, the Eleventh Circuit considers two factors: "1) whether the state actor has complied with the procedures set forth in the IDEA, and 2) whether the IEP developed pursuant to the IDEA is reasonably calculated to enable the child to receive educational benefit." School Board of Collier County, Florida v. K.C., 285 F.3d 977, 982 (11th Cir. 2002). The "educational outcome need not maximize the child's education. If the educational benefits are adequate based on surrounding and supportive facts, [IDEA] requirements are satisfied." JSK v. Hendry County School Board, 941 F.2d 1563, 1572-73 (11th Cir. 1991). In other words, so long as the child's IEP provides some educational benefit, there is no entitlement to the "best" program under the IDEA. M.M. ex rel. C.M. v. School Board of Miami-Dade County, 437 F.3d 1085, 1102 (11th Cir. 2006). The IEP must be reasonably calculated to confer educational benefits to the student. Board of Education

of the Hendrick Hudson Central School District, 458 U.S. 176,
203-207 (1982).

58. With respect to the speech therapy services provided to the student, Petitioner has not demonstrated that the school district failed to provide a free and appropriate public education. The goals with respect to speech are clear and measurable. The student made satisfactory progress with respect to these goals. Because disfluency is a condition for which there is no cure, the purpose of therapy is to control the condition. The stated goals reasonably continue from year-to-year. The therapy proposed and instituted for the student was reasonably calculated to provide Petitioner with meaningful educational benefits, and the record demonstrates that Petitioner did, in fact, benefit from the therapy received.

59. Petitioner also challenged the School District's provision of transition services for the student. Transition services are defined as follows:

The term "transition services" means a coordinated set of activities for a child with a disability that

(A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing adult education, adult services,

independent living, or community participation;

(B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and

(C) includes instruction, related services, community experiences, the development of employment and other post-school living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

20 U.S.C. § 1401(34).

60. Petitioner has not demonstrated that appropriate transition services were not provided by the School District.

61. The student's IEPs over the years were designed to provide the student with functional living skills, with a goal of preparing for work, either in Petitioner's parents' restaurant or bakery, or to work in an employment setting where assigned tasks would be repetitive. This type of employment was consistent with the student's cognitive abilities.

62. The Petitioner's advocate criticized the IEPs in part because they did not state clear goals for the student or because they referenced working in the bakery or restaurant, goals that the advocate claimed were not consistent with the student's desires. However, the student did not testify in this proceeding. Statements made to the advocate are not corroborated and are inadmissible hearsay. § 120.57(1)(c), Fla. Stat. (2008). The consistent testimony of those who worked with

the student, as well as the documentation provided through the IEPs and the vocational assessments, indicates that the student rarely spoke at IEP meetings and did not have any firm ideas about what work to pursue after school. While statements in the IEPs regarding career goals such as "do well in school" and "be with my friends" provide no assistance in planning the student's future, they do in fact reflect the student's position on this issue. Simply put, Petitioner did not know what Petitioner wanted to do. In light of this indecision, including the vague statements or listing the possibility of working with Petitioner's parents was reasonable.

63. Given [REDACTED] indecision, the School District provided Petitioner with a variety of community-based experiences designed to give an opportunity to explore different work settings. It also provided computer training in response to Petitioner's parents' request that the student learn skills that would equip the student to work in an office setting.

64. The School District performed its own vocational assessment and arranged for Santa Fe Community College to perform a separate vocational assessment. It invited other agencies to meet with the IEP team and with the student, and the student and parents were provided information regarding services that could be provided by the community. Indeed, the student's parents have declined services offered by Vocational

Rehabilitation. Finally, the School District offered and provided extended school year services to the student, well beyond ■■■■■ nd birthday, in order to give additional work experience in childcare because, at this late date, the student had expressed a liking for this type of work.

65. Petitioner argues that the services offered were offered too late in the process to be helpful. As stated earlier, only the actions of the last two years are relevant to this proceeding, and it is clear that during those two years, adequate transition services were provided. If the student's parents were dissatisfied with the level of transition planning that occurred when the student was 16, it was incumbent upon them to file a due process hearing within two years. They did not do so. Even assuming that all ■■■■■ years could be considered in this case, there is evidence of transition planning and services for the entire period. While the services provided are more plentiful and comprehensive during the last two years, Petitioner has not demonstrated that the services provided were inadequate.

CONCLUSION

Based on the evidence presented, the demeanor and credibility of the witnesses, the Findings of Fact and Conclusions of Law stated above, Petitioner's due process complaint is dismissed.

DONE AND ORDERED this 12th day of November, 2008, in
Tallahassee, Leon County, Florida.

S

LISA SHEARER NELSON
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 12th day of November, 2008.

ENDNOTES

^{1/} The Transcript indicates that Petitioner's Exhibits 2-41 were admitted. However, the Exhibit that was rejected as inadmissible is described in the Transcript and is found at Tab 2 in Petitioner's Book of Exhibits.

^{2/} The terms "bakery" and "restaurant" were both used at hearing, and it was unclear whether the parents have a bakery, or restaurant, or both.

COPIES FURNISHED:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

This decision is final unless an adversely affected party:

- a) brings a civil action within 30 days in the appropriate federal district court pursuant to Section 1415(i)(2)(A) of the Individual With Disabilities Education Act (IDEA); [Federal court relief is not available under IDEA for students whose only exceptionality is "gifted"] or
- b) brings a civil action within 30 days in the appropriate state circuit court pursuant to Section 1415(i)(2)(A) of the IDEA and Section 1003.57(1)(e), Florida Statutes; or
- c) files an appeal within 30 days in the appropriate state district court of appeal pursuant to Sections 1003.57(1)(e) and 120.68, Florida Statutes.