

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CHARLOTTE COUNTY SCHOOL BOARD,)	
)	
Petitioner,)	
)	
vs.)	Case No. 98-3218
)	
DEPARTMENT OF EDUCATION,)	
)	
Respondent.)	
_____)	

RECOMMENDED ORDER

The parties presented this case by a stipulated record to Robert E. Meale, Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Anne Longman
Edwin A. Steinmeyer
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For Respondent: Dean Andrews
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STATEMENT OF THE ISSUE

The issue is whether Petitioner is entitled to any funding, under the Florida Education Finance Program, for those full-time equivalent students whom Petitioner enrolled, taught, and initially reported, in a dropout prevention program, but whom Petitioner later reported in a lower-funded basic program after

discovering that these full-time equivalent students exceeded the legislatively imposed enrollment ceiling applicable to the program group of which the dropout-prevention program is a part.

PRELIMINARY STATEMENT

By letter dated February 28, 1996, Respondent informed Petitioner that, due to, among other deficiencies, Petitioner's misreporting of numerous full-time equivalencies, Respondent was reducing Petitioner's 1993-94 Florida Education Finance Program allocation by \$346,428.

By letter dated April 23, 1996, Petitioner requested a formal hearing.

The parties waived a hearing and presented the case by way of 21 stipulated exhibits and 10 deposition transcripts.

FINDINGS OF FACT

1. On average, Florida school districts receive about 50 percent of their financial support from state sources, 43 percent from local sources, and 7 percent from federal sources. In 1993-94, the Legislature appropriated \$4,526,812,758 under the Florida Education Finance Program (FEFP) and required local funding of \$3,109,579,079.

2. Two parts of the FEFP funding process are relevant to this case: setting weighted enrollment ceilings (caps) and reporting full-time equivalent students (FTEs). This case arose when the Auditor General discovered that Petitioner reported Dropout Prevention FTEs as lower-funded, basic education FTEs.

Petitioner reported these FTEs in this fashion due to its concern that it would receive no FEFP funding for these FTEs, if reported as Dropout Prevention FTEs, because they were over the cap set for the program group of which the Dropout Prevention program was a part.

3. Setting caps takes place in two stages. The first and generally more important stage starts with the preparation by each school district of projections, for the following school year, of FTEs by program. The second stage of setting caps requires that Respondent make complicated, technical adjustments when actual FTEs, by program group, exceed the cap for that program group.

4. The terms, "program" and "program group," are important. For 1993-94, Section 236.012(1), Florida Statutes (1993) (all references to "Section" shall be to the 1993 Florida Statutes), identifies the following program groups and their constituent programs:

1. Basic programs.--
 - a. Kindergarten and grades 1, 2, and 3.
 - b. Grades 4, 5, 6, 7, and 8.
 - c. Grades 9, 10, 11, and 12.
2. Special programs for exceptional students.--
[list of 15 exceptional student education programs, such as specific learning disability and emotionally handicapped]
3. Special adult general education programs.--

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*

4. Special vocational-technical programs
job-preparatory.--

* * *

5. Special vocational-technical-adult
supplemental.--

* * *

6. Students-at-risk programs.--
a. Dropout prevention.
b. Kindergarten through grade 3 ESOL
[English Speakers of Other Languages].
c. Grades 4 through 8 ESOL.
d. Grades 9 through 12 ESOL.

5. Each district initially submits its FTE projections to Respondent where various persons with programmatic and funding expertise examine and review the projections for accuracy. The cap-setting process continues when, pursuant to Section 216.136(4), Respondent forwards the FTE projections to the Public Schools Education Estimating Conference (Estimating Conference), which consists of representatives of the House and Senate staffs, the Governor's Office, and the Joint Legislative Committee. The Estimating Conference accepts, increases, or decreases the FTE projections and sends its projections to the Florida Legislature, which, in deciding upon FEFP appropriations for the next school year, may accept, increase, or decrease the Estimating Conference's FTE projections. This marks the end of the first stage of the cap-setting process.

6. Both stages of the cap-setting process reveal a finely tuned funding process that weighs the need for predictability in funding, so that the Legislature can know how much it is sending

to the districts and each district can know how much it will have to spend, against the need for flexibility, so that, for instance, if Hurricane Andrew sends numerous ESOL students from Dade County to Hillsborough County, after the first stage of the cap-setting process is completed, the receiving school district can obtain the funds properly to educate these children.

7. The second stage of the cap-setting process is described in Section 236.081(1)(d). Section 236.081(1)(d)1 authorizes Respondent to calculate a "maximum total weighted full-time equivalent student enrollment for each district." Of course, Section 236.081(1)(d)2 directs Respondent to begin the second stage of the cap-setting process by starting with the FTEs set at the end of the first stage, or, in other words, the "enrollment estimates used by the Legislature to calculate the FEFP."

8. Section 236.081(1)(d)3 directs Respondent to calculate caps by groups of program groups. Referring back to the above-cited statute listing program groups, Group 1 is the first of the six listed groups, which is nearly all of basic education. Group 2 includes the second and sixth groups, which are, respectively, exceptional student education (ESE) and students-at-risk programs (At-Risk), including Dropout Prevention. The rest of Group 2 is minor parts of basic education and all vocational education programs in grades seven thorough twelve. Group 3 consists of all adult education programs.

9. The most complicated part of the second stage of setting caps is described in Section 236.081(1)(d)3.a-c. This section first makes clear that this part of the cap-setting process does not involve Group 1, which, as noted above, is nearly all of the basic education programs. Two provisions make this clear. First, Subsection 236.081(1)(d)3.a and b apply only to Groups 2 and 3. Second, the last sentence of Section 236.081(1)(d)3.b.(IV) states: "For any calculation of the FEFP, the enrollment ceiling [i.e., cap] for [G]roup 1 shall be calculated by multiplying the actual enrollment for each program in the program group by its appropriate program weight."

10. Section 236.081(1)(c) directs the Legislature to establish annually in its General Appropriations Act a cost factor for each of the listed programs under the six program groups. This adjustment reflects, for instance, the greater cost of educating ESE students versus basic-education students.

11. The remainder of this recommended order will ignore Group 3 because it plays no role in this case and its mention unnecessarily complicates the presentation of information.

12. Section 236.081(1)(d)3.a describes the caps for Group 2 as the sum of the weighted caps (i.e., stage-one FTEs for each program times a cost factor for each program) for each program contained in Group 2. The resulting cap must be increased by the receipt of FTEs from the Department of Health and Rehabilitative

Services (now Department of Juvenile Justice), but this adjustment is irrelevant to this case.

13. Section 236.081(1)(d)3.b addresses the possibility of over-enrollment. (The discussion of reporting FTEs takes place later in this recommended order.) Section 236.081(1)(d)3.b directs Respondent, "for any calculation of the FEFP," to follow a specific procedure when actual enrollments exceed the cap for Group 2; the purpose of the procedure is to reduce the "weighted [actual] enrollment for that group to equal the enrollment ceiling [i.e., cap]."

14. Section 236.081(1)(d)3.b(I) directs Respondent first to subtract the weighted cap for each program from the weighted actual enrollment for that program. If the result is greater than zero for any program, Section 236.081(1)(d)3.b(II) directs Respondent to calculate a reduction proportion "for the program" by dividing the net amount by which the weighted actual enrollment in the program group exceeds the weighted cap for the group by the gross amount by which the weighted actual enrollments in over-the-cap individual programs exceed the weighted caps for each of these groups.

15. An illustration is useful. Assume a hypothetical group subject to capping that contains only four programs with caps of 100, 100, 300, and 500 FTEs. Assume actual enrollments, respectively, of 100, 100, 380, and 490 FTEs. The reduction proportion for the third program, which is the only over-the-cap

program, would contain a numerator of 70 (because of the netting of the 10 under-the-cap FTEs in the fourth group) and a denominator of 80.

16. Section 236.081(1)(d)3.b(III) directs Respondent to multiply the resulting reduction proportion by the total amount by which the program group's enrollment exceeds the cap. The first sentence of Section 236.081(1)(d)3.b(IV) directs Respondent to subtract the resulting prorated reduction amount from the program's weighted enrollment.

17. An important principle emerges at this point: the over-the-cap issues are determined on the basis of the program group. Over-the-cap FTEs in programs within a group are offset by unused FTEs from under-the-cap programs in the same group.

18. As already noted, the last sentence of Section 236.081(1)(d)3.b(IV) directs Respondent to calculate the cap for Group 1 by multiplying the actual enrollment in each program by its cost factor. In the same vein, Section 236.081(1)(d)3.c limits the maximum reduction for Group 2 (and Group 3) by stipulating that the weighted enrollment shall be not less than the sum of the following two numbers. For programs with cost factors of 1.0 or more, such as ESE and At-Risk programs, Respondent must, as required by Section 236.081(1)(d)3.c(I), multiply the "reported FTE" by 1.0. For programs with cost factors of less than 1.0, Respondent must, as required by Section

236.081(1)(d)3.d(II), multiply the "projected FTE" by the actual cost factor.

19. Thus, the effect of Section 236.081(1)(d)3.c(I) is to provide that the weighted cap for Group 2 is never less than the amount yielded by multiplying the "reported FTE[s]" for all programs in the group with a cost factor of 1.0 or more by 1.0. However, it is important to note that the minimal funding guaranteed by Section 236.081(1)(d)3.c(I) does not ensure that all over-the-cap FTEs in, say, Dropout Prevention or Specific Learning Disabilities, will receive a cost factor of no less than 1.0, even if over the cap; instead, the statute guarantees only that, after all adjustments, no district will receive less than a cost factor of 1.0 for all reported FTEs in Group 2.

20. Turning to the reporting of FTEs, Section 236.081(1)(a) requires each school district to conduct no more than nine week-long surveys for the purpose of reporting actual FTEs. This statute also requires that each district compute its FTEs "in accordance with the regulations of the state board."

21. For 1993-94, Respondent issued a document entitled "Standard Procedures for Reporting FTE Earned, Course and Other Issues Regarding the Florida Education Finance Program 1993-94" (Standard Procedures).

22. Standard Procedures requires districts to use the cited procedures "for reporting unweighted FTE by student by course, for allocating residual FTE to courses funded through the Basic

Program categories after special program by student by course FTE is allocated, and for maintaining audit documentation for FTE reporting procedures and elements." Standard Procedures, page 1.

23. Standard Procedures requires districts to sort their course records into "rank order" with all so-called "special" programs, which includes all programs in the ESE and At-Risk program groups, in the first group to be reported, and all basic programs in the second group to be reported. Standard Procedures, page 11.

24. However, each district may choose

in which order the special program category courses will, in fact, receive consideration. That is, if a student has course records with FEFP Program Numbers in two special program categories and one Basic Program, the district may chose [sic] which of the special program categories gets selected for consideration first for determination of FTE Earned, Course, except that BOTH special program categories are considered and FUNDED before any time for the Basic Program is considered for funding. . . .

Standard Procedures, pages 11-12.

25. Prior to submitting its FTEs on the approved form, each district must edit its data so that, among other things, "[a]ll courses with special program FEFP Program Numbers must be considered and funded prior to considering courses with Basic program numbers [subject to two exceptions irrelevant to this case]." Standard Procedures, page 20.

26. For reporting FTEs in a Dropout Prevention program, Standard Procedures provides:

Section 228.041(29), Florida Statutes as amended, provides the definition of a dropout student. However, a student meeting this definition must also meet the eligibility and program requirements as set forth in Section 230.2316(4), Florida Statutes. Finally, only those students who meet the eligibility criteria, are admitted to the program according to the admission procedures, and participate in instruction specified in any one of the eligible dropout prevention programs under operating procedures in an approved district dropout plan, as approved by the Department of Education for 1993-94, may be reported as FTE in FEFP Program Number 120 [Dropout Prevention Program]. . . .

All students who are reported as participating in the Dropout Prevention Program must be properly shown as being in one of the Dropout Prevention Program categories. Failure to properly identify the program will result in the FTE Earned, Course, being nulled for the record submitted.

Standard Procedures, page 27.

27. After each district reports its FTEs, Respondent calculates the proper FEFP funding by multiplying the appropriate

FTEs by the appropriate base student allocation, which, under Section 236.081(1)(b), the Legislature must set annually in its General Appropriations Act. Under Section 236.081(1)(c), Respondent then multiplies applies the cost factor for each program before undertaking the second stage of the cap-setting described above and in Section 236.081(1)(d).

28. In 1993-94, the base student allocation was \$2501.05, the cost factor for grades 4-8 basic education was 1.0, the cost factor for grades 9-12 basic education was 1.224, and the cost factor for dropout prevention was 1.615. In 1993-94, the funding allocated for basic-education students was \$1000-\$1500 less per student than the funding allocated for dropout prevention.

29. During 1993-94, Respondent reported 15,166.04 full-time equivalent students (FTEs) in nine elementary schools, four middle schools, three high schools, one adult education center, one area vocational-technical school, two exceptional centers, and two other educational centers.

30. Rule 6A-1.0451, Florida Administrative Code, provides that the Commissioner of Education shall prescribe the dates for FTE surveys. (All references to Rules are to the Florida Administrative Code.) For 1993-94, the FTE surveys took place July 12-16, 1993; October 4-8, 1993; February 7-11, 1994; and June 20-24, 1994.

31. Rule 6A-1.0451(7) provides that districts shall report the FTEs in all special programs in the special program cost

factor prescribed in Section 236.08(1)(c), "when the student is eligible and is attending a class, course, or program which has met all of the criteria for the special program cost factor."

32. By memorandum dated March 9, 1994, in connection with the February FTE survey, one of Petitioner's deputy superintendents directed Petitioner's Director of Management Information Services to change 127 unweighted FTEs from the Dropout Prevention program to a basic program to "prevent us from exceeding our caps in Category [Group] 2 programs."

33. Petitioner later reported these FTEs by reporting them as basic education FTEs when they were eligible for, enrolled in, and previously reported in the Dropout Prevention program.

34. By Audit Report issued October 20, 1995, the Office of the Auditor General determined that Petitioner misreported 86.52 unweighted FTEs as basic education FTEs, when it should have reported them as Dropout Prevention FTEs. The Audit Report also reclassified one student, at 0.4165 unweighted FTEs, from the Dropout Prevention program to a basic education program due to the absence of adequate documentation.

35. Rule 6A-1.0453(2) authorizes the Auditor General to conduct audits of districts receiving FEFP funding. Rule 6A-1.0453(3) requires the audit report to identify:

- (a) Errors in the reported full-time equivalent membership by program category;
- (b) Improper classification or placement of individual students assigned to educational alternative or exceptional student programs;
- and

(c) Failure of classes or programs to meet criteria established by the State Board [citations omitted] for basic or special programs.

36. Rule 6A-1.0453(4) provides:

Upon receipt of an official audit report, the Deputy Commissioner for Planning, Budgeting and Management shall compute the amount of adjustment to the district's allocation of state funds necessary to compensate for the errors or deficiencies noted in subsection (2). In those instances where a student has been improperly classified or placed in an exceptional student program, and in those instances where a special program fails to meet the prescribed criteria, the adjustment shall be computed on the basis of the basic program cost factor for which each student qualifies. Except for adjustments made during the fiscal year in which the discrepancies occurred[,] adjustments shall be limited to fund allocations and no changes shall be made in full-time equivalent membership data.

37. By letter dated February 28, 1996, Respondent advised Petitioner of a reduction in FEFP funding for the 1993-94 school year, resulting from the findings of the Audit Report, of \$346,428. A letter dated February 12, 1999, from counsel for Respondent to counsel for Petitioner, identifies the portion of this sum attributable to the misreporting of Dropout Prevention FTEs as \$267,715.

38. Rule 6A-1.0453(5) requires Respondent to provide official notice to Petitioner of all adjustments following the issuance of the audit report. This notice must include a "statement citing the specific law or rule upon which the finding

of each discrepancy is based, and the authority under which the adjustment is to be made"

39. The parties participated in an informal conference, as provided by Rule 6A-1.0453(6). The parties have largely framed the issue in the informal conference as whether Petitioner is free to report Dropout Prevention FTEs as basic education FTEs. The parties were unable to resolve this issue.

40. Attempting to find a basis for compromise, Respondent's representatives reviewed Petitioner's Dropout Prevention records in the hope of finding grounds for determinations of ineligibility, so as to permit a reclassification of over-the-cap Dropout Prevention FTEs as basic education FTEs and allow some funding, as the Audit Report did in the case of the one student improperly classified for the Dropout Prevention program.

41. However, Respondent's representatives were unable to find such documentation errors. Thus, Respondent has maintained its position that the Dropout Prevention FTEs in excess of the enrollment cap are funded at zero, not even at the lesser basic education rate. (Sometimes, Respondent's witnesses express the zero funding differently by saying that the over-the-cap Dropout Prevention FTEs do not generate their own FEFP funds, but participate pro rata in the FEFP funds generated by the under-the-cap Dropout Prevention FTEs. However, this amounts to the same thing: no more FEFP funding for enrolling and teaching

over-the-cap Dropout Prevention FTEs. All references in this recommended order to zero funding thus include prorate funding.)

42. Nothing in the record cites the authority by which Respondent zero-funded the over-the-cap Dropout Prevention FTEs, whom Petitioner reported as basic education FTEs. Interestingly, six of Respondent's employees cited the "law" that over-the-cap FTEs, presumably by group rather than individual program, receive zero funding, but not one of them could cite to the authority for this "law." (Eggers, page 17; Stewart, page 11; Goff, page 11; Pierson, page 10; Butler, page 30; and Jarrett, pages 20 and 22.)

43. Section 236.012(2) states in part that the purpose of the FEFP is:

(2) To increase the authority and responsibility of districts for deciding matters of instructional organization and method and to encourage district initiative in seeking more effective and efficient means of achieving the goals of the various programs.

1. The material provisions of the above-described laws remain in effect today. The issue of funding over-the-cap FTEs in At-Risk programs is not unique to this case. Another case involving Putnam County is reportedly pending. Also, an Audit Report issued June 15, 1995, involving FEFP funding for the Hillsborough County School District found intentional misreporting of over-the-cap ESOL FTEs as basic education FTEs to avoid zero funding.

2. Respondent's Policy Director, Link Jarrett introduced a much-needed perspective when he alluded to the necessity of balancing the educational needs of children against the complex funding considerations that have dominated this dispute.

Mr. Jarrett testified:

. . . we are making a good faith effort to the parent and to the child to place the student in the program, regardless of what the funding is. That's easy for me to maybe say at the State level.

* * *

. . . the basic [tenet] on equal education opportunity in serving these children is you place them in the programs that they need to be served in. And to some extent, you might take a risk in exceeding your cap. And is that worth not placing a student in a program and not giving him the appropriate--I would say no. . . .

[If I were a District Finance Officer], I would be saying serve the kids, and where they fall--I would give you my best estimate of the children to be served, and I would serve them in those programs, and I would let the chips fall where they may.

Transcript of Link Jarrett deposition, pages 39-40.

CONCLUSIONS OF LAW

3. The Division of Administrative Hearings has jurisdiction over the subject matter. Section 120.57(1).

4. Neither party argues the burden of proof in its proposed recommended order. Courts generally assign the burden of proof on the party with the affirmative of the issue. See, e.g., Young v. Department of Community Affairs, 625 So. 2d 831 (Fla. 1993);

Department of Banking and Finance v. Osborne Stern and Company, Inc., 670 So. 2d 932 (Fla. 1996). Absent the Audit Report and the action taken by Respondent to recalculate the Group 2 weighted cap, Petitioner would have retained the funds in dispute over the classification of the Dropout Prevention FTEs. Respondent has the affirmative of the issue to show that Petitioner is entitled to zero funding for its over-the-cap Dropout Prevention FTEs. Although the burden of proof is on Respondent, the same findings, conclusions, and recommendation would have followed if the burden of proof had been on Petitioner.

5. Petitioner's main argument is that Dropout Prevention FTE reporting is voluntary and, thus, Petitioner could, for any reason, choose to report these FTEs as basic education FTEs.

6. This argument is unsupported by Rule 6A-1.0451(7), which requires that districts report students in special programs as FTEs in the special program in which they are receiving instruction. The cited provision at page 11 of Standard Provisions, which requires the presentation of special program FTEs prior to basic program FTEs, also compels that Petitioner classify its Dropout Prevention FTEs in the Dropout Prevention program (unless they qualified for another special program, in which case Petitioner could exercise discretion—as between or among two or more such special programs, but not as between or among one or more special programs and one or more basic

programs). The contrary result would, among other things, distort the enrollment data, on which future educational planning is based.

7. In support of its contrary argument, Petitioner relies primarily on the cited provisions of page 27 of the Standard Procedures, which provides that Petitioner "may" report as Dropout Prevention FTEs only those students meeting various criteria. This use of "may" does not mean that such reporting is permissive or voluntary, rather than mandatory. Rather, such use of "may" means that districts are only permitted to report as Dropout Prevention FTEs those students who meet the various criteria.

8. Close examination of the Dropout Prevention provisions, including the "may" clause, and the other cited portions of the Standard Procedures explains the use of "may." The assumption of the Standard Procedures is that districts will want to report FTEs in the programs with the highest possible cost factors. This bias built into the Standard Procedures acknowledges no downside to this reporting practice, as would be consistent with the absence of punitive zero funding for over-the-cap Group 2 FTEs.

9. Although Petitioner may not generally report Dropout Prevention FTEs as basic education FTEs, the cited provisions at pages 11-12 and 20 of the Standard Procedures establish an exception to this general prohibition. As provided by these

cited provisions, the general requirement to report special program FTEs only as special program FTEs, rather than basic program FTEs, applies only as long as the special program FTEs are funded. By implication, once the special program FTEs are no longer funded, a district may report these FTEs under basic programs, which would ensure the minimal cost factor accorded basic education FTEs.

10. The exception that allows districts to report and Respondent to fund as basic education FTEs what would otherwise be unfunded special program FTEs explains the action of the Auditor General, upon discovering inadequate documentation for one reported Dropout Prevention student, in converting his Dropout Prevention FTE to a basic education FTE, rather than zero funding the student. Similarly, this exception explains the actions of Respondent's representatives in seeking evidence of additional students failing to meet the criteria of the Dropout Prevention program; Respondent, too, sought the chance to reclassify these over-the-cap Dropout Prevention FTEs as basic education FTEs in order not to zero fund them.

11. The exception that allows districts to report and Respondent to fund as basic education FTEs what would otherwise be unfunded special program FTEs is not limited to special program FTEs that are unfunded due to the disqualification of the program or the student. This exception applies equally to

special program FTEs that would otherwise be unfunded because they exceed the group cap.

12. In providing for caps, the Legislature did not expressly authorize zero funding for all over-the-cap Group 2 FTEs. What is clear from the complicated capping statute is that the Legislature allowed a district effectively to borrow unused weighted, below-the-cap FTEs from one program in Group 2 to offset weighted, above-the-cap FTEs from another program in Group 2. This liberal approach to funding over-the-cap programs does not suggest an intent to zero fund over-the-cap programs in over-the-cap groups.

13. Consistent with this Legislative intent are the already-discussed provisions of the Standard Procedures prioritizing the reporting of "funded" special-program FTEs.

14. In addition to the lack of legal support for the policy of zero funding over-the-cap special program FTEs, two practical issues may arise as a result of this policy of depriving districts even of basic education funding for such FTEs. First, districts that would take the risk of reduced funding of FTEs in nonmandatory special programs, such as Dropout Prevention and ESOL (as opposed to ESE), might find themselves unable to take the risk of no funding whatsoever. These districts would thus reduce or eliminate these important programs. Second, districts belatedly finding themselves in a grave financial situation due to zero funding may be tempted to take advantage of the more

liberal treatment afforded by Respondent and the Auditor General to students or programs determined not to meet the criteria of the applicable special program. The funding distinction maintained between over-the-cap special program FTEs and disqualified special programs or students in special programs invites abuse of the FEFP funding process by individual district employees achieving the noncompliance of sufficient number of cumulative files or even of program documentation to ensure that the over-the-cap special program FTEs are funded as basic education FTEs. A funding policy that prefers disqualified FTEs to over-the-cap FTEs defies logic because the greater culpability attaches to the acts and omissions that produce the disqualification of a student or an entire program than to the acts and omissions that result in the over-enrollment of special program students, especially when the enrollment census of a large component of the Group 2 students--ESE--is mandatory and largely out of the control of the districts.

15. In the final analysis, Petitioner has provided important Dropout Prevention educational services through an eligible program to eligible students, but has provided the services to more students than the Legislature agreed to fund at enhanced levels. Respondent's punitive remedy of zero funding these over-the-cap special program FTEs lacks any explicit legal authority, serves no legitimate educational or funding policy, and is arbitrary and capricious. Funding these over-the-cap

special program FTEs as basic education FTEs is supported by the law and logic.

RECOMMENDATION

It is

RECOMMENDED that the State Board of Education enter a final order declaring that Petitioner is entitled to: a) funding at the Dropout Prevention cost factor for any FTEs that qualified to be reported as Dropout Prevention FTEs and that were not over the Group 2 cap; and b) funding at the basic education cost factor for any remaining FTEs that qualified to be reported as Dropout Prevention FTEs, but were over the Group 2 cap.

DONE AND ENTERED this 13th day of April, 1999, in Tallahassee, Leon County, Florida.

ROBERT E. MEALE
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
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this 13th day of April, 1999.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order must be filed with the agency that will issue the final order in this case.