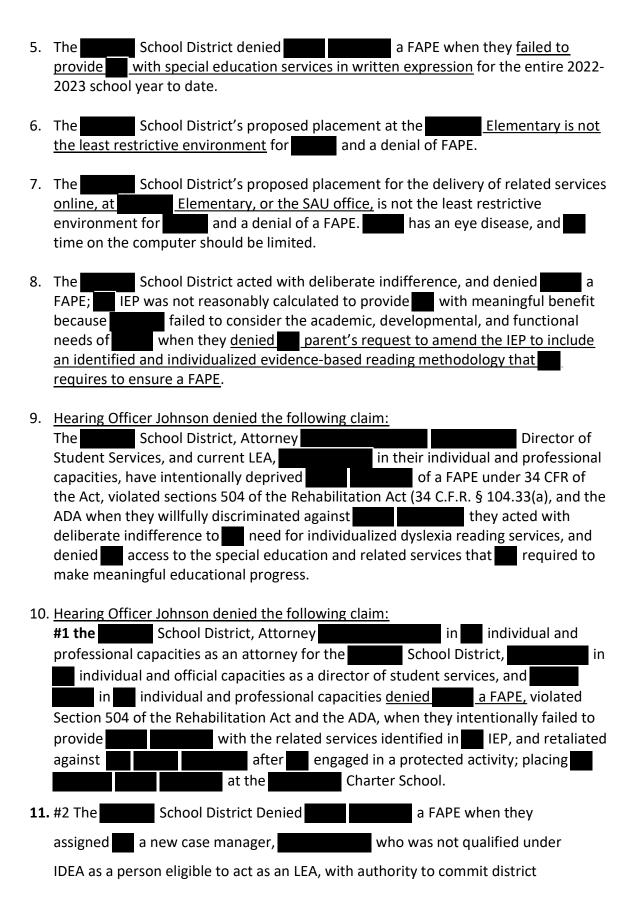
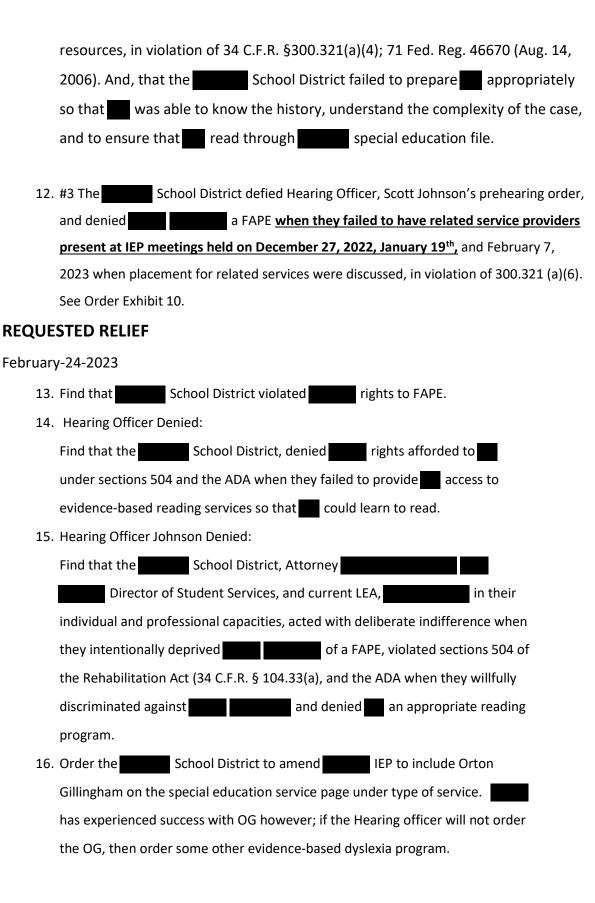
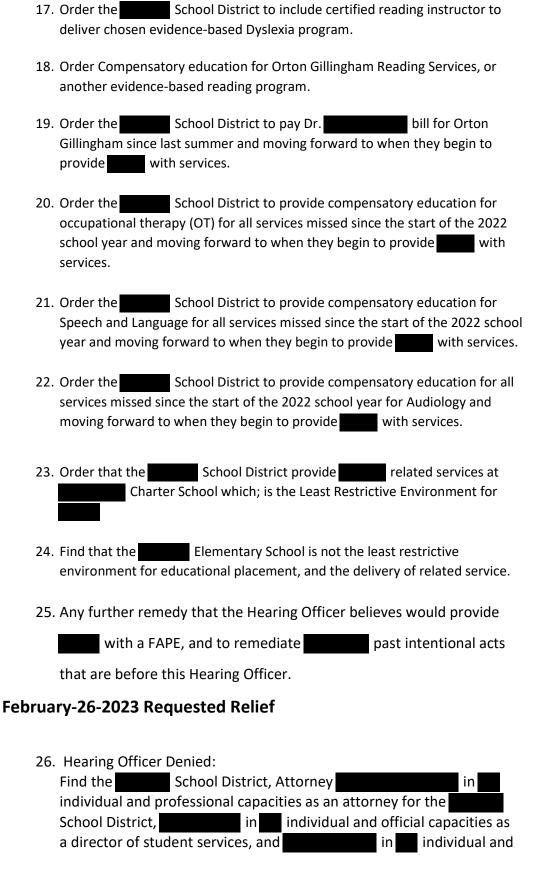
Student v. School District IDPH-FY-23-02-024

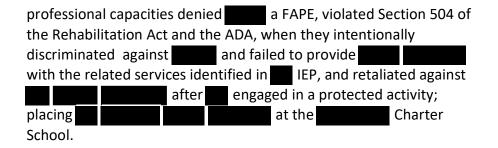
April 19, 2023 Student: Address: Parent: Phone: Date of Birth: Grade: 4 Charter School, School District, **Sending School:** NH **ASSOCIATED HEARING IDPH-FY-23-11-013 Parent Findings of Facts CLAIMS** has filed due process claims that allege the School District has a free, appropriate public education (FAPE), and that the denial of FAPE consisted of both procedural and substantive violations of the IDEA. More specifically, claims consists of the following components: School District Defied Hearing Officer Scott Johnson's December 16, 1. The 2022 order when they met with and continued to deny with regard to related services and placement. They failed to consider the least restrictive environment for the delivery IEP related services. a FAPE when they failed to 2. The School District Denied amend IEP to list an individualized evidenced-based dyslexia reading program under the type of service (their choice), to meet unique learning needs. 3. The School District denied a FAPE when they failed to include a service provider title for reading instruction, that included a certified dyslexia provider in whatever evidence-based Dyslexia reading program they chose. School District denied 4. The a FAPE when they failed to provide with the agreed upon related services in IEP for the entire 2022-2023 academic school year to date: 2 hours weekly for speech, 1 hour 50 minutes weekly

OT, and 30 minutes weekly PT, Audiology 4x per year for an hour.



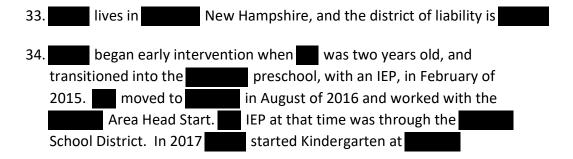


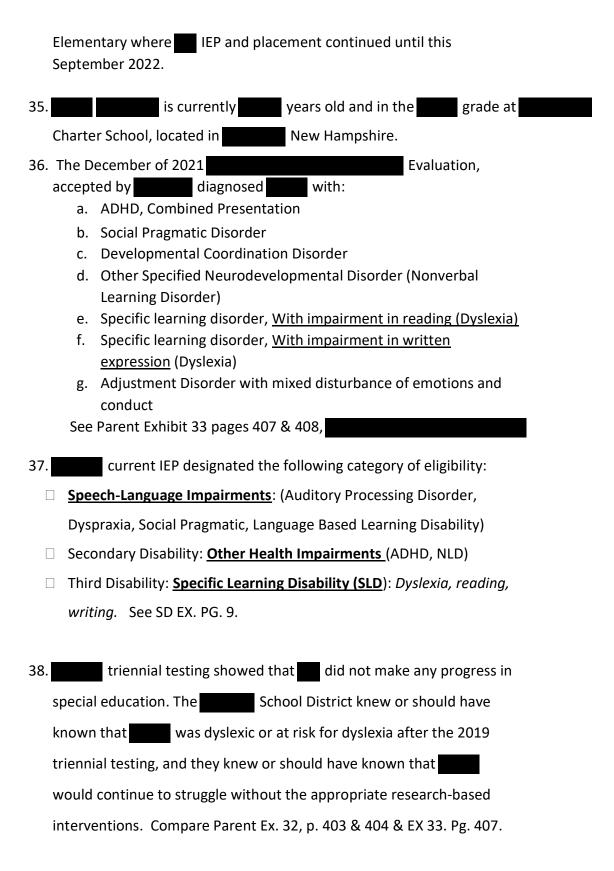




- 27. Find that the school District Denied who is not qualified under IDEA as a person eligible to act as an LEA, with authority to commit district resources, in violation of 34 C.F.R. §300.321(a)(4); 71 Fed. Reg. 46670 (Aug. 14, 2006). And, that the school District failed to prepare appropriately so that was able to know the history, understand the complexity of the case, and given the opportunity to read through special education file.
- 28. Find that the School District defied Hearing Officer, Scott Johnson's prehearing order, and denied a FAPE when they failed to have related service providers present at IEP meetings held on December 27, 2022, January 19th, and February 7, 2023 when placement for related services were discussed, in violation of 300.321 (a)(6).
- 29. Order stay put at Charter School
- 30. See Due Process relief from 2-24-2023
- 31. Include 60-90 minutes of direct reading services with dyslexia specialist (not listed within 2-24-2023 relief) 5 times per week, with dyslexia specialist consult to carry over with staff throughout all classes.
- 32. Any other relief deemed appropriate by the hearing officer.

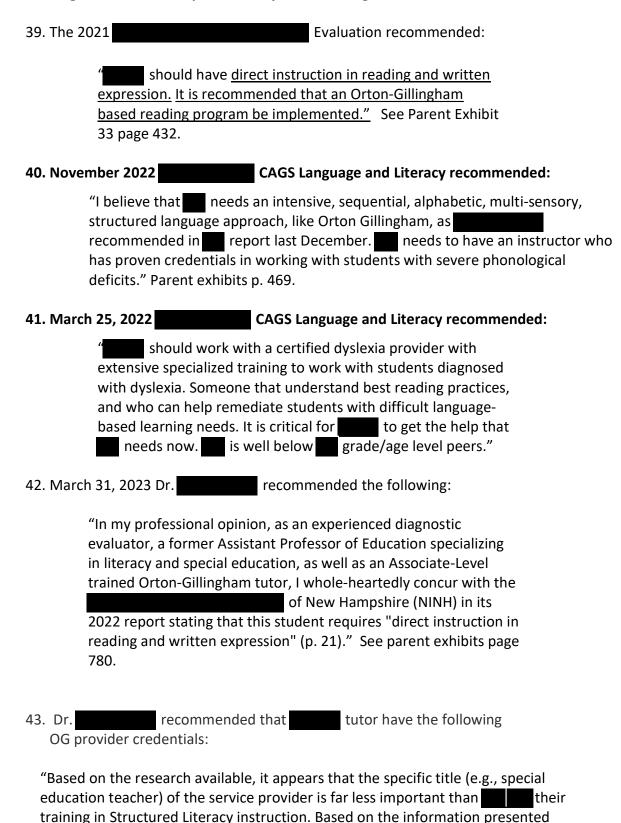
INTRODUCTION





EXPERT RECOMMENDATIONS

Orton Gillingham/ need for Experienced dyslexia reading teacher:



above, as well as my experiences in the field, I assert that the educator who provides this student's Structured Literacy instruction at a bare minimum meet the minimum criteria established by The Academy: have at least 60 hours of training in OG from an OG Fellow be under the supervision of an OG Fellow.

Given the functional limitations of NHSEIS, if we, as educators truly want to effect change and provide FAPE for students who have dyslexia then we may need to think outside the box when it comes to identifying the title for service providers within IEPs. After all, filling in boxes shouldn't be more important than providing effective literacy instruction for our students." See parent exhibits page 780.

CURRENT IEP under the present levels stated: requires a multi-sensory language based, proven effective dyslexic reading program with trained teacher that can help learn to read and teach staff about carryover and strategies to use with See P. 12 SD EX. NO IMPROVEMENT: READING INSTRUCTIONAL LEVEL: 45. overall instructional reading levels has not improved over the past school year showing a denial of FAPE. did not receive any reading services from November 7, 2022 to March 7, 2023, and has not had one speech and language therapy service for the entire school year. current IEP indicated that last May had an instructional 46. In **May of 2022**: reading level at a level G (mid/end of grade 1) text, as measured by the Fountas & Pinnell Benchmark Assessment. See SD EX. Pg. 11. 47. In **November of 2022** testing showed that independent reading level was first grade. See testing Parent Ex. 34, pg. 468-470. 48. On March 25, 2023 testing showed that independent reading level was again at an end of first grade. See testing Parent Ex. 35, pg. 471-475. **49.** On March **31, 2023** Dr. "Reading Comprehension: Unfortunately, due to the tremendous need to focus on other skills we have not been able to spend much time working on reading comprehension" Parents exhibits 162 page 779.

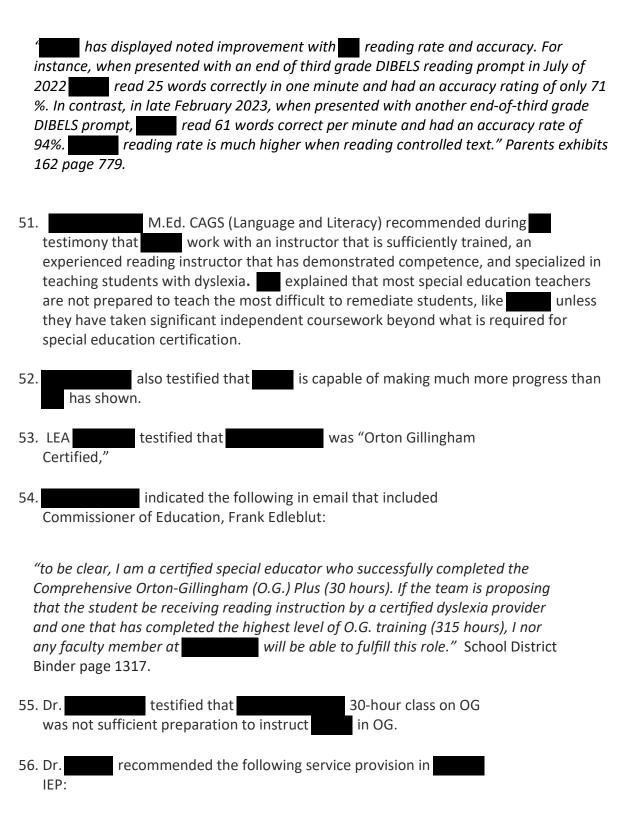
for tutoring 1-2 times weekly since last

fluency

has been seeing Dr.

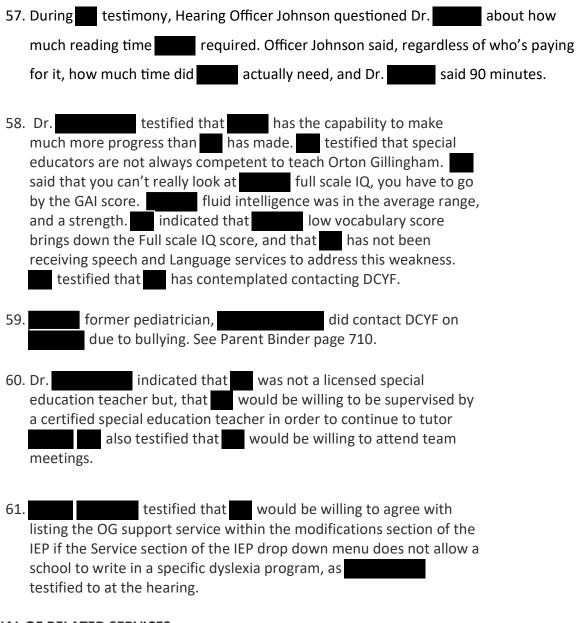
summer and has made improvements with

50.



"This student requires an intensive level of Structured Literacy instruction: in an individualized setting (i.e., I:I) as part of an extended school year — at least 45

weeks per year daily (5 days per week during the school year; at least 3 days per week during the summer months) for no less than 75 minutes per session." See Parent Ex.162 Page 782.

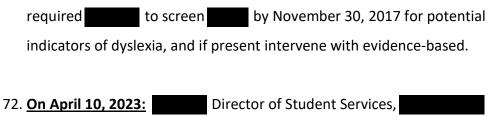


DENIAL OF RELATED SERVICES

62. testified that did not receive one IEP progress report for the entire school year.

acknowledged during testimony that did not receive any special education instruction in written expression over the past school year. testified that did not receive any PT, OT, Speech, 64. audiology, for the entire school year to date. 65. acknowledged that did not receive one IEP progress note for the entire school year to date. 66. testified that has not received any of the related services (PT, OT, Speech) outlined in IEP for the entire school year to date. has had some audiology and counselling sessions but, denied the majority of those services as well. 67. Despite the Hearing Officer's order to ensure that services were in transferred back to continues to be denied place before services. 68. at the February 7, 2023 IEP meeting, In response to assertion had to put all services in place prior to that transition back to LEA indicated that interpreted the Hearing Officer's order differently, because just had to put something in place. See Parent Binder pages 339-340 69. testified that would be willing to allow the providers to work with home. 70. testified that from November, 2022 to March, 2023 receive any services for special education for reading, and math. 71. **2017:** When entered Kindergarten, the state of New

Hampshire enacted NH Title XV Chapter 200, RSA §200:59 which;



- 72. On April 10, 2023: Director of Student Services, testified that Parent exhibit # 149 & 151 included all of the early educational testing that had been completed on reading progress. Parent EX 149 and 151, pages 723-729 and 734-739.
- 73. discovery provides evidence to support they violated the law, and evidence of long-term educational

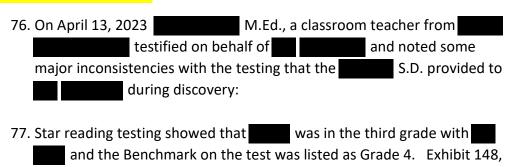
Violation of N.H. Rev. Stat. § 200:59

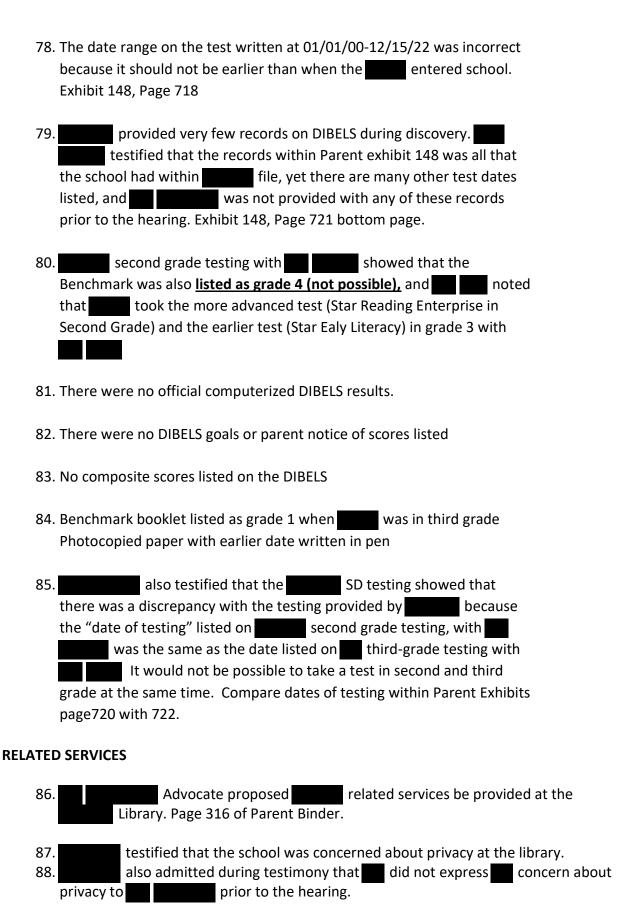
- 74. There is a long pattern of educational neglect with reading. was not tested regularly as required by NH laws.
- 75. The testing provided by shows they violated: "N.H. Rev. Stat. §
 200:59- Screening and Intervention for Dyslexia and Related Disorders:

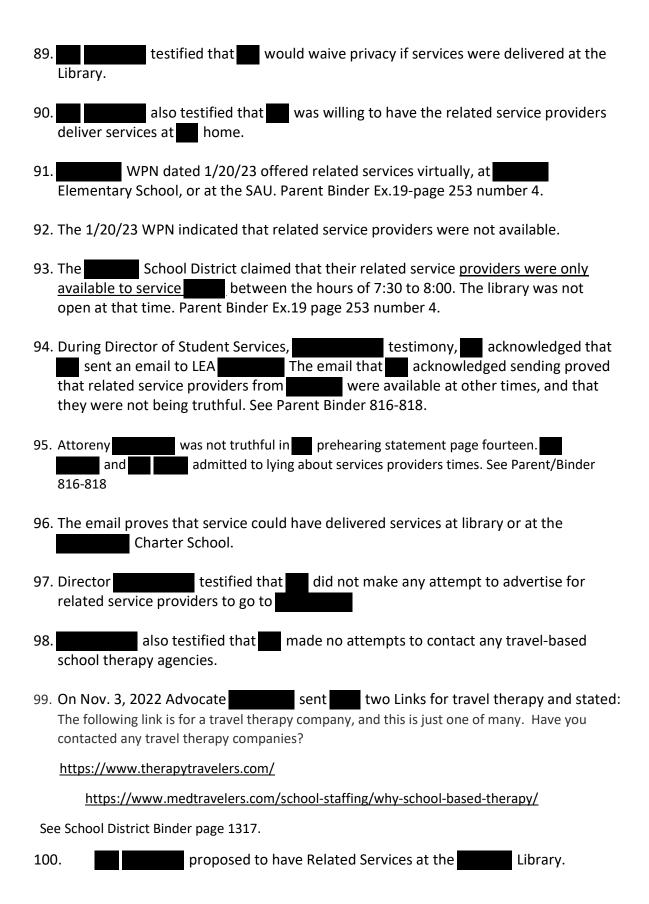
 I. School districts shall screen all public school students, including English learners, using the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) or an equivalent cost effective screener for the identification of potential indicators or risk factors of dyslexia and related disorders upon enrollment in public school kindergarten or first grade, and at appropriate times thereafter, to monitor progress

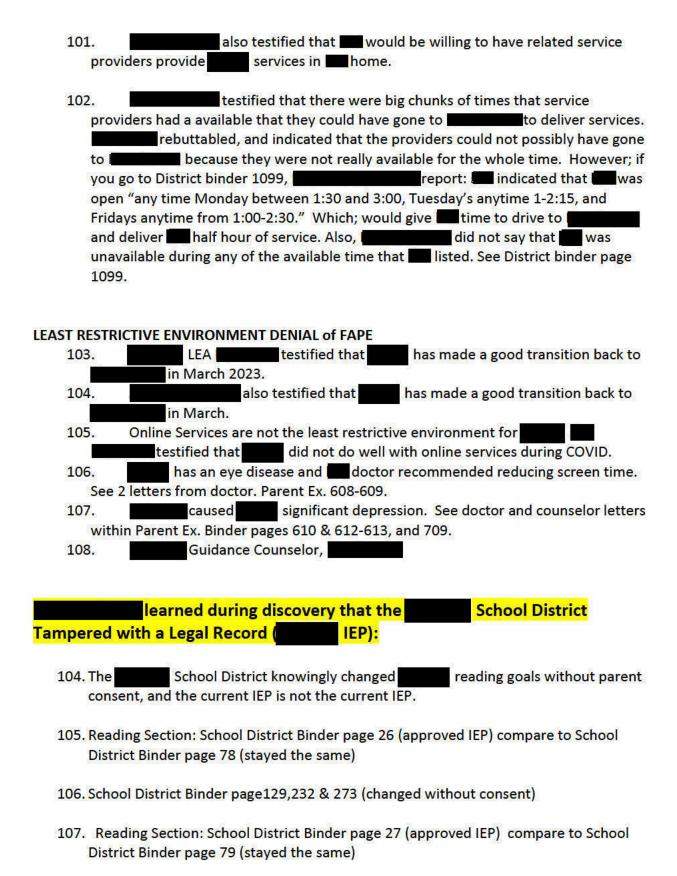
Falsification of Test Scores

Page 718





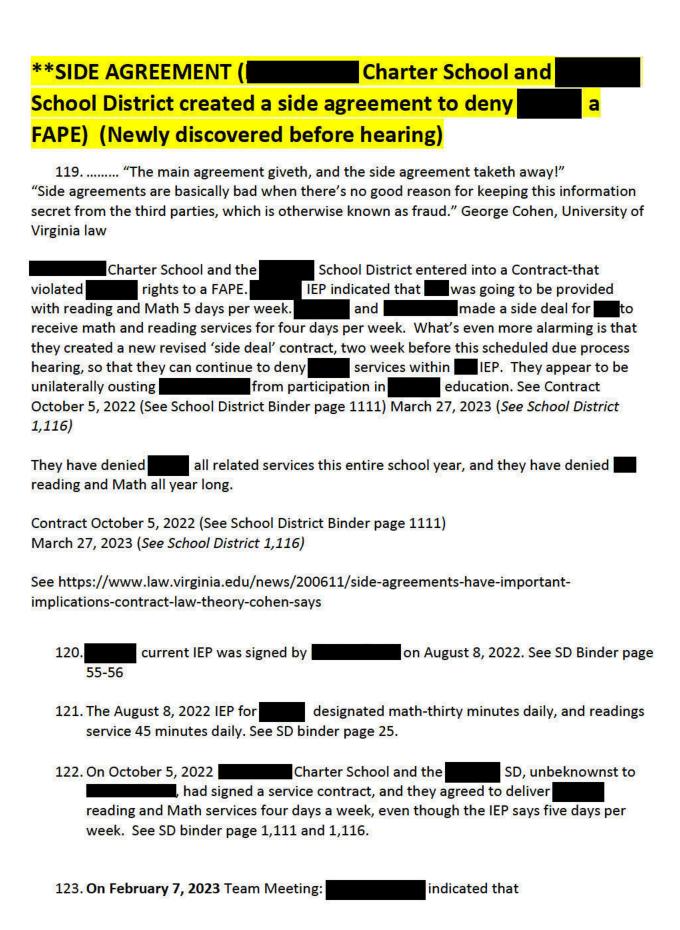


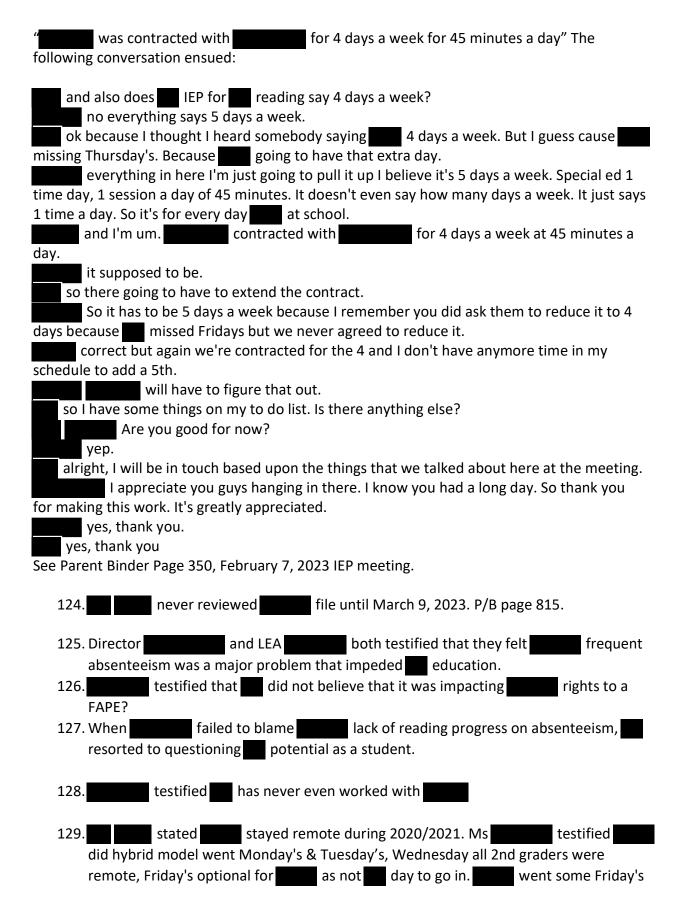


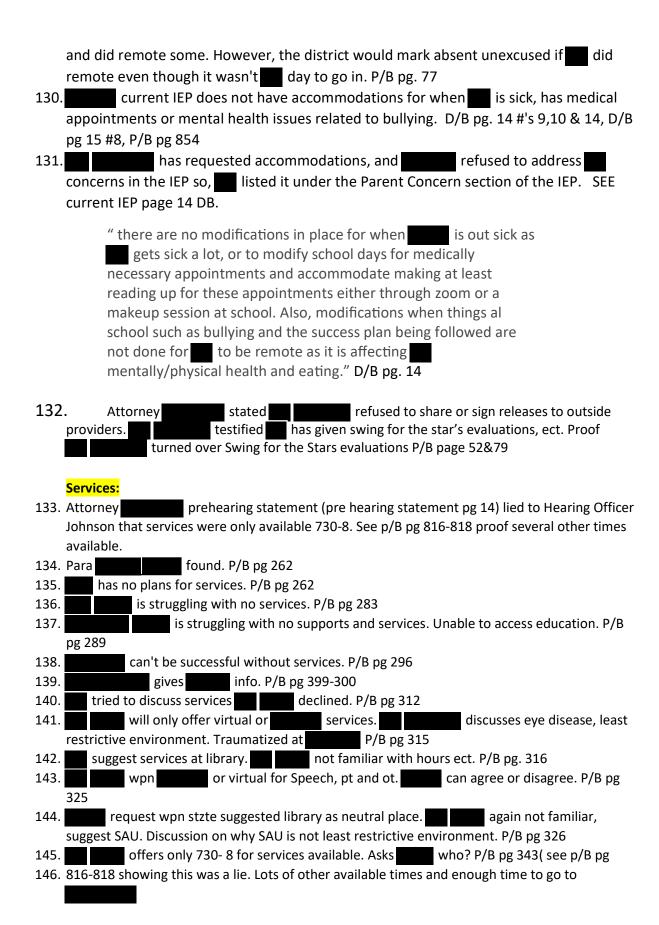
- 108. School District Binder page 129/130, 233/233 & 273/274 (changed without consent)
- 109. Reading Section: School District Binder page 28 (approved IEP) compare to School District Binder page 80 (stayed the same)
- 109. School District Binder page 130/131, 233/234 & 274/275 (changed without consent)

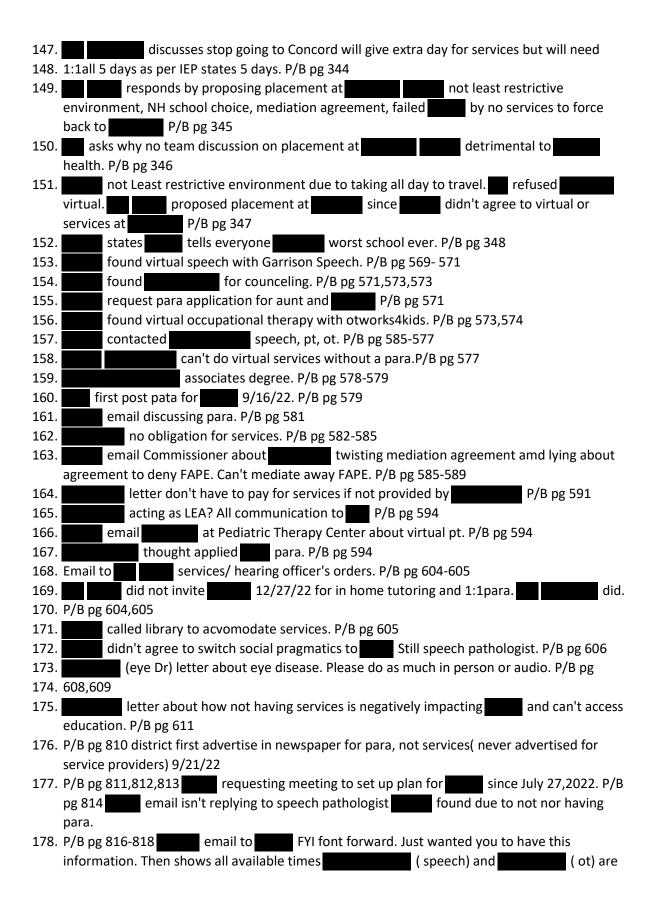
SMARTS PROGRAM

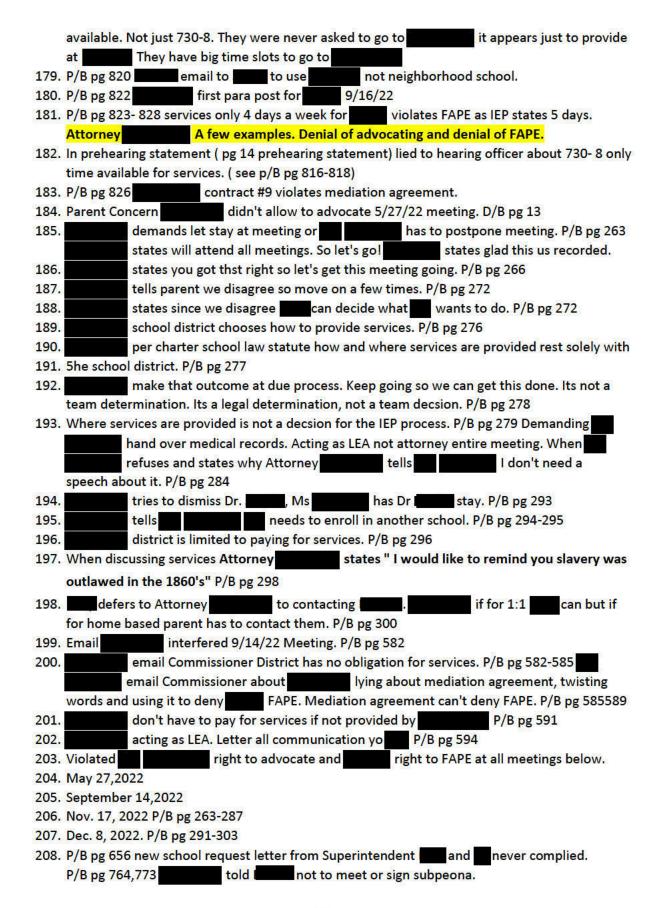
- 110. The SMARTS Executive Functioning Program was unilaterally removed from without parent consent. It should be in the current IEP and it is not. SD page number 40.
- handed a fraudulent one. There is no current IEP in either the school district or the parent binder.
- 112. It there was a finalized IEP submitted to the Hearing Officer, it would look like the signed IEP on 8/8/2022 (See SD Binder page 55-56) with the amendment for full day one to one support that was signed 2/24/23. See Parent Binder page 507.
- 113. School District Binder page 40 (approved IEP) compare to School District Binder page 92,142,245 & 286 (changed without consent)
- 114. Proof SMARTS was refused: School District Binder page 97 (9/14/22) refusal to remove SMARTS program,
- 115. School District Binder page148 (refused 11/18/2022 Reading changes)
- 116. School District Binder page 178 (refused 12/27/2022 changes)
- 117. School District Binder page 186 (refused 1/19/2023 changes) School District Binder page 251 (refused 1/19/2023 changes) School District Binder page 292 (partial approval to add 1:1 entire day only)
- 118. Approved 8/2/2022 IEP: Parent Binder page 255,256





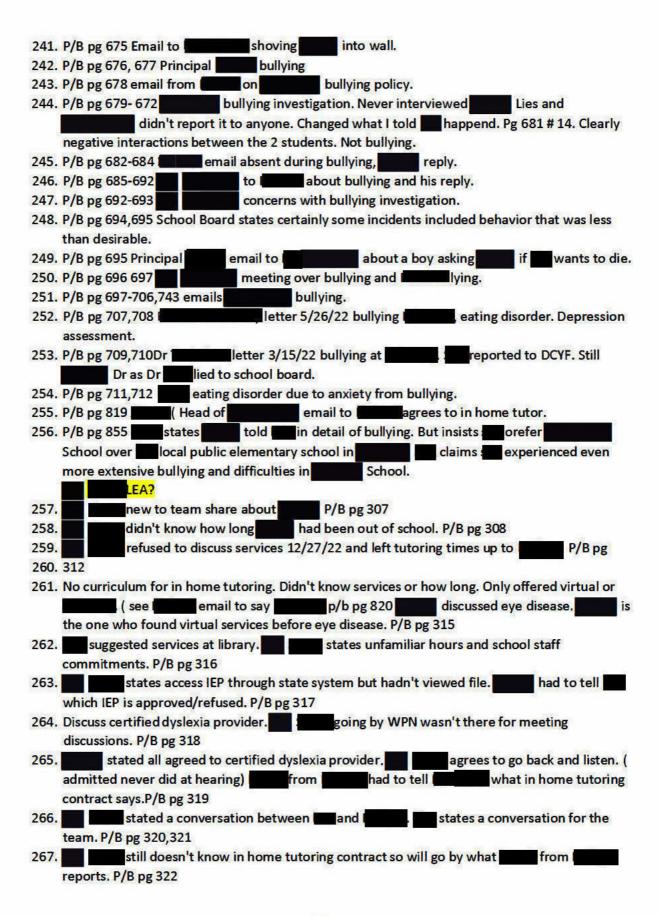


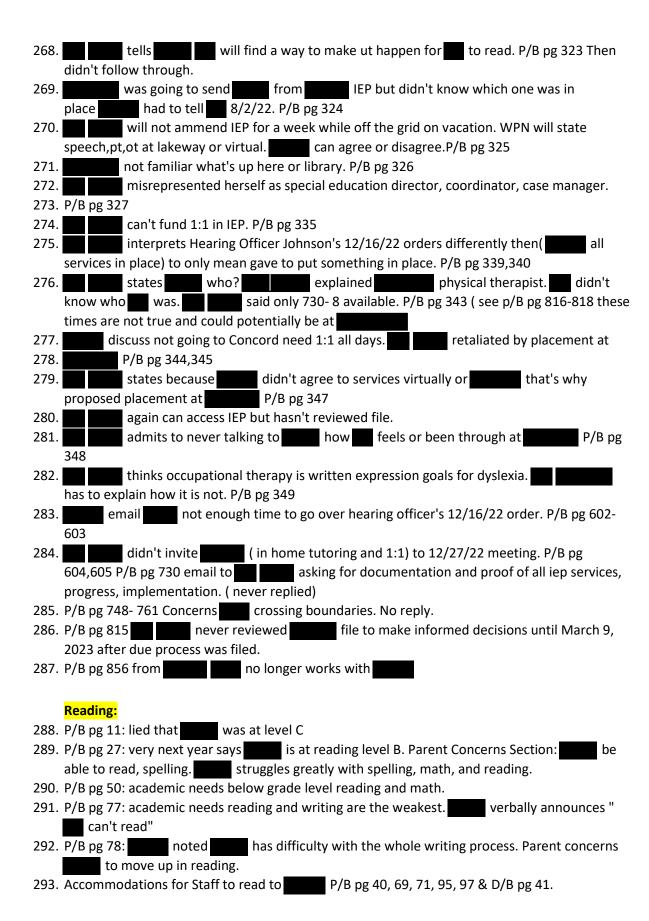




Bullying: Refused to allow to watch recess bullying video from day 1. Now claims they deleted it to destroy proof. 210. D/B pg 11 under social pragmatics "high risk for bullying" 211. D/B pg 12 needs social skills group (hasn't had all year) 212. D/B pg 13 letter & letter, parent concerns: #1,#3. #4 how success plan violated. 213. D/B pg 14cries to not go to school. 214. D/B pg 15 # 10 bullying denial of FAPE 215. #11 eating disorder 216. P/B pg 264 refusal to discuss letter 11/16/22 217. P/B pg 265 worried about mental health and struggling to go to school. 218. Doesn't want to go. 219. P/B pg 279 states suicidal, wants to die. states this needs to be addressed. 220. P/B pg 282 again refuse to discuss 221. P/B og 283,284,285 struggling district wants to put off and send to school. states crying at lunch as parent can keep home. 222. P/B pg 286 tells discusses meetings & emails not a surprise to 223. P/B pg 293 224. P/B pg 328 " I'm nervous to go back to school. Because of all people being mean to me." " like stabbing me with pencils and almost scissors. Like basically hurting and ut also hurts it doesn't really. They also steal my stuff too" 225. P/B pg 334discuss bullying agrees lunch and recess are biggest struggles. Agrees needs 1:1support 226. P/B pg 335 entire day. 227. P/B pg 544 5/18/22 letter 228. P/B pg 607 letter excusing school (bullying 229. P/B pg 611 230. letter 11/16/22 231. P_B pg 612,613 letter (bullying) 232. P/B pg 634- additional due process on bullying. Broken down even success plan not followed. 233. P/B pg 664-668 bullying policy. 234. P/B pg 669 email addressing administratively isdue with punishing disabilities. 235. P/B pg 670 email to bullying. Response involve as behavior continues. 236. P/B pg 671 emails girls admitted tag got rough and out of control, they did get physical and " teamed up" against 237. P/B pg 672 trting to find tome for to conference call. Behavior continuing. 238. P/B pg 673 states extra eyes on them 239. P/B pg 673 kicking 240. P/B pg 674 made sorry card. Was jealousy over mutual friend on part. Hopefully our

friend got the message that physical aggressive is not option.





can give oral responses until fluent in writing. P/B pg 69,95 and D/B pg 294. Accomodations 41 295. District Testing: read to P/B pg 68, 94 and D/B pg 38. 296. NH State Testing: read aloud to P/B pg 94 and D/B page 38. 297. Specifically Designed Instruction: P/B pg 42,46,65,72,91,98 and D/B pg 35. 298. is driven to read. D/B pg 10. 299. Dyslexia section: D/B pg 10. 300. Reading and writing are weakest. announces "I can't read". is concerned reading isn't increasing, trouble with writing process. is reading level G should be level p and is reading 39 WPM. D/B pg 11. 301. Multisensory language based proven dyslexia reading program with trained teacher to help staff carry over. D/B pg 12. 302. Parent Concern Section; D/B 14: #'s 5, 6,7,19,24, below paragraph 1, 3, 5. Pg 15: #'s 7, 9. 303. Written Expression parent Concern Section. D/B pg 14 #'s 1, 6 304. How students disability affects involvement and progress in general curriculum. States reading and written expression. D/B pg 17. 305. Written goals under speech. D/B pg 30,31 (didn't recieve speech this year, so didn't recieve written expression) tells team " O feel really sad when I can't read" & " I am also really embarrassed because mostly everybody has to read to me" P/B pg 257 307. Talk in depth about P/B pg 257,258,259 308. doesn't know the OG cookie sheet manipulatives for spelling P/B pg 258. 309. stated OG certified pg 259. 310. said umm can give us a OG certificate when we asked for proof if credentials. Pg 311. 260 was at mid/end 1st grade 45 wpm first week school, Nov 2, 2022 now at 312. beginning of 3nd grade 57 wpm. stated because of working diligently with stated want to keep 5 days a week services are they want to stop going to Concord. P/B pg 261 & agree to OG certified dyslexia provider pg 261. 314. We discussed needing phenomic awaareness, fluency, vocabulary and written expression, ect. P/B pg 261 said wording going to use is certified dyslexia provider P/B pg 262. 315. 316. and realize didn't change to certified dyslexia provider. P/B 269 states this is what is being proposed put that in your due process. P/B pg 270. 317. 318. states certified special educator but I have 30 hours of OG. P/B pg 271 it's what indivually needs. P/B pg 271 319. 320. requires it for FAPE. P/B pg 272a 321. interrupting about dyslexia states we disagree so move on. (Move on more then once this page)Admits isn't an expert on dyslexia. P/B pg 272 322. if a child needs it for individual needs. P/B pg 273 323. states you even agreed to it. states I don't remember. P/B pg 273

shows OG vowel circles. don't know what they are. P/B pg 274, 275

where are comprehension and written goals. P/B pg 274

324. 325.

326. doesn't have time for written expression goals. P/B pg 276 327. Discussion on least restrictive environment P/B pg 276 328. how does the district feel about the other goals aren't included in the IEP. P/B pg 280 states is a bright light, eager to learn P/B pg 310 Dyslexia discussion..P/B pg 317. gave example at doctors office can't read. P/B pg 318. 329. 330. tells all agreed to certified dyslexia provider. will go back and listen. P/B pg 319 request dyslexia tutoring. P/B pg 322. attends meeting tells " I feel really sad to not learn how to read" tells eill find a way to make it happen. P/B pg 323 332. asked to sign a release for P/B pg 325. 333. Discussion on dyslexia with certified provider and not being certified. know which program. is making progress with Orton-Gillingham P/B pg 329, 330, 331 states is contracted 4 days a week for 45 minutes. Orton-Gillingham recommends 5 days a week at least 90 minutes per time. P/B pg 332 334. Discuss dyslexia program, provider. How service page says specifically designed instruction same as every year. P/B pg 333 335. discuss no writing goals and talk about ot, pt and speech. P/B pg 341 336. Discuss written expression. thinks occupational therapy is written expression. has to explaine ot is just pencil grip, writing size. Not dyslexia written expression. P/B pg 348-350 says 4 days a week for 45 minutes. Don't have any more time in schedule. Go over IEP is for 5 days a week. P/B pg 350 337. Resolution meeting goes over Orton-Gillingham with certified provider. Services, plac3ment, least restrictive environment. P/B pg 387-391 338. shouldn't have to learn a new program. put off choosing a program and now k own Orton-Gillingham. Not fair to learn a new program. P/B pg 389 339. Provider and program don't belong in goals. Belong in service Section. P/B pg 390 Psychoeducational Evaluation goes over reading 2019. P/B pg 391-406 340. of New Hampshire Evaluation 2021 goes over reading, ect. P/B pg 406-467 recommend Orton-Gillingham P/B pg 432 Testing shows progress Nov 2022 - March 2023 in phonemic awareness (Orton-Gillingham) P/B pg 468 - 475. 342. dibels first week of school (P/B pg 487-490) showed at beginning of 2nd grade level 45 wpm. Increased from IEP end of 3rd grade year (D/B pg 26 under present level academic achievement) being 39 wpm and mid/end first grade level. 343. 9/19/22 email Reading stay 5 days. Suggest Dr. 5th day. said not contracted and reminded wasn't with all the services found but did contract them. P/B pg 581 344. P/B pg 614,615 parent concerns reading 345. P/B pg 616 report card 3rd grade reading, writing not demonstrating yet 346. P/B pg 617 letter from request reading specialist to evaluate P/B pg 618 2nd grade report card reading, writing not demonstrating yet. letter services interfering with reading / math services. 347. P/B pg 619 348. P/B pg 620 missing reading services for Speech and pt.

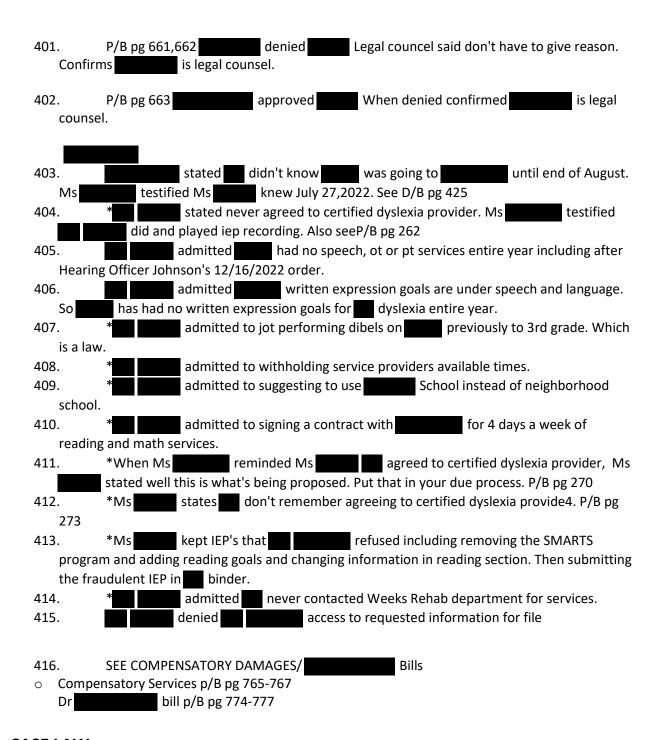
- 349. P/B pg 621 parent concerns reading/writing 350. P/B pg 622, 623 is owed compensatory services due to no reading services during covid. 351. P/B pg 624- 633May 3, 22 due process on reading, denial of FAPE, services, bullying. 352. P/B pg 652,653,654 Parent Response laying out all dates and times file review. 353. P/B pg 654,655,656 laws on Dyslexia screening. 354. P/B pg 720,721,722, 723,724, 725, 726,727, 728,729,734 possible Fraud testing. testified to discrepancies. 355. P/B pg 654,655,656 laws on Dyslexia screening. 356. P/B pg 741,742 Reading with not Orton-Gillingham. Pg 742 date 3/9/23 only 4 days reading. So not taking today. 357. P/B pg 744-745 Email From about about not certified. 358. P/B pg 746,747 IMSE certified Orton-Gillingham chart. doesn't even meet bottom level. 359. P/B pg 768 credentials 360. P/B pg 769,770 credentials 361. P/B pg 774-807 Dr bill, progress notes, credentials. 362. P/B pg 808,809 education on reading Orton-Gillingham 30 hour certificate. 363. P/B pg 854 mom requests addressing classes missed for Concord services. 364. P/B pg 857-881 dyslexia programs **Retaliation:** 365. request observation. 5/23/22. P/B pg 361-363 Blocked from emailing entire May 23,2022. 366. refused observation 5/25/22. P/B pg 504, 740 letter 4/6/22contact teachers. P/B pg 508 367. 5/25/22 violate 4/6/22 teacher email. P/B pg 509,510 (reason for blocking 368. 369. 5/23/22 after request for observations) 370. showing did not violate 4/6/22 letter. P/B pg511-543 not go to Concord so 1:1 all days more time services. P/B 344 371. proposed placement at immediately after and states because 372. refused virtual or 373. letter all communication acting LEA. P/B pg 594 can't be LEA..p/B pg 595-601 response 375. New LEA pat hired 12/ File Review:
- 376. P/B pg 649 request 10/31/22 file review including all records, files, audio tapes, video tapes, correspondence and computer- stored information that exists the school district and 377. P/B pg 650 file review: 12/22/22 documents not there as requested.
 378. P/B pg 650, 651 2nd request file review 2/24/23
 379. P/B pg 652 response to file review request. Lying about not providing
 - documents requested.
 - 380. P/B pg 652,653,654 Parent Response laying out all dates and times file review.
 - 381. P/B pg 654,655,656 laws on Dyslexia screening.

FRAUD:

- 382. Reading Section: D/B pg 26(approved IEP) compare to D/B pg 78 (stayed the same) D/B pg 129,232 & 273 (changed without consent)
- 383. Reading Section: D/B pg 27(approved IEP) compare to D/B pg 79 (stayed the same) D/B pg129/130, 233/233 & 273/274 (changed without consent)
- Reading Section: D/B pg 28 (approved IEP) compare to D/B pg 80(stayed the same)
 D/B pg130/131, 233/234 & 274/275(changed without consent)
- 385. SMARTS PROGRAM D/B pg 40 (approved IEP) compare to D/B pg 92,142,245 & 286 (changed without consent)
- 386. Proof these were refused: D/B pg 97, P/B pg 499 (9/14/22)refusal to remove SMARTS program,
- 387. D/B pg 148, P/B pg 506 (refused 11/18/2022 Reading changes)
- 388. D/B pg 178 (refused 12/27/2022 changes)
- 389. D/B pg 186(refused 1/19/2023 changes)
- 390. D/B pg 251 (refused 1/19/2023 changes)
- 391. D/B pg 292, P/B pg 507 (partial approval to add 1:1 entire day only)
- 392. Approved 8/2/2022 IEP: P/B pg 255,256
- 393. State System with refusals. P/B pg 225, 494 495
- 394. school paper only goal to read. P/B pg 575
- 395. orton-Gillingham, meeting request goals, ect. P/B pg 580
- 396. 9/19/22 email from stating discussed SMARTS program to SMARTS strategies.
- 397. Not removing SMARTS. P/B pg 581
- 398. P/B pg 720,721,722, 723,724, 725, 726,727, 728,719 possible Fraud testing. testified to discrepancies.

Tried OTHER public School:

- 399. P/B pg 656 never reached out with letter.
- 400. P/B pg 660 School Board Policy tutored students



CASE LAW

Altering an IEP

"The Hearing Officer found that the school district altered Stefan's IEPs and reduced or eliminated services without parents' knowledge or consent. Stefan's case was upheld on appeal to the U. S. Court of Appeals for the Fourth Circuit." Jaynes v. Newport News Sch. Bd (4th Cir. 2001)

Dyslexia Individualized services/Methodology

In Evans v. Board of Educ. of the Rhinebeck Central School Dist. (1996), the court held that the facts in that case demonstrated "that an integrated, multi-sensory, sequential method is a necessity rather than an optimum situation" (Evans at 348). Congress has advised the following:

Rogich v. Clark County School District, (Nevada, 2021). Methodology and procedural safeguards case. School district failed to provide an IEP that identified an Orton-Gillingham based methodology or structured literacy format that teachers would have to use to meet the needs of a child with dyslexia; IEP teams failed to adequately review evaluations provided by parents and failed to "meaningfully consider parents' concerns for enhancing their child's education." Judge held that telling parents "Trust us to provide what needs" is "not sufficient." Dyslexia "slow learners."

In Jarron Draper v. Atlanta Independent School System (N.D. GA 2007), Judge Shoob had affirmed an administrative law judge (ALJ) finding that (1) APS misdiagnosed the student as mentally retarded when in fact he suffered from a learning disability, (2) APS placed the student in the wrong class for five years, never re-evaluating him as required, and (3) APS failed to take any corrective action, even when the retesting finally done at the family's urging showed their mistake. Jarron Draper v. Atlanta Independent School System, United States Court of Appeals for the Eleventh Circuit, Case No. 07-11777-1

Loss of Education

A plaintiff may be injured by either (1) a denial of the child's FAPE if that denial resulted in the loss of educational opportunity; or (2) denial of the parent's ability to participate in the IEP process. Adam J v. Keller Indep. Sch. Dist., 328 F.3d 804, 812 (5th Cir. 2003).

Tutoring and Bill:

In Adams, <u>195 F.3d at 1149</u>, the Ninth Circuit concluded a district court erred in asking whether an IEP was adequate in light of a student's progress, where the student's parents had supplemented the IEP with private tutoring, instead of examining the adequacy of the IEP at the time it was designed and implemented.

Reimbursement for outside services paid for by a student's parent is an equitable remedy which courts and hearing officers have discretion under the IDEA to award. Burlington Sch. Comm. v. Dept. of Educ., 471 U.S. 359, 369 (1996)

Compensatory Ed.

Lester H. v. Gilhool, 916 F.2d 865 (3rd Cir. 1990) – The Third Circuit held that compensatory education is available to respond to situations where a school district flagrantly fails to comply with the requirements of IDEA.

U.S. Supreme Court found that parents could be compensated for a school's past denial of FAPE. In the landmark case Burlington School Committee v. Dept. of Ed., 471 U.S. 359 (1985),

In Miener v. Missouri, 800 F.2d 749 (8 th Cir. 1986), the court found that compensatory educational services, like the tuition reimbursement ordered in Burlington, simply required the school to provide services it should have in the first place.

"A disabled student's right to compensatory education accrues when the school knows or should know that the student is receiving an inappropriate education." D.K. v. Abington Sch. Dist., 696 F.3d 233, 249 (3d. Cir. 2012) (citing P.P. v. W. Chester Area Sch. Dist., 585 F.3d 727 (3d. Cir. 2009))

Accountability

Perez v. Sturgis Supreme Court decision highlighted the legal ramifications for public schools that fail to adhere to IEP progress monitoring requirements. In this case, the Court ruled in favor of the Perez family, finding that Sturgis Public Schools had not provided their child with a Free Appropriate Public Education (FAPE) as mandated by the IDEA. The Court found that the school's failure to closely monitor the student's IEP progress constituted a violation of the law. Perez v. Sturgis Supreme Court decision also highlights the importance of accountability for public schools when it comes to implementing and monitoring IEPs. Luna Perez v. Sturgis Public Schools, 598 U.S. ___, Docket No. 21-887

Parent not informed about Dyslexia/Failure to report on testing that would have shown dyslexia

Amanda J., <u>267 F.3d at 891-94</u> (finding "<u>egregious procedural violations</u>" through failure to provide records used to identify and address student's disability; parents not informed of possibility their child had autism or that an independent psychiatric evaluation was recommended).

An appropriate program is one that is tailored to meet the unique needs of the student. Endrew F., 137 S. Ct. at 994 (quoting Rowley, 458 U.S. at 994).

should receive Related services at

The legislative purpose of the least- restrictive-environment, or mainstreaming, requirement in the IDEA was to prevent public schools from excluding disabled students. Rose v. Chester Cnty. Intermediate Unit, 1996 U.S. Dist. LEXIS 6105, *28 (E.D. Pa. 1996) (quoting Rowley, 458 U.S. at 191).

made no progress this year with instructional reading level (grade 1)

"an appropriate educational program will likely "produce progress, not regression or trivial educational advancement." Dunn, 904 F.3d at 254 (quoting Ridley, 680 F.3d at 269).

"The paucity of services offered him for an extended time—nearly six months—could not fail to have had a significant negative impact on ability to achieve overall progress toward the attainment of IEP goals and objectives due to regression. Battle v. Pennsylvania, 629 F.3d 269 (3rd Cir.1990).

The Supreme Court ruled, in Endrew F. v. Douglas County School District that students must make "appropriately ambitious" progress in their special education programs under the Individuals with Disabilities Education Act (IDEA).

"The right to a FAPE ensures that students with special education needs receive the type of education that will 'prepare them for further education, employment, and independent living.'" Id. (quoting $20 \text{ U.S.C.} \S 1400(d)(1)(A)$)

"If an IEP team determines that it is necessary for the individual providing the special education or related services to a child with a disability to have specific training, experience and/or knowledge in order for the child to receive FAPE, then it would be appropriate for the team to include those specifications in the child's IEP" (OSEP, letter to Dickman, 37 IDELR 284, April 2, 2002).

In other words, if the school is using a method of instruction different from that implemented in the general education classroom, the parent has the right to know if such method of instruction offers training or certification and, if so, whether the instructor has been sufficiently trained or certified.

"Properly certified teachers are often improperly prepared to deliver effective instruction" (G. Dickman, 2003, Summer Newsletter, NJIDA). Any child who is not learning to read using "traditional instructional methods" that requires "some other instructional strategy" is entitled to a properly trained, experienced, and knowledgeable instructor. The best evidence-based practice is of no value if it is not delivered with fidelity to design by a knowledgeable instructor.

"Teachers must have the knowledge base to be effective before they are given the freedom to be creative" (G. Dickman, 2003, Winter Newsletter, NJIDA).

the Newport News IEPs contained many deficiencies and that the district unilaterally "eliminated numerous programs from the IEP [and] provided no explanation or justification for striking these programs." Jaynes v. Newport News Sch. Bd. U.S. Dist.Ct. Eastern District of Virginia, Civil N. 4:99cv146.

See https://www.wrightslaw.com/law/caselaw/VA_jaynes_newportnews_00_0907.pdf Jaynes v. Newport News Sch. Bd. (4th Cir. 2001)

Misrepresentation of Facts and laws to earn unjust victory

Moser v. Bret Harte Union High School Dist., 366 F. Supp. 2d 944 (E.D. Cal. 2005)-imposing sanctions on conduct "implicat[ing] unacceptable written advocacy and obstruction which violate[] rules of court and professional conduct, forcing an opposing party and the court to spend in ordinate time addressing such issues" in pleadings, briefings, and written orders

Respectfully Submitted,

M.Ed. Educational Advocate /S/