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September 8, 2010

Hand Deliver

Mississippi Department of Education
Office of Special Education
359 North West Street
Jackson, MS 39205

ATTN: [REDACTED] OFFICE OF SPECIAL EDUCATION

"cool off removals") and/or placement in an alternative school setting in the Jackson Public

School System (JPSS);

II. Systemic Administrative Complaint on Behalf of R.B., Rd.B., Ra.B. and a Class of All

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]


[Redacted]


[Redacted]


Exceptionality: Emotional Disability
Date of Current Eligibility: May 2010


IV. FACT ALLEGATIONS


The undersigned counsels are filing a Systemic Administrative Complaint on Behalf of A.M., A.L. and a Class of All Similarly Situated and Treated Students with Emotional Disabilities as












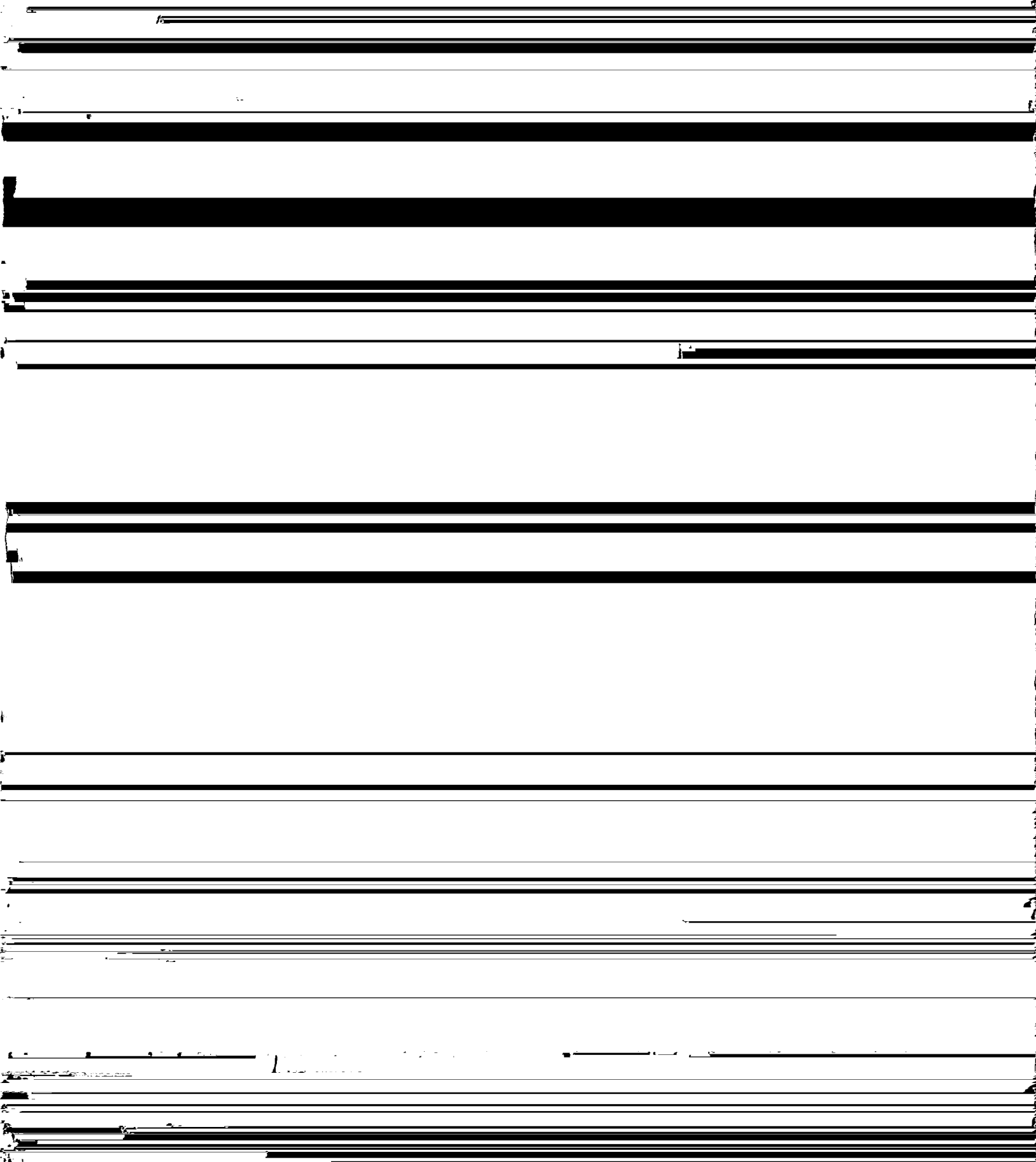


Petitioner R.B. is a sixteen (16) year old student currently going into the 9th grade at Wingfield

student at Brinkley Middle School. Immediately prior to attending Brinkley Middle School, R.B. attended school in the Cobb County School District of Marietta, Georgia from 2006 to 2008. Prior to moving to Georgia, P.P. was enrolled in IPSS, where she was initially evaluated

JPSS has committed multiple systemic violations of their substantive and procedural rights under

~~IFPA~~ ~~11~~ ~~Child 1 Student with Emotional Disturbance~~ ~~1~~ ~~1~~ ~~1~~



IPSC has systematically failed the past several years to meet and revise Petitioners'

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appropriate levels of related services that address the inherent behavioral characteristics and

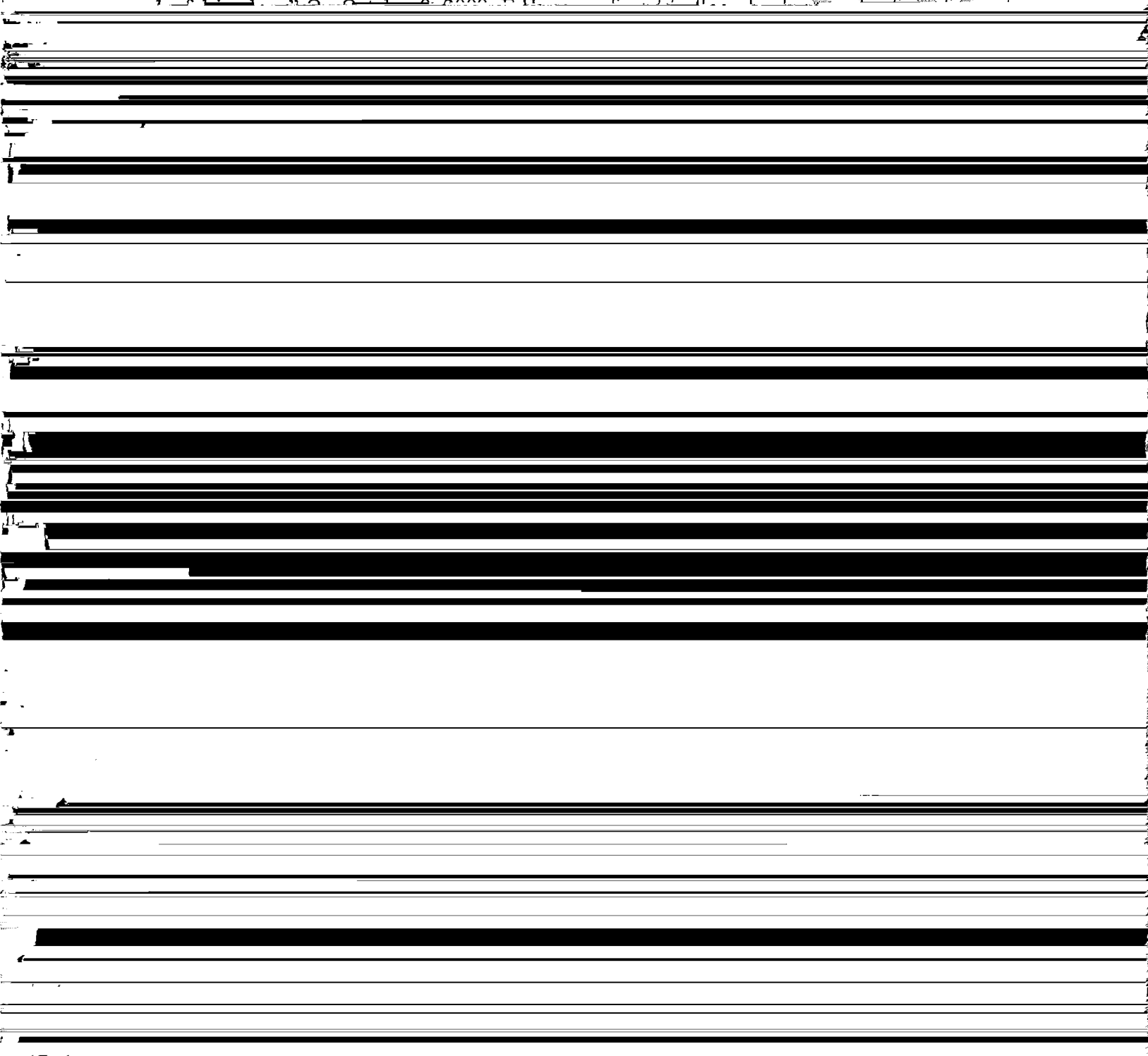
individual characteristics of students with disabilities and

[REDACTED]

related to the "Externalizing Composite" which indicated A.M. may be aggressive, disobedient, annoying to others, disruptive, under-controlled, restless, and inattentive.⁴ Despite these extensive and serious behavioral findings JPSS failed to provide A.M. with any related services (social work, counseling, psychological services) during the 2007-08 school-year and the past two school-years as well (2008-09 and 2009-10).

behavior results in consistent disruption of the learning environment. Despite these findings, JPSS failed to offer E.H. any related services in 2009-10. Moreover, the behavioral information on E.H.'s LRE Document Form was used in part to change a number of E.H.'s previous regular education classes to special education classes and thus change E.H.'s placement from regular education to resource. JPSS thus chosen to place E.H. in a more restrictive environment without ever providing him any related services.

Even a cursory review of E.H.'s behavior logs and discipline incidents during the 2009-10 school-year manifests his need for significant related services. Behavior logs from both the fall of 2009 and spring of 2010 reveal numerous instances where E.H. was "not focused, talking,



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re-evaluation, JPSS failed to provide him with any related services during the 2007-08 school-year.⁹ JPSS also maintained this failure during the 2008-09 and 2009-10 school-years.

December 2008 was transferred to JPSS' alternative school as a consequence for a school fight

When we got to the question about feeling sad, I (evaluator) asked her what made her sad.

...ment ... month for 20 minutes each session for a total of 1 hour per month. 13

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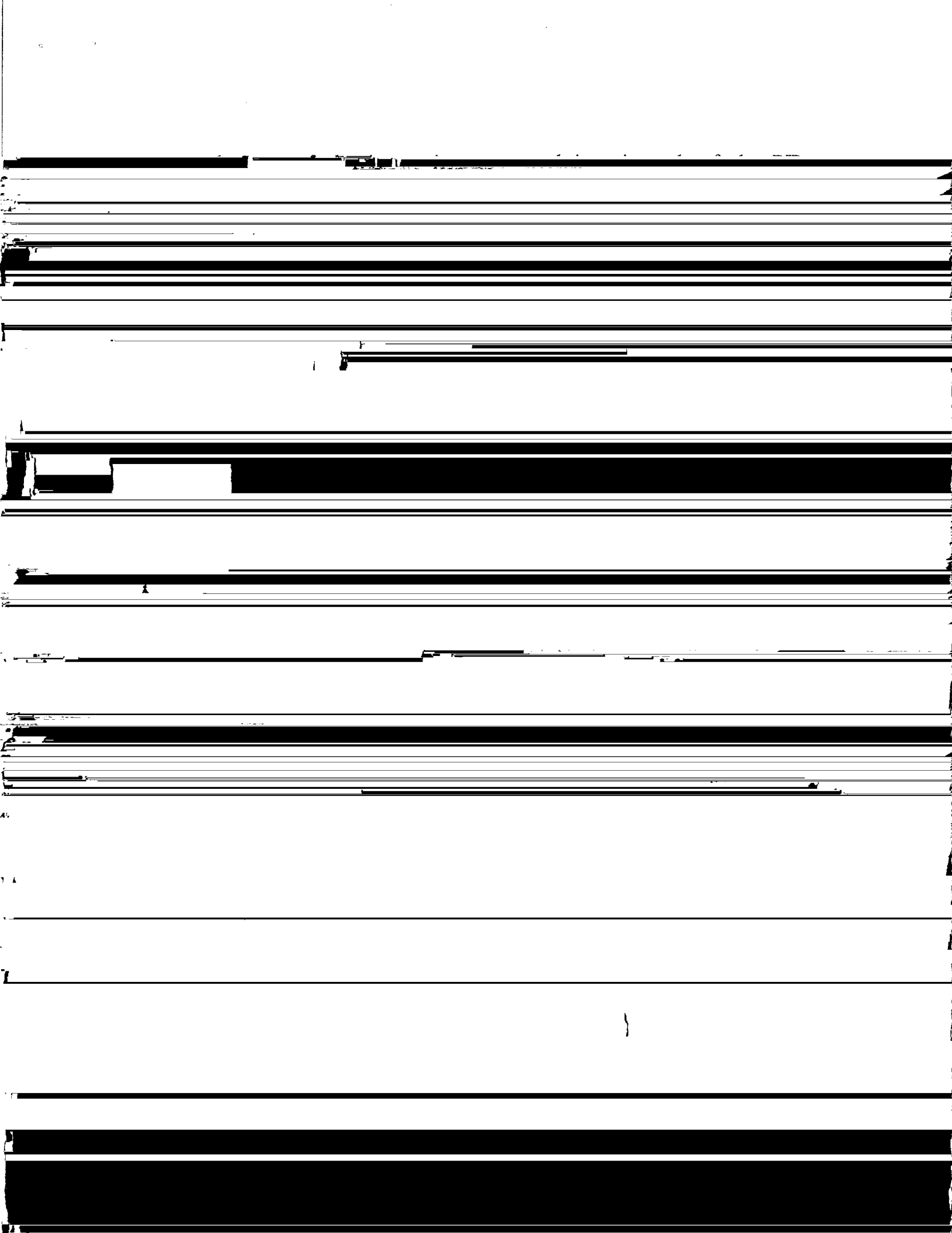
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Dr. Dufrene's review of the above FBA's and BIPs resulted in a number of highly disturbing and systemic findings/deficiencies regarding both the FBAs and BIPs.¹⁶ Some of Dr. Dufrene's major findings are as follows:

1. A total of six FBAs were reviewed and some specific problems were identified as well as *general problems across all FBAs*. The following concerns were noted:
 - a. All six FBAs include a checklist for indicating which FBA methods (e.g.,
~~interviews, records review~~) were used during the assessment process. Every FBA

- d. C.O. and P.A. experienced three FBAs each over a nearly three year period. It is alarming to note that each FBA is nearly identical to the previous one. Given the



Dr. Dufrene's above findings manifest that JPSS has provided the Petitioners and the previously

A review of the multiple MDRs conducted for the Petitioners reveals that JPSS has not ensured that JPSS complies with "all relevant information in a student's file" and this includes the District

relevant information in A.L.'s file (including her initial evaluation and BIP) they would have immediately found evidence of a clear relationship between her behavior and her disability. As

C.O. that had been documented in his records as functions of his disability. C.O.'s 2007 re-

C. JPSS Has Failed to Confer Meaningful Educational Benefit

JPSS has denied Petitioners A.M., E.H., T.A., A.L., C.O., P.A., and the previously defined class of all other similarly situated students FAPE by providing Petitioners and all other similarly situated students with an education that has failed to confer meaningful educational benefit as required by IDEA. The pervasive reality for a significant portion of Emotionally Disturbed

Petitioner A.M. has not been able to make any meaningful academic or non-academic (behavioral) progress the past three years since being found eligible for IDEA services in October 2007. Academically, Petitioner A.M. is performing several years behind his peers. During the 2007-08 school-year, A.M. received all Ds in his five course subjects.²⁴ During the

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Petitioner E.H. has made no meaningful academic progress the past several years. His initial evaluation completed in October 2005 states that his reading skills were at a 1.3 grade level and his math skills were between a 2.8-3.5 grade level. A full three years later, his annual IEP for the 2008-09 school-year (completed May 12, 2008) reflects that his reading skills were at a 2.3 grade level and his math skills were at a 2.6 grade level. During this three year period, E.H. increased his reading skills by only 1 grade level and his math skills actually decreased (regressed) from

2005-06 to 2008-09. During this time, E.H. was in 1st grade, 2nd grade, and 3rd grade. E.H. was

[REDACTED]

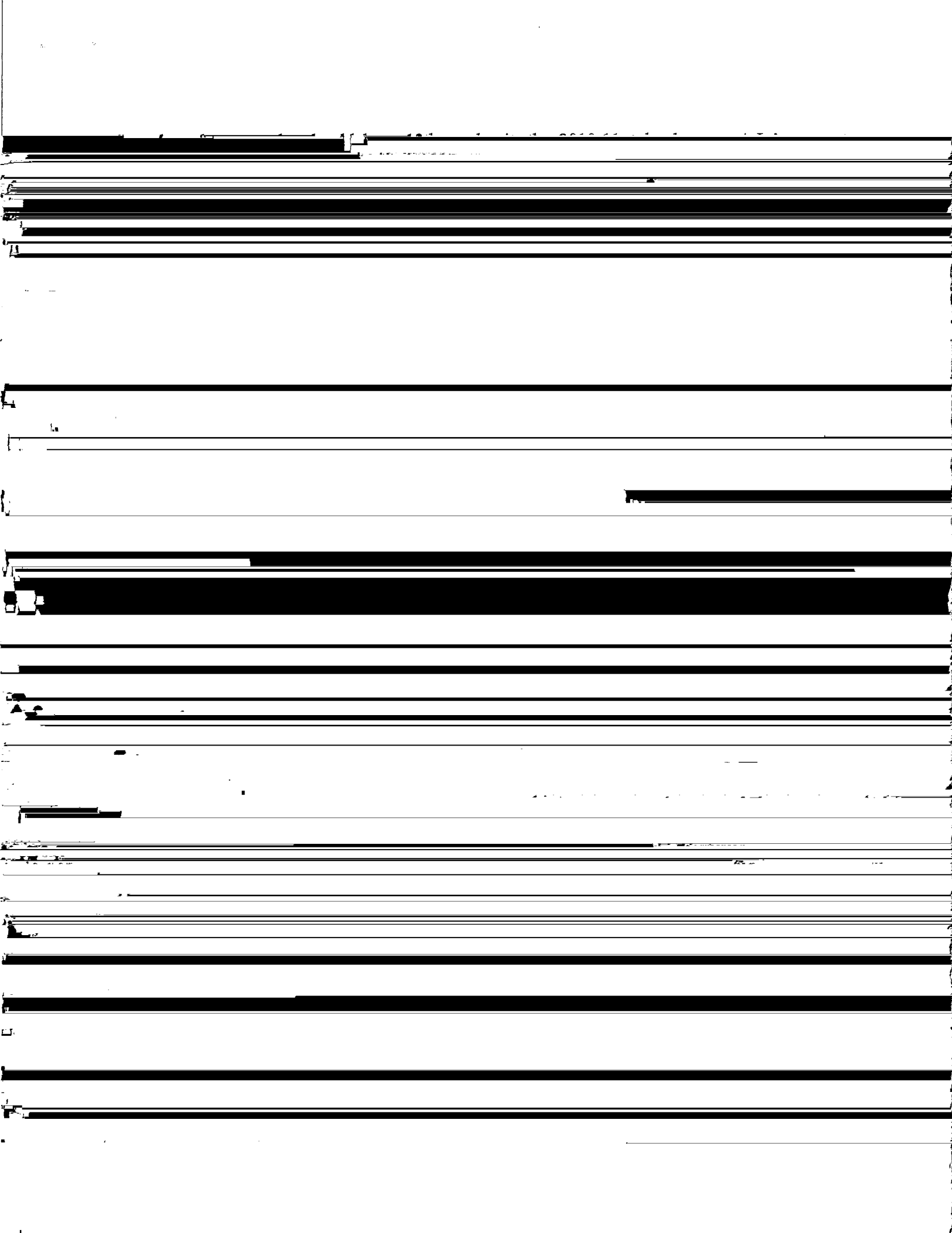
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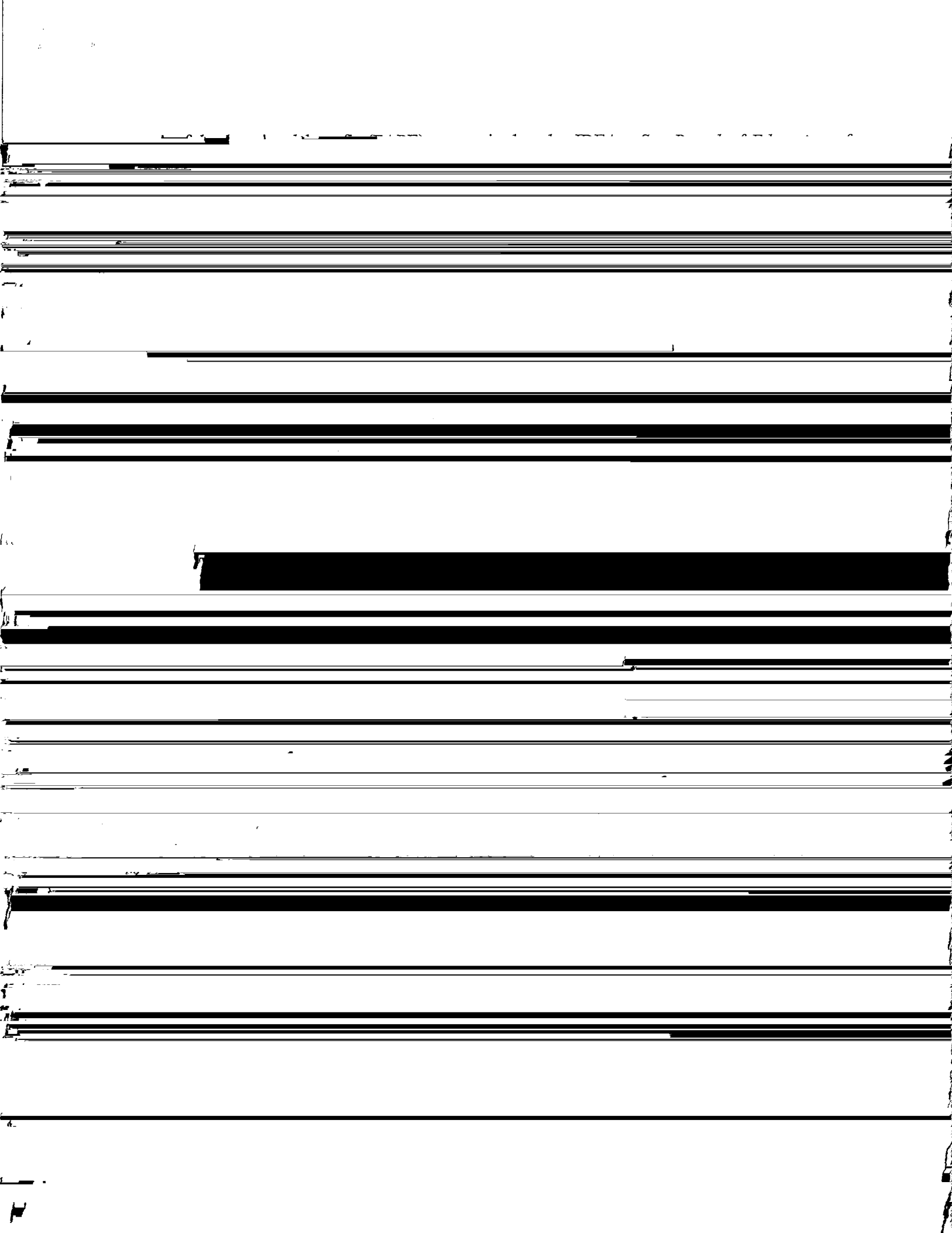
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regressed during this same five year period. T.A.'s May 12, 2005 annual IEP lists his PLOP in reading at a 1.5 grade level. T.A.'s May 24, 2010 annual IEP states that he reads at a 1.3 grade level. Remarkably after 5 years of special education services his May 2010 IEP states that T.A. "is borderline between a *nonreader and a struggling reader.*" T.A. has also made little or no





Petitioners' annual goals with their actual levels of performance and instead has consistently developed and implemented annual academic goals that are two-five years above and beyond

IC (Educational Benefit) has been that Petitioners have made little or no academic progress for years and their obvious academic frustrations have contributed to and engendered ongoing behavioral issues.

Two examples reflect the breadth of JPSS' systemic, fundamental failures in misaligning Petitioners annual academic goals with their actual present level of academic performance.

a struggling reader."³⁴ T.A.'s grades in 2009-10 reflect the stunning inappropriateness of these

f. Social Studies – D

Thirty-six years after the passage of IDEA, it is difficult to imagine, much less comprehend, such

an IEP. Although JPSS convened multiple IEP Committee Meetings during both of the above school-years in response to discipline infractions committed by Petitioners and for the sole purpose of determining placement to an alternative school setting, these same IEP

E. JPSS Has Failed to Provide Educational Services in the Least Restrictive Environment



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Subsequently, the Commission (particularly through its various committees) has been



related to training, education, employment, and, where appropriate, independent living skills; and
(2) The transition services (including courses of study) needed to assist the child in reaching those goals." *See also* the IDEA Regulations, 34 C.F.R. §300.320(b)

State Policies Regarding Children with Disabilities under the Individuals with Disabilities

JPSS failed to provide T.A., and C.O. with transition plans on their IEPs for the 2009-10 school-

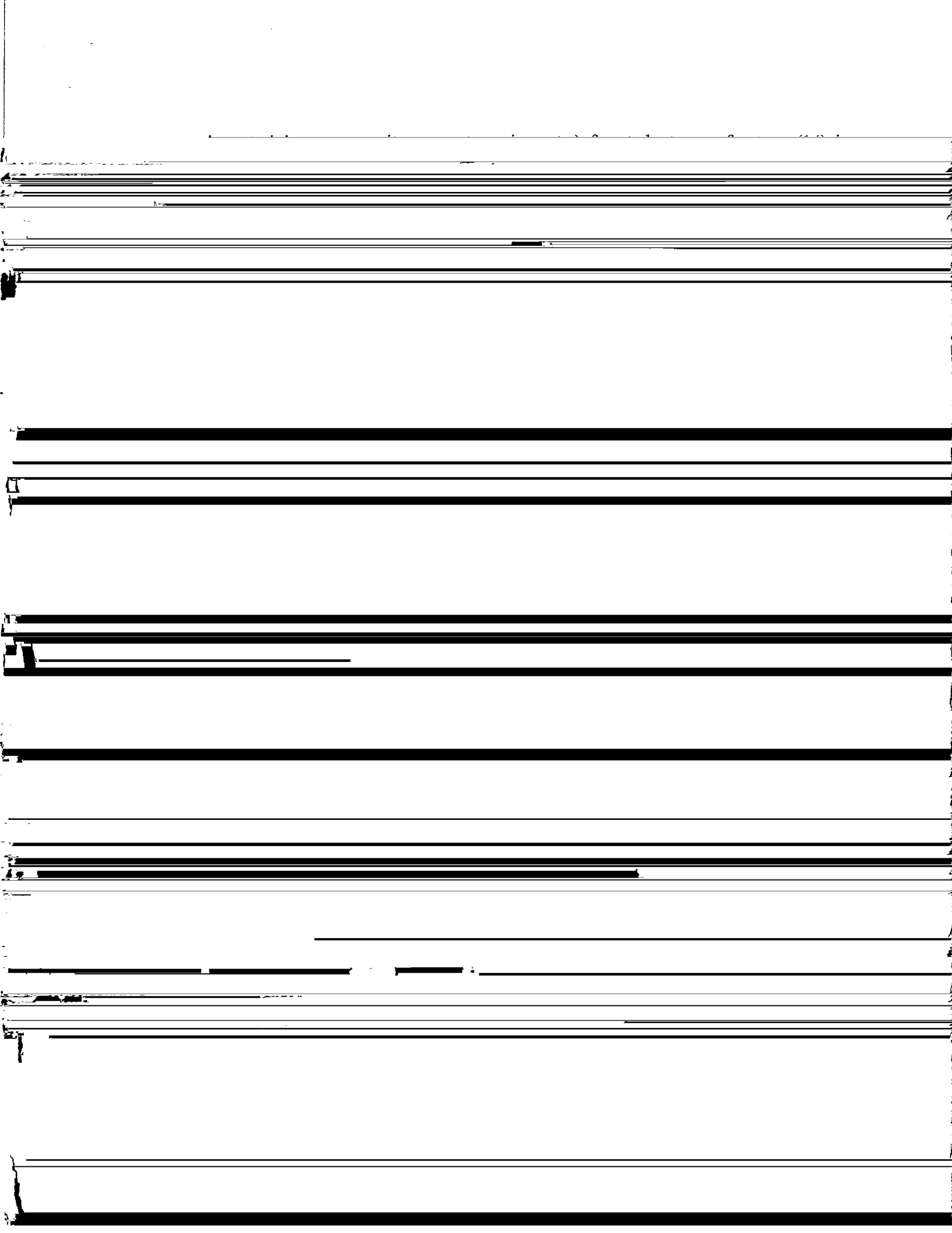
access to ESY services is left to the caprices of JPSS staff rather than based on objective data and thus true need.⁵¹ The arbitrary and subjective nature of ESY eligibility determinations in JPSS has resulted in a denial of FAPE for Petitioners A.M., E.H., A.L., P.A., and all other similarly situated students in the class for the summer of 2009⁵² and continue to produce ongoing denials of needed ESY services for the summer of 2010 the following Petitioners.⁵³ See State Policies Regarding Children with Disabilities under the Individuals with Disabilities Education Act

the Individuals with Disabilities Education Act Amendments of 2004, State Board Policy 7219,
FEBRUARY 2005, 55



reducing the number of suspensions, expulsions, referrals to youth court, and more restrictive placements.

7. Compel JPSS to develop and implement in agreement with the nationally recognized
BDIS Element specified in Benchmark #1 above specific annual strategies and objectives for



JPSS must take the following action to address each Petitioner's individual claims in order to settle this administrative complaint:

1. Provide compensatory education for excessive suspensions and denial of FAPE. JPSS must provide each Petitioner with compensatory services for the next three years per a weekly schedule that's agreeable to Petitioners parents/guardians so that each Petitioner has an opportunity to earn credit for classes failed and education fundamentals that have been missed. (Extended School-year Services will not satisfy this demand);
2. Immediately increase the level of related services (social work/psychological counseling)

Petitioner R.B. is a fifteen (15) year old student currently in the 9th grade at Wingfield High School who finished the 2009-10 school-year at Capital City Alternative School (CCAS). R.B. entered JPSS at the beginning of the 2008-09 school-year as a 7th grade student at Brinkley Middle School. Immediately prior to attending Brinkley Middle School, R.B. attended school in

In March 2010, JPSS finally initiated a formal evaluation of R.B. nearly two years after her mother informed the district that R B had been receiving IDEA services while they resided in

Cobb County.

Petitioner R.B. is a fourteen (14) year old student currently in the 8th grade at Whitten Middle

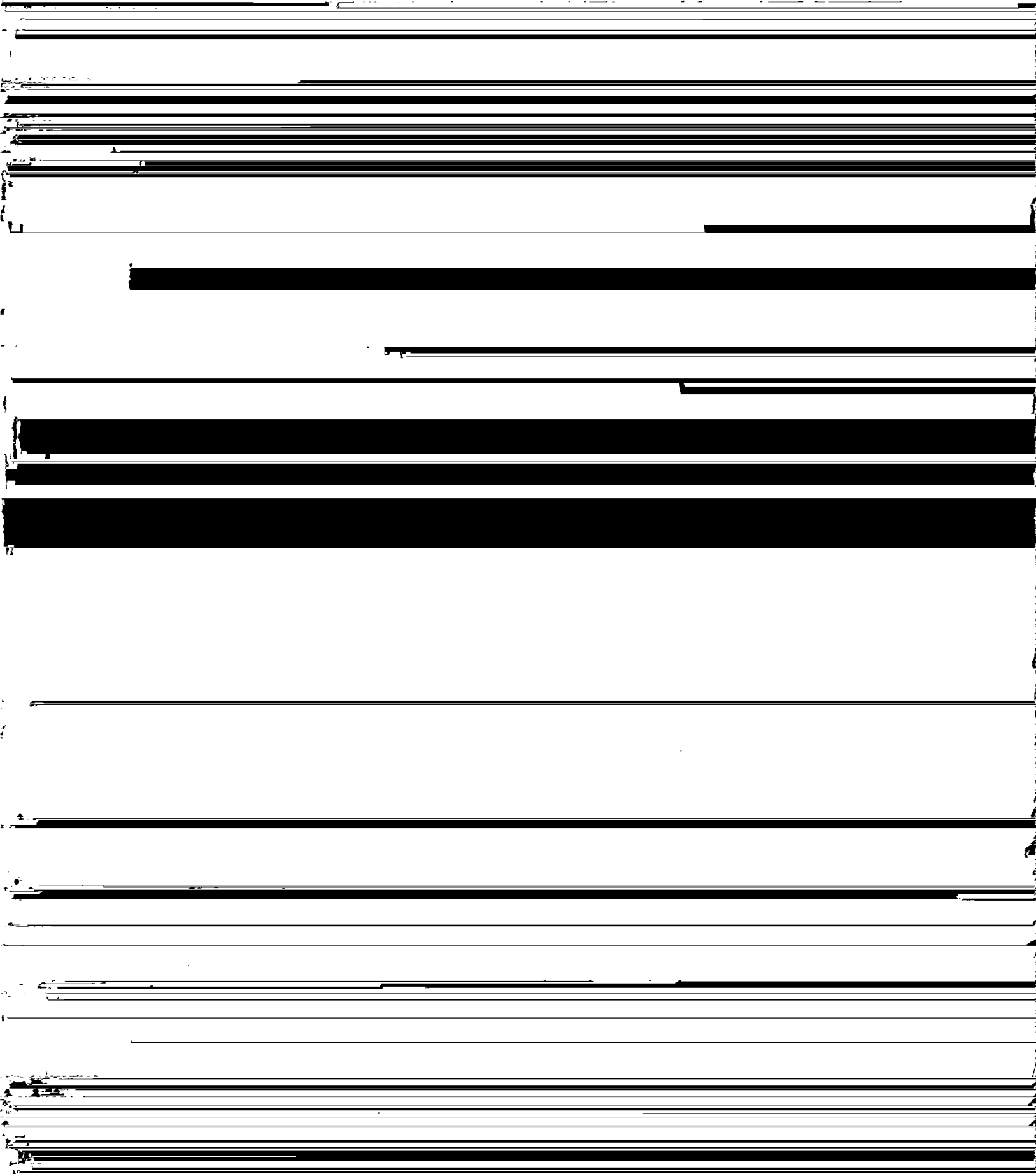
Petitioner **Ra.B.** is a seventeen (17) year old student currently in the 9th grade for the third straight year at Wingfield High School after finishing the 2009-10 school-year at CCAS. Ra.B. entered Wingfield High School at the beginning of the 2008-09 school-year and was placed at

CCAS in April 2010. Ra.B. attended Wingfield High School from 2008-09 to 2010-11.

violation of IDEA by failing to provide any measure of a free and appropriate public education to Petitioner R.B. after she transferred from Cobb County School District to JPSS in August 2008.

When R.B.'s mother informed the district at the beginning of the 2008-09 school-year that R.B. received special education services in Georgia, JPSS became obligated to obtain R.B.'s records from Cobb County so that it could begin to provide her with services comparable to those in her previous IEP. IDEA requires the new school in which the child enrolls to "take reasonable steps to promptly obtain the child's records, including IEP and supporting documents, and any other

educational history upon her arrival in August 2008, the district would have been immediately



in effect at the beginning of the school-year”⁶⁸ TPSS failed to take any steps to retrieve De R’s

2. Compel JPSS to provide equitable relief in the form of compensatory services to any IDEA eligible student who transferred into JPSS in the past school-year (2009-10) from an out-of-state or in-state school district with a currently effective IEP and who was not provided the same or comparable IDEA services within fourteen days and for the period starting on day fifteen and running until such IDEA services were provided.
3. Compel JPSS to develop and implement specific written policies and procedures whereby

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