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Via Facsimile 225 242 1107 P.H.S. MAIL

Louisiana Department of Education
P.O. Box 94064
Baton Rouge 70804-9064
ATTN: Legal Department, Ms. Adrienne DuPont

Re: Class Administrative Complaint on Behalf of [REDACTED]

[REDACTED] and a Class of All Similarly Situated and Special
Education Students as well as on Behalf of [REDACTED]
and a Class of All Similarly Situated Special Education
Students who manifest behavioral issues and are subject to repeated disciplinary
removals totaling more than ten school days (either In-School Suspensions or
Out of School Suspensions) and/or placement in alternative school settings in the
Caddo Parish Public School System

Class Administrative Complaint on behalf of:

- I. [REDACTED]
Grade: 8
[REDACTED]
Exceptionality: Emotional Disturbance
- II. [REDACTED]
Grade: 9th
[REDACTED]
Exceptionality: Emotional Disturbance
- III. [REDACTED]
Grade: 6th
[REDACTED]

[REDACTED]
Exceptionality: Emotional Disturbance

IV.

[REDACTED]
Grade: 7th
[REDACTED]
[REDACTED]
Exceptionality: Emotional Disturbance

V.

[REDACTED]
Grade: [REDACTED]
[REDACTED]
Exceptionality: Mental Disability

VI.

[REDACTED]
Grade: 6th
[REDACTED]
Exceptionality: Specific Learning Disability

Dear Ms. DuPont:

[REDACTED] and all similarly situated Special Education students, including Emotionally Disturbed students and students with Mental Disabilities and/or Specific Learning Disabilities) versus Caddo Parish School System (hereinafter "CPSS") for violations of the Individuals with Disabilities Education Improvement Act of 2004 (hereinafter "IDEA"), 20 U.S.C. § 1400 *et seq.*

Petitioner [REDACTED] was a student at [REDACTED] Alternative School during the 2005-2006 school year.

Petitioner [REDACTED] is a student at [REDACTED] (an alternative high school). At all times relevant to this complaint and since 2005 he has been determined eligible for special education services under IDEA.

Petitioner [REDACTED] is a student at [REDACTED] ([REDACTED] alternative middle school). At all times relevant to this complaint and since 2004 he has been determined eligible for special education services under IDEA.

Petitioner [REDACTED] is a student at [REDACTED]. At all times relevant to this complaint and since 1998 he has been determined eligible for special education services under IDEA.

Petitioner [REDACTED] is a student at [REDACTED]. At all times relevant to this complaint and since 1990 he has been determined eligible for special education services under IDEA.

Petitioner [REDACTED] is a student at [REDACTED]. At all times relevant to this complaint and since 1998 he has been determined eligible for special education services under IDEA.

CLASS CLAIMS ON BEHALF OF

[REDACTED] and All Similarly Situated and Treated Emotionally

Disturbed Students who are Subject to Repeated Disciplinary Removals

issues and are subject to repeated disciplinary removals totaling more than ten school days (either In-School Suspensions or Out-of-School Suspensions) and/or placement in alternative school settings in the Caddo Parish Public School System.

Denial of FAPE- Failure to Provide Sufficient Related Services

Denial of FAPE- Failure to Provide Educational Services in the Least Restrictive Environment

Denial of FAPE- Failure to Comply with IDEA's Discipline Regulations

Petitioners contend that CPSS has engaged in an ongoing and systemic pattern of violating their substantive and procedural rights under IDEA.

Special Education students, including Emotionally Disturbed students and all other special education Students who manifest behavioral issues and are subject to repeated disciplinary removals totaling more than ten school days (either In-School Suspensions, FISCs, Out-of-School Suspensions (OSS), or placement in alternative school settings in the Caddo Parish Public School System (CPSS) resulting in a denial Free Appropriate Public Education (hereinafter "FAPE").

I. CPSS Has Failed to Provide Sufficient Related Services

CPSS has denied Petitioners [REDACTED] and all other similarly situated ED students FAPE by its failure to provide specially designed instruction and related services that address the inherent behavioral characteristics and issues associated with

CPSS has consistently failed to provide Petitioners and all other similarly situated RD

psychology services tailored to address identified behavioral issues that adversely affect their

Disturbed students with woefully inadequate levels of social work/counseling/psychological

CPSS has also denied FAPE to Petitioner [REDACTED] and all other similarly situated

due to behavioral/discipline issues by also failing to provide specialized instruction and appropriate levels of related services (such as social work counseling and school psychology

self-contained setting since the third grade and for significant periods of time has been in an alternative school setting. Despite these circumstances, Petitioner [REDACTED] provided related services from 2004-2006. Presently during the 2006-2007 school-year she is only receiving 30 minutes per week of individual social work services. The lack of related services has effectively denied her an opportunity to return to a less restrictive setting on a regular school campus.

Petitioner [REDACTED] was placed in a self-contained setting immediately upon being

April 2006 at which [REDACTED] was represented by counsel. He was provided general services

year, [REDACTED] had no disciplinary problems. At the beginning of the 2006-2007 school-year, [REDACTED] was moved to a non-alternative high school and placed in a regular class setting, but had all related services removed from his IEP except for a completely inadequate 30 minutes of

alternative high school for discipline reasons.¹ At the alternative high school, there have been no adjustments to [REDACTED] related services and even the above 30 minutes of counseling is not being provided.

Petitioner [REDACTED] has not only been in a self-contained setting but at an alternative

2006 school year over with the IEP classification and placement in an alternative school setting

figuring, and on a daily inadequate level of related services and on a daily basis denied an opportunity to return to a less restrictive setting on a regular school campus.

¹ At the hearing to expel [REDACTED] his mother asked if counsel could be present (as his counsel had not been

Like petitioner [REDACTED] Petitioner [REDACTED] has been not only in a self-contained setting but at an alternative school since the 2004-2005 school-year and yet has received few if any related services since the 2007-2008 school year. Petitioner [REDACTED] has been provided woefully inadequate levels of related services such as social work, counseling, psychological services, and this reality has effectively denied him an opportunity to return to a less restrictive setting on a regular school campus.

Petitioner [REDACTED] has been in self-contained and alternative school settings for year (2006-2007) he is not being provided any related services and this remains true even though he has recently been expelled to an alternative high school for the entire year.

CPSS's failure to provide sufficient related services (in many cases denied related services) in light of several disciplinary referrals/behavioral issues that led to petitioners' [REDACTED] in CPSS is solely based on the nature, scope, and availability of such personnel at any given school and their general unavailability at CPSS's alternative schools and bear no relationship to the actual individual needs of petitioners or students similarly situated. Indeed, the [REDACTED] services provided bears no discernible relation to the any of the petitioners' behaviors or restrictive alternative school placements. Consequently, the repeated failure of CPSS to either provide any related services or to increase the amount of Counseling/Other Therapy during the relevant time periods can only be explained by a profound and appalling indifference to the petitioners' individual needs.

II. CPSS Has Failed to Provide Educational Services in the Least Restrictive Environment

CPSS has denied petitioners [REDACTED] and all other similarly situated ED students FAPE by failing to provide them educational services in the Least Restrictive Environment (LRE) as required by IDEA. See 20 ILS C.S. 1412 (a)(5); 24 C.F.R. § 200.114-117; Bulletin 1/06 Subpart A § 446.448).

[REDACTED] the third grade. In the 2005-2006 and 2006-2007 school years, CPSS has failed to provide her with any access to general education for any academic subject. There is little evidence, much less any documentation, that CPSS has attempted to meaningfully provide Petitioner with supplemental aids and services [REDACTED] years to enable her to participate in general education.

Petitioner [REDACTED] has been not only in a self contained setting, but at an alternative school since the 2004-2005 school-year. Moreover, since the 2004-2005 school-year, he has had

no access to general education for any academic subject. CPSS's decision to place petitioner

clear evidence that no attempt was made to provide sufficient supplementary aids and services and/or curriculum modifications in regular education settings so that he could remain in some of his core academic classes. CPSS failed to

conduct a comprehensive assessment of petitioner's needs for general education classes including the use of a Paraprofessional Aide, special education teachers in general education settings, modifications of the curriculum, provision of increased related services from a Social Worker/School Psychologist; school-wide and classroom based positive behavioral support plans; peer supports/coaching and/or peer tutoring. Instead of implementing any of these

CPSS chose to segregate petitioner in a highly restrictive self-contained setting. Furthermore, at no point did CPSS provide any cogent justification or reasoning for its determination that petitioner was capable of functioning in a regular education setting for ancillary subjects such as Physical Education and other nonacademic electives but not for academic subjects.

Like petitioner, Petitioner has not only been in a segregated self contained setting but at an alternative school since the 2004-2005 school year.

CPSS has denied access to general education for any academic subject. CPSS has made no efforts to provide any supplementary aids/services/supports or curriculum modifications to Petitioner to enable him to participate

2 in general education with proper supplemental academic and behavioral aids/services/supports. Petitioner believes that Regular General Education in CPSS simply does not include ED students generally and there has been inadequate staff training regarding the types of supplemental aids, services, accommodations, supports, modifications and other teaching practices that would provide ED students with opportunities to participate

Paraprofessional Behavior Aides, such as Special Education Teachers with ED students in regular education settings. Team or Co-Teaching arrangements and coordination amongst General Education and Special Education appropriate supplemental aids and services, accommodations, supports and modifications necessary to enable ED students to participate in general education.

Petitioners and other similarly situated ED students often do not address general curriculum needs by such restrictive placements.

Petitioner also believes CPSS does not address general curriculum needs for many students with disabilities and particularly ED students.

With regard to all of the above petitioners there is no evidence in any of their records that CPSS ever attempted to assess the amount of... implement any of the previously described supplemental aids/services/adjustments or modifications in educational settings. Such failures constitute clear violations of IDEA's LAR provisions: 20 U.S.C. § 1412 (a)(5), 24 C.F.R. § 200.114, 117, D-11-11, 1700 C.F.R. 101.41, 101.41(a), 101.41(b).

III. CPSS Has Violated IDEA's Discipline Provisions

CPSS has denied petitioners [redacted] and all other similarly situated special education students who manifest behavioral issues... removals totaling more than ten school days, (either In-School Suspensions or Out-of-School Suspensions) and/or placement in alternative school settings in the CPSS FAPE by its violations of IDEA's... from their educational placement for more than 10 school days in a school year. These provisions require CPSS to conduct Manifestation Determination Reviews within 10 days of suspension/expulsion and to conduct them in good faith, to ensure ongoing educational services that enable students with disabilities to continue to participate in the general education curriculum and to progress toward meeting the goals set out in their IEPs. IEP committees conduct appropriate functional behavioral assessments; and to draft, review, or modify as necessary behavior intervention plans that also include positive behavioral interventions, strategies, and supports. 20 U.S.C. § 1415 (b)(3)(D), 101.41(b)(1), 101.41(b)(2). CPSS has failed to comply with these requirements by failing to provide all services to the above class of students when they are subject to In-School Suspension (ISS) and this specifically includes failing to provide instruction by Special Education Teachers in ISS settings; failing to furnish staff in ISS settings with students IEPs; failing to provide related services to students during ISS settings with students IEPs; failing to provide related services to students during ISS.

CPSS has further violated the above class of students rights under IDEA by conducting IEPs and individualized educational plans that are not individualized... found to be unrelated and that such determinations are used in their students in Alternative implementation of Behavioral Intervention Plans (RIPs); failing to provide appropriate levels of related services, particularly social work/counseling/psychological services to students assigned to Alternative School settings. Indeed CPSS has furnished Petitioners and all other similarly situated students with disabilities who have all been placed/assigned to CPSS's Alternative Schools due to repeated disciplinary/behavioral issues with woefully inadequate levels of social work/counseling/psychology services...levels that are unrelated to their individual needs but instead are cookie-cutter in nature and based upon the general unavailability of such personnel at

At all times relevant CPSS has failed to comply with the above IDEA requirements. Moreover, it bears emphasis that CPSS's has consistently had some of the highest discipline

2004-2005 school year was 65% higher than the statewide average for students with disabilities (20.38% versus the state's average of 12.38%). CPSS's out of school suspension (OSS) rate for students with disabilities in 2004-05 was 24% higher than the statewide average of 16.98%. This is highly disproportionate to the fact that CPSS's solution for addressing the behavioral and emotional needs of students with disabilities is to subject them to out of school or in school suspensions rather than teaching and behavioral programming. See Discussion in sections I and II.

This is clearly the case with petitioner [REDACTED]. In 2002-2004, he had thirty seven days

of out of school suspension (OSS). CPSS failed to revise petitioner's Individualized Education Program (IEP) to include increased levels of counseling and other therapy related services. CPSS failed to provide petitioner with all IEP services during the 34 days he was subject to ISS. He had no Manifestation Determination Review (MDR) during the 2005-2006 school year. In 2006-2007, he had three days of OSS and was expelled from the alternative school for an incident unrelated to this expulsion (for attempting to strike a teacher), but his conduct was remarkably found to be unrelated to his exceptionality. The Functional Behavioral Assessment ("FBA") in place at the time of the incident for which he was expelled was performed in September of 2002 at the beginning of the 2002-2003 school year. During the 2006-2007 school year, petitioner [REDACTED] was afforded no related services.

Petitioner [REDACTED] case reflects similar illegal disciplinary practices by CPSS. In 2005-2006, he had 15 days of OSS without a MDR. Thus far in 2006-2007, he has already had 15 days of OSS. During the 2006-2007 school year, petitioner [REDACTED] was not provided any time or place to "cool down" as required in the IEP. In short, school officials had not reviewed, much less implemented his IEP or RIP in the two months he has been at the alternative school. Like petitioner [REDACTED], CPSS did not revise [REDACTED] IEP to include increased levels of counseling/other therapy related services; did not revise his behavioral goals and did not revise his BIP. CPSS's failure to revise or even review petitioner [REDACTED] IEP in light of his behavior

on an incident which had occurred on the bus some days prior. In reviewing the incident, the student began to act upset and petitioner [REDACTED] had to be restrained. This is an indication of how his Behavior Intervention Plan was implemented to attempt to de-escalate the situation which unfolded entirely under the supervision of school employees.

4 One of Petitioner [REDACTED] problems in school is that he has a great deal of difficulty reading. CPSS has also been made aware that petitioner [REDACTED] mother also has difficulty reading. Nevertheless, although the undersigned had been representing petitioner [REDACTED] for some years, no notification was sent to counsel and

failure, or to review and revise Petitioner's other IEP services including providing increased levels of social skills training. CPSS's failure to follow IDEA's discipline mandates and its failure to provide FAPE.

IV. CPSS Has Failed to Confer Meaningful Educational Benefit

CPSS has denied petitioner [redacted] and all other similarly situated ED students FAPE by providing petitioner and these students with an education that has failed to confer meaningful educational benefit as required by IDEA. Petitioner [redacted] has not been able to make any meaningful academic and in many cases non-academic (behavioral) progress for the past several years due to the denial of FAPE. The pervasive reality for a significant percentage of ED students across CPSS is that even though they are of average intelligence, by the time they reach Junior High School they are typically performing years behind their chronological grade level peers. The result is that HI students are typically placed in restrictive self-contained settings and this leads to an almost non-existent High School Diploma rate for such students, which is the

ultimate evidence of lack of meaningful educational benefit. This reality is reflected in the reality reflects an obvious and systemic practice of providing inconsistent special education and related services to students with disabilities. This is especially true with respect to [redacted] as she is already four to five years behind her non-disabled peers and this gap has only widened the past several years while she has received IDEA services. See *DePaul v. Bd. of Hendrick Central School Dist.*, 2007 WL 459,119, 176 Conn. App. 116 (2007). See also *ISD v. Michael F.*, 118 F.3d 245, 253-254 (5th Cir. 1997).

Consistent with practices and policies that are widespread and reflected in CPSS's remarkably low high school diploma rate for students with disabilities (12.9%) and its alarming drop out rate (53.0%) which is currently more than twice the state average, CPSS effectively removed the petitioner from the high school diploma track when she entered special education by inappropriately placing her in a self-contained classroom with little or no access to the general

education. [redacted] is currently four to five years below grade level in all subjects. Currently in the eighth grade, she continues to function at the 2-3 grade level in most subjects. In 2005-2006 she received an IEP except for I.D. in Social Studies. In 2006-2007 she is receiving all I.D. Petitioner [redacted] is currently [redacted] years behind her chronological grade level.

This reality also applies to a significant percentage of ED students who are of Junior High or High School age.

V. Systemic Remedies Necessary to Settle This Class Complaint

LDE will need to ensure the following action is taken to redress CPSS's numerous systemic IDEA violations delineated in this class complaint:

1. Compel CPSS to hire a nationally recognized expert in Positive Behavioral Interventions and Supports (PBIS) to develop and implement with CPSS a systemic training program protocol that shall include but not be limited to strategies, objectives, and timelines for students with

shall include all pupil appraisal staff, teachers, paraprofessionals, disciplinarians, school administrators, and other educational service providers working at schools which serve students with disabilities and shall also include bus drivers who transport students with disabilities to such schools. The training protocol shall also include the active use of pupil appraisal staff

and/or placement in alternative school settings in the Clark Parish Public School System

2. Compel CPSS to develop specific school discipline policies and procedures in strict compliance with IDEA's discipline requirements

review and modification of BIPS after every 10 days of suspensions

4. Compel CPSS to develop and implement in agreement with the nationally recognized expert specified in Paragraph #1 above specific annual strategies and objectives for significantly reducing the number of suspensions of students with disabilities,

5. Compel CPSS to develop and implement in agreement with the nationally recognized PBIS expert specified in Paragraph #1 above specific annual strategies and objectives for significantly reducing the number of ED students in self-contained classroom settings and concomitantly significantly increasing ED students access to the general education

6. Compel CPSS to place certified special education teachers in its self-contained TRP services at its alternative schools

7. Compel CPSS to significantly increase the frequency and duration of social who are subject to repeated disciplinary removals and/or placement in alternative school settings in the CPSS and also ensure decisions involving such related services are based upon individual need and not staff availability;

8. Compel CPSS to develop with undersigned counsel specific strategies and objectives for implementing intensive reading/math remediation programs at all elementary schools serving ED time they move onto junior high school.

Sincerely,



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