

Student v. [REDACTED] School District
IDPH-FY-23-02-024

April 19, 2023

Student: [REDACTED]
Address: [REDACTED] NH [REDACTED]
Parent: [REDACTED]
Phone: [REDACTED]
Date of Birth: [REDACTED]
Grade: 4 [REDACTED] Charter School, [REDACTED]
Sending School: [REDACTED] School District, [REDACTED] NH
[REDACTED] NH [REDACTED]
ASSOCIATED HEARING IDPH-FY-23-11-013

Parent Findings of Facts

CLAIMS

[REDACTED] has filed due process claims that allege the [REDACTED] School District has denied [REDACTED] a free, appropriate public education (FAPE), and that the denial of FAPE consisted of both procedural and substantive violations of the IDEA. More specifically, [REDACTED] claims consists of the following components:

1. The [REDACTED] School District Defied Hearing Officer Scott Johnson's December 16, 2022 order when they met with [REDACTED] and continued to deny [REDACTED] FAPE with regard to [REDACTED] related services and placement. They failed to consider the least restrictive environment for the delivery [REDACTED] IEP related services.
2. The [REDACTED] School District Denied [REDACTED] a FAPE when they failed to amend [REDACTED] IEP to list an individualized evidenced-based dyslexia reading program under the type of service (their choice), to meet [REDACTED] unique learning needs.
3. The [REDACTED] School District denied [REDACTED] 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.
4. The [REDACTED] School District denied [REDACTED] a FAPE when they failed to provide [REDACTED] with the agreed upon related services in [REDACTED] 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.

5. The [REDACTED] School District denied [REDACTED] [REDACTED] a FAPE when they failed to provide [REDACTED] with special education services in written expression for the entire 2022-2023 school year to date.
6. The [REDACTED] School District's proposed placement at the [REDACTED] Elementary is not the least restrictive environment for [REDACTED] and a denial of FAPE.
7. The [REDACTED] School District's proposed placement for the delivery of related services online, at [REDACTED] Elementary, or the SAU office, is not the least restrictive environment for [REDACTED] and a denial of a FAPE. [REDACTED] has an eye disease, and [REDACTED] time on the computer should be limited.
8. The [REDACTED] School District acted with deliberate indifference, and denied [REDACTED] a FAPE; [REDACTED] IEP was not reasonably calculated to provide [REDACTED] with meaningful benefit because [REDACTED] failed to consider the academic, developmental, and functional needs of [REDACTED] when they denied [REDACTED] parent's request to amend the IEP to include an identified and individualized evidence-based reading methodology that [REDACTED] requires to ensure a FAPE.
9. Hearing Officer Johnson denied the following claim:
The [REDACTED] School District, Attorney [REDACTED] [REDACTED] Director of Student Services, and current LEA, [REDACTED] in their individual and professional capacities, have intentionally deprived [REDACTED] [REDACTED] of a FAPE under 34 CFR of the Act, violated sections 504 of the Rehabilitation Act (34 C.F.R. § 104.33(a), and the ADA when they willfully discriminated against [REDACTED] [REDACTED] they acted with deliberate indifference to [REDACTED] need for individualized dyslexia reading services, and denied [REDACTED] access to the special education and related services that [REDACTED] required to make meaningful educational progress.
10. Hearing Officer Johnson denied the following claim:
#1 the [REDACTED] School District, Attorney [REDACTED] in [REDACTED] individual and professional capacities as an attorney for the [REDACTED] School District, [REDACTED] in [REDACTED] individual and official capacities as a director of student services, and [REDACTED] in [REDACTED] individual and professional capacities denied [REDACTED] a FAPE, violated Section 504 of the Rehabilitation Act and the ADA, when they intentionally failed to provide [REDACTED] [REDACTED] with the related services identified in [REDACTED] IEP, and retaliated against [REDACTED] [REDACTED] [REDACTED] after [REDACTED] engaged in a protected activity; placing [REDACTED] [REDACTED] [REDACTED] at the [REDACTED] Charter School.
11. **#2** The [REDACTED] School District Denied [REDACTED] [REDACTED] a FAPE when they assigned [REDACTED] a new case manager, [REDACTED] who was 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 [REDACTED] School District failed to prepare [REDACTED] appropriately so that [REDACTED] was able to know the history, understand the complexity of the case, and to ensure that [REDACTED] read through [REDACTED] special education file.

12. #3 The [REDACTED] School District defied Hearing Officer, Scott Johnson's prehearing order, and denied [REDACTED] [REDACTED] 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). See Order Exhibit 10.

REQUESTED RELIEF

February-24-2023

13. Find that [REDACTED] School District violated [REDACTED] rights to FAPE.
14. Hearing Officer Denied:
Find that the [REDACTED] School District, denied [REDACTED] rights afforded to [REDACTED] under sections 504 and the ADA when they failed to provide [REDACTED] access to evidence-based reading services so that [REDACTED] could learn to read.
15. Hearing Officer Johnson Denied:
Find that the [REDACTED] School District, Attorney [REDACTED] [REDACTED] [REDACTED] Director of Student Services, and current LEA, [REDACTED] in their individual and professional capacities, acted with deliberate indifference when they intentionally deprived [REDACTED] [REDACTED] of a FAPE, violated sections 504 of the Rehabilitation Act (34 C.F.R. § 104.33(a), and the ADA when they willfully discriminated against [REDACTED] [REDACTED] and denied [REDACTED] an appropriate reading program.
16. Order the [REDACTED] School District to amend [REDACTED] IEP to include Orton Gillingham on the special education service page under type of service. [REDACTED] has experienced success with OG however; if the Hearing officer will not order the OG, then order some other evidence-based dyslexia program.

17. Order the [REDACTED] School District to include certified reading instructor to deliver chosen evidence-based Dyslexia program.
18. Order Compensatory education for Orton Gillingham Reading Services, or another evidence-based reading program.
19. Order the [REDACTED] School District to pay Dr. [REDACTED] bill for Orton Gillingham since last summer and moving forward to when they begin to provide [REDACTED] with services.
20. Order the [REDACTED] School District to provide compensatory education for occupational therapy (OT) for all services missed since the start of the 2022 school year and moving forward to when they begin to provide [REDACTED] with services.
21. Order the [REDACTED] School District to provide compensatory education for Speech and Language for all services missed since the start of the 2022 school year and moving forward to when they begin to provide [REDACTED] with services.
22. Order the [REDACTED] School District to provide compensatory education for all services missed since the start of the 2022 school year for Audiology and moving forward to when they begin to provide [REDACTED] with services.
23. Order that the [REDACTED] School District provide [REDACTED] related services at [REDACTED] Charter School which; is the Least Restrictive Environment for [REDACTED]
24. Find that the [REDACTED] Elementary School is not the least restrictive environment for educational placement, and the delivery of related service.
25. Any further remedy that the Hearing Officer believes would provide [REDACTED] with a FAPE, and to remediate [REDACTED] past intentional acts that are before this Hearing Officer.

February-26-2023 Requested Relief

26. Hearing Officer Denied:
Find the [REDACTED] School District, Attorney [REDACTED] in [REDACTED] individual and professional capacities as an attorney for the [REDACTED] School District, [REDACTED] in [REDACTED] individual and official capacities as a director of student services, and [REDACTED] in [REDACTED] individual and

professional capacities denied [REDACTED] a FAPE, violated Section 504 of the Rehabilitation Act and the ADA, when they intentionally discriminated against [REDACTED] and failed to provide [REDACTED] [REDACTED] with the related services identified in [REDACTED] IEP, and retaliated against [REDACTED] [REDACTED] [REDACTED] after [REDACTED] engaged in a protected activity; placing [REDACTED] [REDACTED] [REDACTED] [REDACTED] at the [REDACTED] Charter School.

27. Find that the [REDACTED] School District Denied [REDACTED] [REDACTED] a FAPE when they assigned [REDACTED] a new case manager, [REDACTED] 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 [REDACTED] School District failed to prepare [REDACTED] appropriately so that [REDACTED] was able to know the history, understand the complexity of the case, and given the opportunity to read through [REDACTED] special education file.
28. Find that the [REDACTED] School District defied Hearing Officer, Scott Johnson's prehearing order, and denied [REDACTED] [REDACTED] 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 [REDACTED] 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

33. [REDACTED] lives in [REDACTED] New Hampshire, and the district of liability is [REDACTED]
34. [REDACTED] began early intervention when [REDACTED] was two years old, and transitioned into the [REDACTED] preschool, with an IEP, in February of 2015. [REDACTED] moved to [REDACTED] in August of 2016 and worked with the [REDACTED] Area Head Start. [REDACTED] IEP at that time was through the [REDACTED] School District. In 2017 [REDACTED] started Kindergarten at [REDACTED]

Elementary where [REDACTED] IEP and placement continued until this September 2022.

35. [REDACTED] [REDACTED] is currently [REDACTED] years old and in the [REDACTED] grade at [REDACTED] Charter School, located in [REDACTED] New Hampshire.
36. The December of 2021 [REDACTED] Evaluation, accepted by [REDACTED] diagnosed [REDACTED] with:
- a. ADHD, Combined Presentation
 - b. Social Pragmatic Disorder
 - c. Developmental Coordination Disorder
 - d. Other Specified Neurodevelopmental Disorder (Nonverbal Learning Disorder)
 - e. Specific learning disorder, With impairment in reading (Dyslexia)
 - f. Specific learning disorder, With impairment in written expression (Dyslexia)
 - g. Adjustment Disorder with mixed disturbance of emotions and conduct
- See Parent Exhibit 33 pages 407 & 408, [REDACTED]

37. [REDACTED] current IEP designated the following category of eligibility:
- Speech-Language Impairments:** (Auditory Processing Disorder, Dyspraxia, Social Pragmatic, Language Based Learning Disability)
 - Secondary Disability: **Other Health Impairments** (ADHD, NLD)
 - Third Disability: **Specific Learning Disability (SLD):** *Dyslexia, reading, writing.* See SD EX. PG. 9.

38. [REDACTED] triennial testing showed that [REDACTED] did not make any progress in special education. The [REDACTED] School District knew or should have known that [REDACTED] was dyslexic or at risk for dyslexia after the 2019 triennial testing, and they knew or should have known that [REDACTED] would continue to struggle without the appropriate research-based interventions. Compare Parent Ex. 32, p. 403 & 404 & EX 33. Pg. 407.

EXPERT RECOMMENDATIONS

Orton Gillingham/ need for Experienced dyslexia reading teacher:

39. The 2021 [REDACTED] Evaluation recommended:

“ [REDACTED] should have direct instruction in reading and written expression. It is recommended that an Orton-Gillingham based reading program be implemented.” See Parent Exhibit 33 page 432.

40. November 2022 [REDACTED] CAGS Language and Literacy recommended:

“I believe that [REDACTED] needs an intensive, sequential, alphabetic, multi-sensory, structured language approach, like Orton Gillingham, as [REDACTED] recommended in [REDACTED] report last December. [REDACTED] needs to have an instructor who has proven credentials in working with students with severe phonological deficits.” Parent exhibits p. 469.

41. March 25, 2022 [REDACTED] CAGS Language and Literacy recommended:

“ [REDACTED] should work with a certified dyslexia provider with extensive specialized training to work with students diagnosed with dyslexia. Someone that understand best reading practices, and who can help remediate students with difficult language-based learning needs. It is critical for [REDACTED] to get the help that [REDACTED] needs now. [REDACTED] is well below [REDACTED] grade/age level peers.”

42. March 31, 2023 Dr. [REDACTED] recommended the following:

“In my professional opinion, as an experienced diagnostic evaluator, a former Assistant Professor of Education specializing in literacy and special education, as well as an Associate-Level trained Orton-Gillingham tutor, I whole-heartedly concur with the [REDACTED] of New Hampshire (NINH) in its 2022 report stating that this student requires "direct instruction in reading and written expression" (p. 21).” See parent exhibits page 780.

43. Dr. [REDACTED] recommended that [REDACTED] tutor have the following OG provider credentials:

“Based on the research available, it appears that the specific title (e.g., special education teacher) of the service provider is far less important than [REDACTED] their training in Structured Literacy instruction. Based on the information presented

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.

44. **██████████** 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.
46. In **May of 2022:** **██████████** current IEP indicated that last May **██████████** had an instructional 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. **██████████** reported:
- "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.*
50. **██████████** has been seeing Dr. **██████████** for tutoring 1-2 times weekly since last summer and has made improvements with **██████████** fluency

“ [REDACTED] has displayed noted improvement with [REDACTED] reading rate and accuracy. For instance, when presented with an end of third grade DIBELS reading prompt in July of 2022 [REDACTED] read 25 words correctly in one minute and had an accuracy rating of only 71 %. In contrast, in late February 2023, when presented with another end-of-third grade DIBELS prompt, [REDACTED] read 61 words correct per minute and had an accuracy rate of 94%. [REDACTED] reading rate is much higher when reading controlled text.” Parents exhibits 162 page 779.

51. [REDACTED] M.Ed. CAGS (Language and Literacy) recommended during [REDACTED] testimony that [REDACTED] work with an instructor that is sufficiently trained, an experienced reading instructor that has demonstrated competence, and specialized in teaching students with dyslexia. [REDACTED] explained that most special education teachers are not prepared to teach the most difficult to remediate students, like [REDACTED] unless they have taken significant independent coursework beyond what is required for special education certification.
52. [REDACTED] also testified that [REDACTED] is capable of making much more progress than [REDACTED] has shown.
53. LEA [REDACTED] testified that [REDACTED] was “Orton Gillingham Certified,”
54. [REDACTED] indicated the following in email that included Commissioner of Education, Frank Edleblut:

“to be clear, I am a certified special educator who successfully completed the Comprehensive Orton-Gillingham (O.G.) Plus (30 hours). If the team is proposing that the student be receiving reading instruction by a certified dyslexia provider and one that has completed the highest level of O.G. training (315 hours), I nor any faculty member at [REDACTED] will be able to fulfill this role.” School District Binder page 1317.

55. Dr. [REDACTED] testified that [REDACTED] 30-hour class on OG was not sufficient preparation to instruct [REDACTED] in OG.
56. Dr. [REDACTED] recommended the following service provision in [REDACTED] IEP:

“This student requires an intensive level of Structured Literacy instruction: in an individualized setting (i.e., 1 : 1) 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.

57. During [REDACTED] testimony, Hearing Officer Johnson questioned Dr. [REDACTED] about how much reading time [REDACTED] required. Officer Johnson said, regardless of who’s paying for it, how much time did [REDACTED] actually need, and Dr. [REDACTED] said 90 minutes.
58. Dr. [REDACTED] testified that [REDACTED] has the capability to make much more progress than [REDACTED] has made. [REDACTED] testified that special educators are not always competent to teach Orton Gillingham. [REDACTED] said that you can’t really look at [REDACTED] full scale IQ, you have to go by the GAI score. [REDACTED] fluid intelligence was in the average range, and a strength. [REDACTED] indicated that [REDACTED] low vocabulary score brings down the Full scale IQ score, and that [REDACTED] has not been receiving speech and Language services to address this weakness. [REDACTED] testified that [REDACTED] has contemplated contacting DCYF.
59. [REDACTED] former pediatrician, [REDACTED] did contact DCYF on [REDACTED] due to bullying. See Parent Binder page 710.
60. Dr. [REDACTED] indicated that [REDACTED] was not a licensed special education teacher but, that [REDACTED] would be willing to be supervised by a certified special education teacher in order to continue to tutor [REDACTED]. [REDACTED] also testified that [REDACTED] would be willing to attend team meetings.
61. [REDACTED] [REDACTED] testified that [REDACTED] would be willing to agree with listing the OG support service within the modifications section of the IEP if the Service section of the IEP drop down menu does not allow a school to write in a specific dyslexia program, as [REDACTED] testified to at the hearing.

DENIAL OF RELATED SERVICES

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

63. ██████████ acknowledged during testimony that ██████████ did not receive any special education instruction in written expression over the past school year.
64. ██████████ testified that ██████████ did not receive any PT, OT, Speech, 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 place before ██████████ transferred back to ██████████ ██████████ continues to be denied ██████████ services.
68. at the February 7, 2023 IEP meeting, In response to ██████████ ██████████ assertion that ██████████ had to put all services in place prior to ██████████ 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 ██████████ in ██████████ home.
70. ██████████ testified that from November, 2022 to March, 2023 ██████████ did not 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;

required [REDACTED] to screen [REDACTED] by November 30, 2017 for potential indicators of dyslexia, and if present intervene with evidence-based.

72. **On April 10, 2023:** [REDACTED] Director of Student Services, [REDACTED] testified that Parent exhibit # 149 & 151 included all of the early educational testing that had been completed on [REDACTED] to monitor [REDACTED] reading progress. Parent EX 149 and 151, pages 723-729 and 734-739.

73. [REDACTED] testimony along with the records produced during 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 [REDACTED] reading. [REDACTED] was not tested regularly as required by NH laws.

75. The testing provided by [REDACTED] 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

76. On April 13, 2023 [REDACTED] M.Ed., a classroom teacher from [REDACTED] [REDACTED] testified on behalf of [REDACTED] [REDACTED] and noted some major inconsistencies with the testing that the [REDACTED] S.D. provided to [REDACTED] [REDACTED] during discovery:

77. Star reading testing showed that [REDACTED] was in the third grade with [REDACTED] [REDACTED] and the Benchmark on the test was listed as Grade 4. Exhibit 148, Page 718

78. The date range on the test written at 01/01/00-12/15/22 was incorrect because it should not be earlier than when the [REDACTED] entered school. Exhibit 148, Page 718
79. [REDACTED] provided very few records on DIBELS during discovery. [REDACTED] testified that the records within Parent exhibit 148 was all that the school had within [REDACTED] file, yet there are many other test dates listed, and [REDACTED] was not provided with any of these records prior to the hearing. Exhibit 148, Page 721 bottom page.
80. [REDACTED] second grade testing with [REDACTED] [REDACTED] showed that the Benchmark was also **listed as grade 4 (not possible)**, and [REDACTED] [REDACTED] noted that [REDACTED] took the more advanced test (Star Reading Enterprise in Second Grade) and the earlier test (Star Ealy Literacy) in grade 3 with [REDACTED] [REDACTED]
81. There were no official computerized DIBELS results.
82. There were no DIBELS goals or parent notice of scores listed
83. No composite scores listed on the DIBELS
84. Benchmark booklet listed as grade 1 when [REDACTED] was in third grade Photocopied paper with earlier date written in pen
85. [REDACTED] also testified that the [REDACTED] SD testing showed that there was a discrepancy with the testing provided by [REDACTED] because the "date of testing" listed on [REDACTED] second grade testing, with [REDACTED] was the same as the date listed on [REDACTED] third-grade testing with [REDACTED] [REDACTED]. It would not be possible to take a test in second and third grade at the same time. Compare dates of testing within Parent Exhibits page720 with 722.

RELATED SERVICES

86. [REDACTED] Advocate proposed [REDACTED] related services be provided at the [REDACTED] Library. Page 316 of Parent Binder.
87. [REDACTED] testified that the school was concerned about privacy at the library.
88. [REDACTED] also admitted during testimony that [REDACTED] did not express [REDACTED] concern about privacy to [REDACTED] [REDACTED] prior to the hearing.

89. [REDACTED] testified that [REDACTED] would waive privacy if services were delivered at the Library.
90. [REDACTED] also testified that [REDACTED] was willing to have the related service providers deliver services at [REDACTED] home.
91. [REDACTED] WPN dated 1/20/23 offered related services virtually, at [REDACTED] Elementary School, or at the SAU. Parent Binder Ex.19-page 253 number 4.
92. The 1/20/23 WPN indicated that related service providers were not available.
93. The [REDACTED] School District claimed that their related service providers were only available to service [REDACTED] between the hours of 7:30 to 8:00. The library was not open at that time. Parent Binder Ex.19 page 253 number 4.
94. During Director of Student Services, [REDACTED] testimony, [REDACTED] acknowledged that [REDACTED] sent an email to LEA [REDACTED]. The email that [REDACTED] acknowledged sending proved that related service providers from [REDACTED] were available at other times, and that they were not being truthful. See Parent Binder 816-818.
95. Attorney [REDACTED] was not truthful in [REDACTED] prehearing statement page fourteen. [REDACTED] and [REDACTED] admitted to lying about services providers times. See Parent/Binder 816-818
96. The email proves that service could have delivered services at library or at the [REDACTED] Charter School.
97. Director [REDACTED] testified that [REDACTED] did not make any attempt to advertise for related service providers to go to [REDACTED]
98. [REDACTED] also testified that [REDACTED] made no attempts to contact any travel-based school therapy agencies.
99. On Nov. 3, 2022 Advocate [REDACTED] sent [REDACTED] two Links for travel therapy and stated: The following link is for a travel therapy company, and this is just one of many. Have you contacted any travel therapy companies?
- <https://www.therapytravelers.com/>
- <https://www.medtravelers.com/school-staffing/why-school-based-therapy/>
- See School District Binder page 1317.
100. [REDACTED] proposed to have Related Services at the [REDACTED] Library.

101. [REDACTED] also testified that [REDACTED] would be willing to have related service providers provide [REDACTED] services in [REDACTED] home.
102. [REDACTED] testified that there were big chunks of times that service providers had a available that they could have gone to [REDACTED] to deliver services. [REDACTED] rebuttable, and indicated that the providers could not possibly have gone to [REDACTED] because they were not really available for the whole time. However; if you go to District binder 1099, [REDACTED] report: [REDACTED] indicated that [REDACTED] was open "any time Monday between 1:30 and 3:00, Tuesday's anytime 1-2:15, and Fridays anytime from 1:00-2:30." Which; would give [REDACTED] time to drive to [REDACTED] and deliver [REDACTED] half hour of service. Also, [REDACTED] did not say that [REDACTED] was unavailable during any of the available time that [REDACTED] listed. See District binder page 1099.

LEAST RESTRICTIVE ENVIRONMENT DENIAL of FAPE

103. [REDACTED] LEA [REDACTED] testified that [REDACTED] has made a good transition back to [REDACTED] in March 2023.
104. [REDACTED] also testified that [REDACTED] has made a good transition back to [REDACTED] in March.
105. Online Services are not the least restrictive environment for [REDACTED] [REDACTED] testified that [REDACTED] did not do well with online services during COVID.
106. [REDACTED] has an eye disease and [REDACTED] doctor recommended reducing screen time. See 2 letters from doctor. Parent Ex. 608-609.
107. [REDACTED] caused [REDACTED] significant depression. See doctor and counselor letters within Parent Ex. Binder pages 610 & 612-613, and 709.
108. [REDACTED] Guidance Counselor, [REDACTED]

[REDACTED] learned during discovery that the [REDACTED] School District Tampered with a Legal Record ([REDACTED] IEP):

104. The [REDACTED] School District knowingly changed [REDACTED] reading goals without parent consent, and the current IEP is not the current IEP.
105. Reading Section: School District Binder page 26 (approved IEP) compare to School District Binder page 78 (stayed the same)
106. School District Binder page 129, 232 & 273 (changed without consent)
107. Reading Section: School District Binder page 27 (approved IEP) compare to School District Binder page 79 (stayed the same)

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 [REDACTED] IEP without parent consent. It should be in the current IEP and it is not. SD page number 40.
111. on March 28, 2023, [REDACTED] requested a current IEP from [REDACTED] and [REDACTED] handed [REDACTED] a fraudulent one. **There is no current IEP in either the school district or the parent binder.**
112. If 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 page 148 (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

****SIDE AGREEMENT (██████████ Charter School and ██████████ School District created a side agreement to deny ██████████ a FAPE) (Newly discovered before hearing)**

119. “The main agreement giveth, and the side agreement taketh away!”
“Side agreements are basically bad when there’s no good reason for keeping this information secret from the third parties, which is otherwise known as fraud.” George Cohen, University of Virginia law

██████████ Charter School and the ██████████ School District entered into a Contract-that violated ██████████ rights to a FAPE. ██████████ IEP indicated that ██████████ was going to be provided with reading and Math 5 days per week. ██████████ and ██████████ made a side deal for ██████████ to receive math and reading services for four days per week. What’s even more alarming is that they created a new revised ‘side deal’ contract, two week before this scheduled due process hearing, so that they can continue to deny ██████████ services within ██████████ IEP. They appear to be unilaterally ousting ██████████ from participation in ██████████ education. See Contract October 5, 2022 (See School District Binder page 1111) March 27, 2023 (See School District 1,116)

They have denied ██████████ all related services this entire school year, and they have denied ██████████ reading and Math all year long.

Contract October 5, 2022 (See School District Binder page 1111)
March 27, 2023 (See School District 1,116)

See <https://www.law.virginia.edu/news/200611/side-agreements-have-important-implications-contract-law-theory-cohen-says>

- 120. ██████████ current IEP was signed by ██████████ on August 8, 2022. See SD Binder page 55-56
- 121. The August 8, 2022 IEP for ██████████ designated math-thirty minutes daily, and readings service 45 minutes daily. See SD binder page 25.
- 122. On October 5, 2022 ██████████ Charter School and the ██████████ SD, unbeknownst to ██████████, had signed a service contract, and they agreed to deliver ██████████ reading and Math services four days a week, even though the IEP says five days per week. See SD binder page 1,111 and 1,116.
- 123. On February 7, 2023 Team Meeting: ██████████ indicated that

"██████████ was contracted with ██████████ for 4 days a week for 45 minutes a day" The following conversation ensued:

██████████ and also does ██████████ IEP for ██████████ reading say 4 days a week?

██████████ no everything says 5 days a week.

██████████ ok because I thought I heard somebody saying ██████████ 4 days a week. But I guess cause ██████████ missing Thursday's. Because ██████████ going to have that extra day.

██████████ everything in here I'm just going to pull it up I believe it's 5 days a week. Special ed 1 time day, 1 session a day of 45 minutes. It doesn't even say how many days a week. It just says 1 time a day. So it's for every day ██████████ at school.

██████████ and I'm um. ██████████ contracted with ██████████ for 4 days a week at 45 minutes a day.

██████████ it supposed to be.

██████████ so there going to have to extend the contract.

██████████ So it has to be 5 days a week because I remember you did ask them to reduce it to 4 days because ██████████ missed Fridays but we never agreed to reduce it.

██████████ correct but again we're contracted for the 4 and I don't have anymore time in my schedule to add a 5th.

██████████ ██████████ will have to figure that out.

██████████ so I have some things on my to do list. Is there anything else?

██████████ Are you good for now?

██████████ yep.

██████████ alright, I will be in touch based upon the things that we talked about here at the meeting.

██████████ I appreciate you guys hanging in there. I know you had a long day. So thank you for making this work. It's greatly appreciated.

██████████ yes, thank you.

██████████ yes, thank you

See Parent Binder Page 350, February 7, 2023 IEP meeting.

124. ██████████ never reviewed ██████████ file until March 9, 2023. P/B page 815.

125. Director ██████████ and LEA ██████████ both testified that they felt ██████████ frequent absenteeism was a major problem that impeded ██████████ education.

126. ██████████ testified that ██████████ did not believe that it was impacting ██████████ rights to a FAPE?

127. When ██████████ failed to blame ██████████ lack of reading progress on absenteeism, ██████████ resorted to questioning ██████████ potential as a student.

128. ██████████ testified ██████████ has never even worked with ██████████

129. ██████████ stated ██████████ stayed remote during 2020/2021. Ms ██████████ testified ██████████ did hybrid model went Monday's & Tuesday's, Wednesday all 2nd graders were remote, Friday's optional for ██████████ as not ██████████ day to go in. ██████████ went some Friday's

and did remote some. However, the district would mark absent unexcused if [REDACTED] did remote even though it wasn't [REDACTED] day to go in. P/B pg. 77

130. [REDACTED] current IEP does not have accommodations for when [REDACTED] is sick, has medical appointments or mental health issues related to bullying. D/B pg. 14 #'s 9,10 & 14, D/B pg 15 #8, P/B pg 854

131. [REDACTED] [REDACTED] has requested accommodations, and [REDACTED] refused to address [REDACTED] concerns in the IEP so, [REDACTED] listed it under the Parent Concern section of the IEP. SEE current IEP page 14 DB.

“ there are no modifications in place for when [REDACTED] is out sick as [REDACTED] gets sick a lot, or to modify school days for medically necessary appointments and accommodate making at least reading up for these appointments either through zoom or a makeup session at school. Also, modifications when things at school such as bullying and the success plan being followed are not done for [REDACTED] to be remote as it is affecting [REDACTED] mentally/physical health and eating.” D/B pg. 14

132. Attorney [REDACTED] stated [REDACTED] [REDACTED] refused to share or sign releases to outside providers. [REDACTED] testified [REDACTED] has given swing for the star's evaluations, ect. Proof [REDACTED] [REDACTED] turned over Swing for the Stars evaluations P/B page 52&79

Services:

133. Attorney [REDACTED] prehearing statement (pre hearing statement pg 14) lied to Hearing Officer Johnson that services were only available 730-8. See p/B pg 816-818 proof several other times available.

134. Para [REDACTED] [REDACTED] found. P/B pg 262

135. [REDACTED] has no plans for services. P/B pg 262

136. [REDACTED] [REDACTED] is struggling with no services. P/B pg 283

137. [REDACTED] [REDACTED] is struggling with no supports and services. Unable to access education. P/B pg 289

138. [REDACTED] can't be successful without services. P/B pg 296

139. [REDACTED] gives [REDACTED] info. P/B pg 399-300

140. [REDACTED] tried to discuss services [REDACTED] [REDACTED] declined. P/B pg 312

141. [REDACTED] [REDACTED] will only offer virtual or [REDACTED] services. [REDACTED] [REDACTED] discusses eye disease, least restrictive environment. Traumatized at [REDACTED] P/B pg 315

142. [REDACTED] suggest services at library. [REDACTED] [REDACTED] not familiar with hours ect. P/B pg. 316

143. [REDACTED] [REDACTED] wpn [REDACTED] or virtual for Speech, pt and ot. [REDACTED] can agree or disagree. P/B pg 325

144. [REDACTED] request wpn stzte suggested library as neutral place. [REDACTED] [REDACTED] again not familiar, suggest SAU. Discussion on why SAU is not least restrictive environment. P/B pg 326

145. [REDACTED] [REDACTED] offers only 730- 8 for services available. Asks [REDACTED] who? P/B pg 343(see p/B pg

146. 816-818 showing this was a lie. Lots of other available times and enough time to go to [REDACTED]

147. [REDACTED] discusses stop going to Concord will give extra day for services but will need
148. 1:1all 5 days as per IEP states 5 days. P/B pg 344
149. [REDACTED] responds by proposing placement at [REDACTED] [REDACTED] not least restrictive environment, NH school choice, mediation agreement, failed [REDACTED] by no services to force back to [REDACTED] P/B pg 345
150. [REDACTED] asks why no team discussion on placement at [REDACTED] [REDACTED] detrimental to [REDACTED] health. P/B pg 346
151. [REDACTED] not Least restrictive environment due to taking all day to travel. [REDACTED] refused [REDACTED] virtual. [REDACTED] [REDACTED] proposed placement at [REDACTED] since [REDACTED] didn't agree to virtual or services at [REDACTED] P/B pg 347
152. [REDACTED] states [REDACTED] tells everyone [REDACTED] worst school ever. P/B pg 348
153. [REDACTED] found virtual speech with Garrison Speech. P/B pg 569- 571
154. [REDACTED] found [REDACTED] for counseling. P/B pg 571,573,573
155. [REDACTED] request para application for aunt and [REDACTED] P/B pg 571
156. [REDACTED] found virtual occupational therapy with otworks4kids. P/B pg 573,574
157. [REDACTED] contacted [REDACTED] speech, pt, ot. P/B pg 585-577
158. [REDACTED] [REDACTED] can't do virtual services without a para.P/B pg 577
159. [REDACTED] associates degree. P/B pg 578-579
160. [REDACTED] first post pata for [REDACTED] 9/16/22. P/B pg 579
161. [REDACTED] email discussing para. P/B pg 581
162. [REDACTED] no obligation for services. P/B pg 582-585
163. [REDACTED] email Commissioner about [REDACTED] twisting mediation agreement amd lying about agreement to deny FAPE. Can't mediate away FAPE. P/B pg 585-589
164. [REDACTED] letter don't have to pay for services if not provided by [REDACTED] P/B pg 591
165. [REDACTED] acting as LEA? All communication to [REDACTED] P/B pg 594
166. [REDACTED] email [REDACTED] at Pediatric Therapy Center about virtual pt. P/B pg 594
167. [REDACTED] thought applied [REDACTED] para. P/B pg 594
168. Email to [REDACTED] [REDACTED] services/ hearing officer's orders. P/B pg 604-605
169. [REDACTED] [REDACTED] did not invite [REDACTED] 12/27/22 for in home tutoring and 1:1para. [REDACTED] [REDACTED] did.
170. P/B pg 604,605
171. [REDACTED] called library to acvomodate services. P/B pg 605
172. [REDACTED] didn't agree to switch social pragmatics to [REDACTED] Still speech pathologist. P/B pg 606
173. [REDACTED] (eye Dr) letter about eye disease. Please do as much in person or audio. P/B pg
174. 608,609
175. [REDACTED] letter about how not having services is negatively impacting [REDACTED] and can't access education. P/B pg 611
176. P/B pg 810 district first advertise in newspaper for para, not services(never advertised for service providers) 9/21/22
177. P/B pg 811,812,813 [REDACTED] requesting meeting to set up plan for [REDACTED] since July 27,2022. P/B pg 814 [REDACTED] email isn't replying to speech pathologist [REDACTED] found due to not nor having para.
178. P/B pg 816-818 [REDACTED] email to [REDACTED] FYI font forward. Just wanted you to have this information. Then shows all available times [REDACTED] (speech) and [REDACTED] (ot) are

- available. Not just 730-8. They were never asked to go to [REDACTED] it appears just to provide at [REDACTED] They have big time slots to go to [REDACTED]
179. P/B pg 820 [REDACTED] email to [REDACTED] to use [REDACTED] not neighborhood school.
 180. P/B pg 822 [REDACTED] first para post for [REDACTED] 9/16/22
 181. P/B pg 823- 828 services only 4 days a week for [REDACTED] violates FAPE as IEP states 5 days.
Attorney [REDACTED] A few examples. Denial of advocating and denial of FAPE.
 182. In prehearing statement (pg 14 prehearing statement) lied to hearing officer about 730- 8 only time available for services. (see p/B pg 816-818)
 183. P/B pg 826 [REDACTED] contract #9 violates mediation agreement.
 184. Parent Concern [REDACTED] didn't allow to advocate 5/27/22 meeting. D/B pg 13
 185. [REDACTED] demands let stay at meeting or [REDACTED] [REDACTED] has to postpone meeting. P/B pg 263
[REDACTED] states will attend all meetings. So let's go! [REDACTED] states glad this us recorded.
 186. [REDACTED] states you got thst right so let's get this meeting going. P/B pg 266
 187. [REDACTED] tells parent we disagree so move on a few times. P/B pg 272
 188. [REDACTED] states since we disagree [REDACTED] can decide what [REDACTED] wants to do. P/B pg 272
 189. [REDACTED] school district chooses how to provide services. P/B pg 276
 190. [REDACTED] per charter school law statute how and where services are provided rest solely with
 191. 5he school district. P/B pg 277
 192. [REDACTED] make that outcome at due process. Keep going so we can get this done. Its not a team determination. Its a legal determination, not a team decision. P/B pg 278
 193. Where services are provided is not a decision for the IEP process. P/B pg 279 Demanding [REDACTED]
[REDACTED] hand over medical records. Acting as LEA not attorney entire meeting. When [REDACTED]
[REDACTED] refuses and states why Attorney [REDACTED] tells [REDACTED] [REDACTED] I don't need a
speech about it. P/B pg 284
 194. [REDACTED] tries to dismiss Dr. [REDACTED], Ms [REDACTED] has Dr [REDACTED] stay. P/B pg 293
 195. [REDACTED] tells [REDACTED] [REDACTED] needs to enroll in another school. P/B pg 294-295
 196. [REDACTED] district is limited to paying for services. P/B pg 296
 197. When discussing services Attorney [REDACTED] states " I would like to remind you slavery was
outlawed in the 1860's" P/B pg 298
 198. [REDACTED] defers to Attorney [REDACTED] to contacting [REDACTED]. [REDACTED] if for 1:1 [REDACTED] can but if
for home based parent has to contact them. P/B pg 300
 199. Email [REDACTED] interfered 9/14/22 Meeting. P/B pg 582
 200. [REDACTED] email Commissioner District has no obligation for services. P/B pg 582-585 [REDACTED]
[REDACTED] email Commissioner about [REDACTED] lying about mediation agreement, twisting
words and using it to deny [REDACTED] FAPE. Mediation agreement can't deny FAPE. P/B pg 585589
 201. [REDACTED] don't have to pay for services if not provided by [REDACTED] P/B pg 591
 202. [REDACTED] acting as LEA. Letter all communication yo [REDACTED] P/B pg 594
 203. Violated [REDACTED] [REDACTED] right to advocate and [REDACTED] right to FAPE at all meetings below.
 204. May 27,2022
 205. September 14,2022
 206. Nov. 17, 2022 P/B pg 263-287
 207. Dec. 8, 2022. P/B pg 291-303
 208. P/B pg 656 new school request letter from Superintendent [REDACTED] and [REDACTED] never complied.
P/B pg 764,773 [REDACTED] told [REDACTED] not to meet or sign subpeona.

Bullying:

209. [REDACTED] Refused to allow [REDACTED] [REDACTED] 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 [REDACTED] letter & [REDACTED] 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 [REDACTED] letter 11/16/22
217. P/B pg 265 [REDACTED] [REDACTED] worried about mental health and [REDACTED] struggling to go to school.
218. Doesn't want to go.
219. P/B pg 279 [REDACTED] states suicidal, wants to die. [REDACTED] states this needs to be addressed.
220. P/B pg 282 again refuse to discuss [REDACTED] letter
221. P/B og 283,284,285 struggling district wants to put off and send [REDACTED] to school. [REDACTED] [REDACTED] states crying at lunch
222. P/B pg 286 [REDACTED] tells [REDACTED] as parent can keep [REDACTED] home.
223. P/B pg 293 [REDACTED] discusses meetings & emails not a surprise to [REDACTED]
224. P/B pg 328 [REDACTED] " 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 [REDACTED] and ut also hurts it doesn't really. They also steal my stuff too"
225. P/B pg 334discuss bullying
226. P/B pg 335 [REDACTED] agrees lunch and recess are biggest struggles. Agrees needs 1:1support entire day.
227. P/B pg 544 [REDACTED] 5/18/22 letter
228. P/B pg 607 [REDACTED] letter excusing school (bullying [REDACTED]
229. P/B pg 611
230. [REDACTED] letter 11/16/22
231. P_B pg 612,613 [REDACTED] letter ([REDACTED] bullying)
232. P/B pg 634- additional due process on bullying. Broken down even success plan not followed.
233. P/B pg 664-668 [REDACTED] bullying policy.
234. P/B pg 669 email [REDACTED] addressing administratively isdue with [REDACTED] punishing [REDACTED] for disabilities.
235. P/B pg 670 email to [REDACTED] bullying. Response involve [REDACTED] as behavior continues.
236. P/B pg 671 [REDACTED] emails girls admitted tag got rough and out of control, they did get physical and " teamed up" against [REDACTED]
237. P/B pg 672 trting to find tome for [REDACTED] to conference call. Behavior continuing.
238. P/B pg 673 [REDACTED] states extra eyes on them
239. P/B pg 673 [REDACTED] kicking [REDACTED]
240. P/B pg 674 [REDACTED] made sorry card. Was jealousy over mutual friend on [REDACTED] part. Hopefully our friend got the message that physical aggressive is not option.

241. P/B pg 675 Email to ██████ shoving ██████ into wall.
242. P/B pg 676, 677 Principal ██████ bullying
243. P/B pg 678 email from ██████ on ██████ bullying policy.
244. P/B pg 679- 672 ██████ bullying investigation. Never interviewed ██████ Lies and ██████ didn't report it to anyone. Changed what I told ██████ happend. Pg 681 # 14. Clearly negative interactions between the 2 students. Not bullying.
245. P/B pg 682-684 ██████ email absent during bullying, ██████ reply.
246. P/B pg 685-692 ██████ ██████ to ██████ about bullying and his reply.
247. P/B pg 692-693 ██████ ██████ concerns with bullying investigation.
248. P/B pg 694,695 School Board states certainly some incidents included behavior that was less than desirable.
249. P/B pg 695 Principal ██████ email to ██████ about a boy asking ██████ if ██████ wants to die.
250. P/B pg 696 697 ██████ ██████ meeting over bullying and ██████ lying.
251. P/B pg 697-706,743 emails ██████ bullying.
252. P/B pg 707,708 ██████ letter 5/26/22 bullying ██████ eating disorder. Depression assessment.
253. P/B pg 709,710Dr ██████ letter 3/15/22 bullying at ██████ ██████ reported to DCYF. Still ██████ Dr as Dr ██████ lied to school board.
254. P/B pg 711,712 ██████ eating disorder due to anxiety from bullying.
255. P/B pg 819 ██████ (Head of ██████ email to ██████ agrees to in home tutor.
256. P/B pg 855 ██████ states ██████ told ██████ in detail of bullying. But insists ██████ prefer ██████ School over ██████ local public elementary school in ██████ ██████ claims ██████ experienced even more extensive bullying and difficulties in ██████ School.
- █████ ██████ EA?
257. ██████ new to team share about ██████ P/B pg 307
258. ██████ didn't know how long ██████ had been out of school. P/B pg 308
259. ██████ refused to discuss services 12/27/22 and left tutoring times up to ██████ P/B pg 312
260. 312
261. No curriculum for in home tutoring. Didn't know services or how long. Only offered virtual or ██████ (see ██████ email to say ██████ p/b pg 820 ██████ discussed eye disease. ██████ is the one who found virtual services before eye disease. P/B pg 315
262. ██████ suggested services at library. ██████ ██████ states unfamiliar hours and school staff commitments. P/B pg 316
263. ██████ ██████ states access IEP through state system but hadn't viewed file. ██████ had to tell ██████ which IEP is approved/refused. P/B pg 317
264. Discuss certified dyslexia provider. ██████ ██████ going by WPN wasn't there for meeting discussions. P/B pg 318
265. ██████ stated all agreed to certified dyslexia provider. ██████ ██████ agrees to go back and listen. (admitted never did at hearing) ██████ from ██████ had to tell ██████ what in home tutoring contract says.P/B pg 319
266. ██████ ██████ stated a conversation between ██████ and ██████ ██████ states a conversation for the team. P/B pg 320,321
267. ██████ ██████ still doesn't know in home tutoring contract so will go by what ██████ from ██████ reports. P/B pg 322

268. [redacted] tells [redacted] [redacted] will find a way to make ut happen for [redacted] to read. P/B pg 323 Then didn't follow through.
269. [redacted] was going to send [redacted] from [redacted] IEP but didn't know which one was in place [redacted] had to tell [redacted] 8/2/22. P/B pg 324
270. [redacted] will not ammend IEP for a week while off the grid on vacation. WPN will state speech,pt,ot at lakeway or virtual. [redacted] can agree or disagree.P/B pg 325
271. [redacted] not familiar what's up here or library. P/B pg 326
272. [redacted] misrepresented herself as special education director, coordinator, case manager.
273. P/B pg 327
274. [redacted] can't fund 1:1 in IEP. P/B pg 335
275. [redacted] interprets Hearing Officer Johnson's 12/16/22 orders differently then([redacted] all services in place) to only mean gave to put something in place. P/B pg 339,340
276. [redacted] states [redacted] who? [redacted] explained [redacted] physical therapist. [redacted] didn't know who [redacted] was. [redacted] said only 730- 8 available. P/B pg 343 (see p/B pg 816-818 these times are not true and could potentially be at [redacted])
277. [redacted] discuss not going to Concord need 1:1 all days. [redacted] retaliated by placement at [redacted]
278. [redacted] P/B pg 344,345
279. [redacted] states because [redacted] didn't agree to services virtually or [redacted] that's why proposed placement at [redacted] P/B pg 347
280. [redacted] again can access IEP but hasn't reviewed file.
281. [redacted] admits to never talking to [redacted] how [redacted] feels or been through at [redacted] P/B pg 348
282. [redacted] thinks occupational therapy is written expression goals for dyslexia. [redacted] [redacted] has to explain how it is not. P/B pg 349
283. [redacted] email [redacted] not enough time to go over hearing officer's 12/16/22 order. P/B pg 602-603
284. [redacted] didn't invite [redacted] (in home tutoring and 1:1) to 12/27/22 meeting. P/B pg 604,605 P/B pg 730 email to [redacted] [redacted] asking for documentation and proof of all iep services, progress, implementation. (never replied)
285. P/B pg 748- 761 Concerns [redacted] crossing boundaries. No reply.
286. P/B pg 815 [redacted] [redacted] never reviewed [redacted] file to make informed decisions until March 9, 2023 after due process was filed.
287. P/B pg 856 from [redacted] [redacted] no longer works with [redacted]

Reading:

288. P/B pg 11: lied that [redacted] was at level C
289. P/B pg 27: very next year says [redacted] is at reading level B. Parent Concerns Section: [redacted] be able to read, spelling. [redacted] struggles greatly with spelling, math, and reading.
290. P/B pg 50: academic needs below grade level reading and math.
291. P/B pg 77: academic needs reading and writing are the weakest. [redacted] verbally announces " [redacted] can't read"
292. P/B pg 78: [redacted] noted [redacted] has difficulty with the whole writing process. Parent concerns [redacted] to move up in reading.
293. Accommodations for Staff to read to [redacted] P/B pg 40, 69, 71, 95, 97 & D/B pg 41.

294. Accommodations [REDACTED] can give oral responses until fluent in writing. P/B pg 69,95 and D/B pg 41
295. District Testing: read to [REDACTED] P/B pg 68, 94 and D/B pg 38.
296. NH State Testing: read aloud to [REDACTED] 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. [REDACTED] is driven to read. D/B pg 10.
299. Dyslexia section: D/B pg 10.
300. Reading and writing are [REDACTED] weakest. [REDACTED] announces " I can't read". [REDACTED] is concerned [REDACTED] reading isn't increasing, trouble with writing process. [REDACTED] 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 receive speech this year, so didn't receive written expression)
306. [REDACTED] 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 [REDACTED] P/B pg 257,258,259
308. [REDACTED] doesn't know the OG cookie sheet manipulatives for spelling P/B pg 258.
309. [REDACTED] stated OG certified pg 259.
310. [REDACTED] said umm [REDACTED] can give us a OG certificate when we asked for proof if credentials. Pg 311. 260
312. [REDACTED] [REDACTED] was at mid/end 1st grade 45 wpm first week school, Nov 2, 2022 now at beginning of 3rd grade 57 wpm. [REDACTED] stated because of working diligently with [REDACTED] P/B pg 260. [REDACTED] stated want to keep 5 days a week services are they want to stop going to Concord. P/B pg 261
313. [REDACTED] & [REDACTED] agree to OG certified dyslexia provider pg 261.
314. We discussed needing phonemic awareness, fluency, vocabulary and written expression, ect. P/B pg 261
315. [REDACTED] said wording [REDACTED] going to use is certified dyslexia provider P/B pg 262.
316. [REDACTED] and [REDACTED] realize didn't change to certified dyslexia provider. P/B 269
317. [REDACTED] states this is what is being proposed put that in your due process. P/B pg 270.
318. [REDACTED] states certified special educator but I have 30 hours of OG. P/B pg 271
319. [REDACTED] it's what [REDACTED] individually needs. P/B pg 271
320. [REDACTED] requires it for FAPE. P/B pg 272a
321. [REDACTED] interrupting about dyslexia states we disagree so move on. (Move on more than once this page)Admits isn't an expert on dyslexia. P/B pg 272
322. [REDACTED] if a child needs it for individual needs. P/B pg 273
323. [REDACTED] states [REDACTED] you even agreed to it. [REDACTED] states I don't remember. P/B pg 273
324. [REDACTED] where are comprehension and written goals. P/B pg 274
325. [REDACTED] shows [REDACTED] OG vowel circles. [REDACTED] don't know what they are. P/B pg 274, 275

326. [REDACTED] doesn't have time for written expression goals. P/B pg 276
327. Discussion on least restrictive environment P/B pg 276
328. [REDACTED] how does the district feel about the other goals aren't included in the IEP. P/B pg 280 [REDACTED] states [REDACTED] is a bright light, eager to learn P/B pg 310 Dyslexia discussion..P/B pg 317.
329. [REDACTED] gave example at doctors office can't read. P/B pg 318.
330. [REDACTED] tells [REDACTED] all agreed to certified dyslexia provider. [REDACTED] will go back and listen. P/B pg 319 [REDACTED] request dyslexia tutoring. P/B pg 322.
331. [REDACTED] attends meeting tells [REDACTED] " I feel really sad to not learn how to read" [REDACTED] tells [REDACTED] we will find a way to make it happen. P/B pg 323
332. [REDACTED] asked [REDACTED] to sign a release for [REDACTED] P/B pg 325.
333. Discussion on dyslexia with certified provider and [REDACTED] not being certified. [REDACTED] wants to know which program. [REDACTED] is making progress with Orton-Gillingham P/B pg 329, 330, 331 [REDACTED] states [REDACTED] 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. [REDACTED] discuss no writing goals and talk about ot, pt and speech. P/B pg 341
336. Discuss written expression. [REDACTED] thinks occupational therapy is written expression. [REDACTED] has to explaine ot is just pencil grip, writing size. Not dyslexia written expression. P/B pg 348-350 Discuss [REDACTED] 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. [REDACTED] shouldn't have to learn a new program. [REDACTED] put off choosing a program and now [REDACTED] 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
340. [REDACTED] Psychoeducational Evaluation goes over [REDACTED] reading 2019. P/B pg 391-406 [REDACTED] of New Hampshire Evaluation 2021 goes over [REDACTED] reading, ect. P/B pg 406-467 recommend Orton-Gillingham P/B pg 432
341. [REDACTED] Testing shows progress Nov 2022 - March 2023 in phonemic awareness (Orton-Gillingham) P/B pg 468 - 475.
342. [REDACTED] dibels first week of school (P/B pg 487-490) showed [REDACTED] 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 [REDACTED] email Reading stay 5 days. Suggest Dr. [REDACTED] 5th day. [REDACTED] said not contracted and [REDACTED] reminded [REDACTED] [REDACTED] wasn't with all the services [REDACTED] 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 [REDACTED] [REDACTED] request reading specialist to evaluate [REDACTED] P/B pg 618 2nd grade report card reading , writing not demonstrating yet.
347. P/B pg 619 [REDACTED] [REDACTED] letter services interfering with reading / math services.
348. P/B pg 620 [REDACTED] missing reading services for Speech and pt.

- 349. P/B pg 621 parent concerns reading/ writing
- 350. P/B pg 622, 623 [REDACTED] is owed compensatory services due to no reading services during covid.
- 351. P/B pg 624- 633 May 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. [REDACTED] [REDACTED] testified to discrepancies.
- 355. P/B pg 654,655,656 laws on Dyslexia screening.
- 356. P/B pg 741,742 [REDACTED] Reading with [REDACTED] not Orton-Gillingham. Pg 742 date 3/9/23 [REDACTED] told [REDACTED] [REDACTED] only 4 days reading. So not taking today.
- 357. P/B pg 744-745 Email From [REDACTED] about [REDACTED] not certified.
- 358. P/B pg 746,747 IMSE certified Orton-Gillingham chart. [REDACTED] doesn't even meet bottom level.
- 359. P/B pg 768 [REDACTED] [REDACTED] credentials
- 360. P/B pg 769,770 [REDACTED] [REDACTED] credentials
- 361. P/B pg 774- 807 Dr [REDACTED] bill, progress notes, credentials.
- 362. P/B pg 808,809 [REDACTED] 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. [REDACTED] request observation. 5/23/22. P/B pg 361-363
Blocked from emailing entire [REDACTED] May 23,2022.
- 366. [REDACTED] refused observation 5/25/22. P/B pg 504, 740
- 367. [REDACTED] letter 4/6/22 contact teachers. P/B pg 508
- 368. [REDACTED] 5/25/22 violate [REDACTED] 4/6/22 teacher email. P/B pg 509,510 (reason for blocking
- 369. 5/23/22 after request for observations)
- 370. [REDACTED] showing [REDACTED] did not violate [REDACTED] 4/6/22 letter. P/B pg 511-543
- 371. [REDACTED] [REDACTED] not go to Concord so 1:1 all days more time services. P/B 344
- 372. [REDACTED] [REDACTED] proposed placement at [REDACTED] immediately after and states because [REDACTED] [REDACTED] refused virtual or [REDACTED]
- 373. [REDACTED] letter all communication acting LEA. P/B pg 594
- 374. [REDACTED] response [REDACTED] can't be LEA..p/B pg 595-601
- 375. New LEA pat [REDACTED] 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 [REDACTED]
- 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 [REDACTED] 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)
384. 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. ██████████ to ██████████ 9/18/22 discuss denying Dr ██████████ to discuss ██████████ progress with 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

401. P/B pg 661,662 [REDACTED] denied [REDACTED] Legal counsel said don't have to give reason. Confirms [REDACTED] is legal counsel.
402. P/B pg 663 [REDACTED] approved [REDACTED] When denied confirmed [REDACTED] is legal counsel.
- [REDACTED]
403. [REDACTED] stated [REDACTED] didn't know [REDACTED] was going to [REDACTED] until end of August. Ms [REDACTED] testified Ms [REDACTED] knew July 27,2022. See D/B pg 425
404. * [REDACTED] stated never agreed to certified dyslexia provider. Ms [REDACTED] testified [REDACTED] did and played iep recording. Also see P/B pg 262
405. [REDACTED] admitted [REDACTED] had no speech, ot or pt services entire year including after Hearing Officer Johnson's 12/16/2022 order.
406. [REDACTED] admitted [REDACTED] written expression goals are under speech and language. So [REDACTED] has had no written expression goals for [REDACTED] dyslexia entire year.
407. * [REDACTED] admitted to jot performing dibels on [REDACTED] previously to 3rd grade. Which is a law.
408. * [REDACTED] admitted to withholding service providers available times.
409. * [REDACTED] admitted to suggesting to use [REDACTED] School instead of neighborhood school.
410. * [REDACTED] admitted to signing a contract with [REDACTED] for 4 days a week of reading and math services.
411. *When Ms [REDACTED] reminded Ms [REDACTED] [REDACTED] agreed to certified dyslexia provider, Ms [REDACTED] stated well this is what's being proposed. Put that in your due process. P/B pg 270
412. *Ms [REDACTED] states [REDACTED] don't remember agreeing to certified dyslexia provide4. P/B pg 273
413. *Ms [REDACTED] kept IEP's that [REDACTED] [REDACTED] refused including removing the SMARTS program and adding reading goals and changing information in reading section. Then submitting the fraudulent IEP in [REDACTED] binder.
414. * [REDACTED] admitted [REDACTED] never contacted Weeks Rehab department for services.
415. [REDACTED] denied [REDACTED] [REDACTED] access to requested information for file
416. SEE COMPENSATORY DAMAGES/[REDACTED] Bills
- o Compensatory Services p/B pg 765-767
 - Dr [REDACTED] bill p/B pg 774-777

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, [195 F.3d at 1149](#), 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 (8th 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., [267 F.3d at 891-94](#) (finding "**egregious procedural violations**" 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 [Andrew 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 U.S.C. § 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 inordinate time addressing such issues" in
pleadings, briefings, and written orders*

Respectfully Submitted,

[REDACTED]

[REDACTED] M.Ed. Educational Advocate /S/

[REDACTED] /S/Parent